

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

June 7, 2011 - 7:00 p.m.

A. Roll Call

B. Minutes

April 25, 2011

C. Old Business

D. New Business

1. Cumulative impact of development
2. Pedestrian accommodations
3. Floodplain overlay
4. Timbering ordinance
5. Commercial districts

E. Other Items

Administrative Policies discussion

F. Adjournment

POLICY COMMITTEE MEETING

April 25, 2011

7:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Reese Peck, Chair
Mr. Al Woods
Mr. Jack Fraley

Staff Present

Mr. Allen Murphy
Mr. Tammy Rosario
Mr. Christopher Johnson
Mr. Luke Vinciguerra
Ms. Jennifer VanDyke

Absent

Mr. Tim O'Connor

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

2) Minutes

a) March 16, 2011

Mr. Jack Fraley moved for approval for the March 16, 2011 minutes. The minutes for March 16, 2011 were approved as presented.

b) April 13, 2011

Mr. Fraley moved for approval for the April 13, 2011 minutes. The minutes for April 13, 2011 were approved as presented.

3) Old Business

4) New Business

a) Traffic Impact Analysis

Mr. Luke Vinciguerra reviewed staff's proposal for submittal requirement changes pertaining to traffic impact analysis.

Mr. Al Woods stated that the policy should clearly define all documentation that is required for a traffic impact analysis.

Mr. Peck asked why the proposal is for a new policy rather than an ordinance change.

Mr. Vinciguerra stated that the County Attorney made this recommendation.

Mr. Peck stated he would like to have more information informing him on the County Attorney's decision.

Mr. Woods asked if there would be any benefit in granting the Board of Supervisors (BOS) the latitude to negotiate.

Mr. Peck stated that you can draft the ordinance with exceptions, waivers and general criteria to create flexibility.

Mr. Allen Murphy stated that by creating a policy, rather than changing the ordinance, the County retains greater discretion.

Mr. Peck stated that having it in the ordinance would bring greater transparency to the process.

Mr. Woods asked for greater clarity regarding the requirements attached to those properties that are in a corridor with a Level of Service (LOS) of "C" or below.

Mr. Vinciguerra stated that the applicant would have to submit documentation outlining recommended traffic improvements to mitigate the effects of the proposed development. He stated that the applicant would not be required to do the traffic improvements.

Mr. Fraley stated that it would be at the discretion of the Planning Director to decide what, if any traffic improvements be required. Mr. Fraley stated that he supports staff's proposal. He stated that requiring more detailed traffic studies would be beneficial.

Mr. Christopher Johnson stated that even though Virginia Department of Transportation (VDOT) changed their requirements, adding the 527 review study, the County BOS retains the authority to grant approval on special use permits and rezonings.

Mr. Peck stated that policies can be referenced within the ordinance.

Mr. Fraley stated that he is supportive of tying a policy document and the Zoning Ordinance together.

b) Wireless Communications ordinance update

Mr. Fraley stated that overall he is supportive of staff's recommendation regarding the wireless communications ordinance changes. Mr. Fraley stated that he did expect to see a report from the consultant regarding emerging trends and what other jurisdictions are doing.

Mr. Vinciguerra stated that the consultant provided a strike-through version of his recommended changes to the ordinance. He stated that the consultant's strike-through ordinance did not include any analysis. He stated that the staff report did list the proposed changes and provided further logic for staff's recommendations.

Mr. Johnson stated that staff requested locality comparison data from the consultant. He stated that staff reviewed and considered each of the consultant's proposed changes before drafting staff's proposal.

Mr. Fraley presented a memo outlining his own recommendations. Please see attachment number 1.

Mr. Woods asked if the professionals in the room had an opinion to share regarding Mr. Fraley's recommendations.

Ms. Lisa Murphy of LeClairRyan stated that listing the definitions would be helpful. The term "camouflage" is used a little differently by industry professionals and the County. Ms. Murphy stated that she does not think favorably of the consultant's suggestions. She stated that the recommendations made are rigid and that flexibility will be lost. She stated because there are so many variables involved in finding a suitable location it is ideal to have flexibility built into the regulations. She stated that having the distinction made between "camouflage" and "slick stick" would be particularly helpful.

Mr. Fraley stated that a distinction needed to be made between camouflage and slick stick. He stated that he did not include setbacks in his proposal. He stated that his intention was to help clarify where he had seen confusion. He stated he wanted to address the concerns raised by the citizens. He stated that he did not suggest increasing buffers, landscaping requirements, or setbacks. He stated that he would like to see more towers modeled after grain silos, windmills, and light poles. He stated that generally speaking, other localities do not permit cell towers by right in residential areas.

Mr. Stephen Romine of LeClairRyan asked if Mr. Fraley's intent was to make "Tier 1" towers administratively approved.

Mr. Fraley stated, yes.

Mr. Romine stated that Mr. Fraley's approach seems to speak more to the aesthetic aspects of towers. He pointed out that "Tier 3" towers are only permitted outside of the Primary Service Area (PSA). He would prefer to see some flexibility to allow a conventional monopole in the PSA with a special use permit.

Mr. Fraley stated that the industry is moving towards shorter towers.

Mr. Romine stated that shorter towers are only suitable when there are larger towers available to support it and create a "back bone" in the network.

Ms. Murphy stated that the industry is looking to make strong in building, data penetration within a smaller area. She stated that the towers can be smaller and closer to the areas they serve. She stated that there are still areas in Hampton Roads that do not have that basic "back bone" network.

Mr. Woods asked for staff's reaction to Mr. Fraley's recommendations.

Mr. Murphy stated that requiring special use permits in residential areas is feasible. He stated that his largest concern would be adopting administrative regulations without retaining administrative discretion. He stated that universal standards should not be adopted for all locations outside the PSA

and outside residential areas. He stated that the Planning Director still needs to have room for discretionary judgment.

Mr. Fraley stated that in those ordinances he has read from other jurisdictions, he has not seen language that allows for discretionary judgment in a significant way.

Mr. Murphy stated that the visible presence of a tower is of primary importance. He stated that there are many factors that contribute to visibility, making it essential to allow for discretionary judgment.

Mr. Woods stated that he does not want to compromise setbacks and buffering, particularly within residential areas. He stated that he is interested in seeing a formal response from staff, incorporating the ideas brought forward from Mr. Fraley.

Mr. Fraley stated that he feels that the buffering currently required is sufficient.

Mr. Murphy stated he agrees. He stated that there are those cases where additional setbacks would not significantly improve the visual impact of a tower.

Mr. Woods asked if the citizens present had any feedback.

Mr. Bill Halteman, 109 Randolph's Green asked how temporary towers would be addressed.

Mr. Fraley stated that temporary towers need to be defined and included in the ordinance.

Mr. David Neiman, 105 Broomfield Circle stated that towers should not be permitted in residential areas, by right.

Ms. Sarah Kadec, 3504 Hunters Ridge stated that a master plan of the County needs to be created for wireless communications. She stated that creating a master plan would provide a savings to cellular service providers and better inform decisions on ideal placement. She stated that by right and administrative decisions need to be better explained to the public.

Mr. Romine stated that the current verbiage "by right, per administrative approval" is misleading. He stated that by right means something different from one jurisdiction to the next. In many other localities, by right means that plan review would be required for a building permit.

Mr. Fraley stated that staff reviews the proposal to confirm that the tower meets the standards described in the ordinance.

Mr. Peck stated that there is a difference between a ministerial task and a discretionary task.

Mr. Romine stated that with the administrative review you would expect an expedited process. He stated that due to the appeals process you end up with just as much scrutiny as a legislative review.

Mr. Neiman stated that public hearings should be a greater part of the process; it is in the residents' interest.

Mr. Peck stated that the legislative body needs to gauge the public's comfort level regarding this process.

c) Urban Development Areas

Mr. Peck made a presentation on why it is important to not adopt a resolution certifying compliance with the state's Urban Development Areas (UDA) requirements. Please see attachment number 2.

Ms. Tammy Rosario stated that complying with the statute's provisions was not as black and white as depicted in Mr. Peck's presentation. She stated that there is no specific methodology outlined in the statute. Staff reached out to their peers, and they concurred that staff's methodology is reasonable. She stated that there is also no method to calculate population projections that does not have a margin of error. She stated that staff's population projections for 2010 ended up falling short due to a flaw in the HMS database. She stated that the data pulled from the HMS system did not account for the population living in assisted living facilities. She stated that development potential can be calculated in a number of different ways and that staff used a conservative approach. When the survey arrived in 2010 staff had already anticipated methods in the Comprehensive Plan to accommodate growth and the provisions of the statute. Areas had already been designated as high-density growth areas with the intention to use new-urbanist/traditional neighborhood development principles. She stated that if we withdrew our certification take extra time to review our policies we would miss the July 1, 2011 deadline. She stated that undertaking a separate process would take staff away from other projects including the Zoning Ordinance update.

Mr. Murphy stated that he feels the approach staff has taken works. He stated that staff has a proposal that preserves the integrity of the 2009 Comprehensive Plan. The new legislation from the state should not be taken as an impetus to reexamine intended land use patterns. The Historic Triangle Comprehensive Plan Coordination effort is an examination of those areas where the three localities border one another. He stated that this effort is not intended to reexamine the work completed with the 2009 Comprehensive Plan. Staff has already accounted for UDAs within the PSA through the 2009 Comprehensive Plan.

Mr. Peck stated that those are all valid arguments. He stated that the Planning Commission is charged with making policy recommendations to the Board of Supervisors on the Comprehensive Plan. He stated that within the Comprehensive Plan Implementation Schedule it states that after the 2009 study staff would return to working with the Planning Commission and the Board on UDAs. He stated that further measures need to be taken to ensure that certain areas are used for high density development to limit further sprawl.

Mr. Murphy stated that the state did not follow through with the promised money for road improvements.

Ms. Rosario stated that this legislation has been in flux for some time. She stated that the study group took much longer than they had expected, further delaying staff's analysis of the statute's requirements.

Mr. Murphy stated that if the County is interested in examining areas in the PSA this could be done during the 2014 Comprehensive Plan update.

Mr. Peck stated that he was under the impression that James City County, the City of Williamsburg and York County were going to synch up and complete individual Comprehensive Plan updates concurrently.

Ms. Rosario stated that this idea is good in theory, though it may not be practical. She stated that it may take a different length of time for each locality to complete their update. She stated that staff will put in a good faith effort for the regional synchronization and attempt to address regional issues.

Mr. Murphy stated that it will not be a regional comprehensive plan.

Mr. Woods asked if the regional coordination is something new.

Mr. Murphy stated that it was.

Mr. Woods asked if the County Attorney has been consulted on whether or not the County is in compliance with the state's requirements.

Mr. Murphy stated that the County is compliant.

Mr. Peck stated that he supports UDA concepts and it would be a good vehicle to drive transfer development rights. He stated that there are many localities that are taking this initiative very seriously.

Mr. Fraley stated that he can see the greatest benefit coming from the joint efforts in working with the City of Williamsburg and York County on region-wide planning.

Ms. Rosario stated that staff's efforts to focus on the Lightfoot area during the regional effort is timely since York County's UDA is just on the other side.

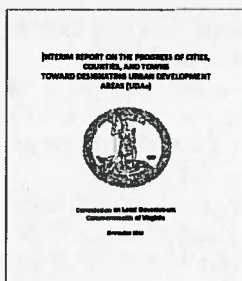
Mr. Woods stated that his perception of where the community wants to go is not higher density development. He stated that he is comfortable with the measures staff has taken up to this point. He stated that if the County can certify and continue to protect the citizens' vision, then the greatest benefit would be achieved.

5) Adjournment

Mr. Fraley moved to adjourn. The meeting was adjourned at 9:06 p.m.

Reese Peck, Chair of the Policy Committee

Urban Development Areas



Local Government Commission (LGC) August 2010

- On August 18, 2010, the LGC sent a questionnaire regarding JCC's UDA designation status to County Administrator Middaugh
- County had multiple options to select from
- I will review the two most germane to our situation.

Local Government Commission (Continued)

- **Option 1- Our locality determined that its comprehensive plan accommodates growth in a manner consistent with the requirement to incorporate one or more UDAs but has not yet adopted a resolution certifying compliance with the UDA requirement**
- **Option 2- Our locality will wait until the report of the 2010 Census to determine whether it will amend its comprehensive plan to incorporate one or more UDAs**

Why Is This Important?

- **Staff analysis indicates our UDA designated areas support 6,648 DUs**
- **Using the 2010 VEC population projection and U.S. Census average household size data indicated we need 7,157 DUs to be compliant**

**Using VEC Data as of August 2010
JCC Failed
The Certification Test**

- 2010 - 65,890
- 2020 - 82,781
- 16,891 or 25.64%
- Household size - 2.36

- $16,891 / 2.36 = 7,157$ DUs needed
- UDA designated areas support 6,648 DUs
 - **Fails**
 - $6,648 < 7,157$

**August 2010 Certification
Additional Deficiencies**

- County does not have any local incentives for development in UDAs
- No structure exists to target local, state and federal development grant to UDA's
- No public input was sought on areas to be certified
- No formal coordination had taken place with surrounding jurisdictions or PCD
- No consultation with JCC Planning Commission

**2011
Engage or Certify**

**2010 Census
Options**

There are four variables in the VEC projections - the 2010 base, 2020 projection, the rate of increase over 10 years and the absolute increase over 10 years. When the 2010 census data for population is used as the base only one of the other three variables can be held constant creating three different options for us to consider.

Selection Criteria

- Most consistent with the fact that growth is occurring at a higher rate than projected
- Most consistent with Planning Department's official projections

2009 Comprehensive Plan Projections

Population Projection Source	Projected	Projected	Growth 2010-	Projected Percentage
	2010	2030	2030	Growth 2010-2030
Virginia Employment Commission	65,890	82,781	16,891	25.64%
Official James City County Planning Division Projection	65,717	84,772	19,055	29.00%

Source: 2009 James City County Comprehensive Plan

Note: The Planning Division's projection translates to an average growth rate of approximately 3% per year from 1970 to 2030. VEC projections anticipate a slower growth rate over the same period.

Option 1 – Hold VEC Absolute Increase Constant

- Assumptions
 - 2010 Population – 67,009
 - 2030 Population Projection – 83,900
 - Household Size – 2.49
 - 2010-2030 Increase of 16,891
 - 2010-2030 percent increase of 25.21%
 - Test must generate a threshold less than 6,648 DUs
 - Official JCC 2030 Projection 84,772 (29%)

Option 1 – Use VEC Population Increase Projection and Census Household Size

$16,891 / 2.49 = 6,784$ DUs needed

UDA designated areas support 6,648 DUs

Fails

6,648 < 6,784

Option 2 – Hold VEC Percentage Increase Constant

- Assumptions
 - 2010 Population – 67,009
 - 2030 Population Projection – 84,290
 - Household Size – 2.49
 - 2010-2030 Increase of 17,281
 - 2010-2030 percent increase of 25.64%
 - Test must generate a threshold less than 6,648 DUs
 - Official JCC 2030 Projection 84,772 (29%)

Option 2 – Use VEC Population Percentage Increases Projection and Census Household Size

$17,281 / 2.49 = 6,900$ DUs needed

UDA designated areas support 6,648 DUs

Fails

6,648 < 6,900

Option 3 – Hold 2020 VEC Projection Constant

- Assumptions
 - 2010 Population – 67,009
 - 2020 Population Projection – 82,781
 - Household Size – 2.49
 - 2010-2020 Increase of 15,772
 - 2010-2020 percent increase of 23.54%
 - Test must generate a threshold less than 6,648 DUs
 - Official JCC 2030 Projection 84,772 (29%)

Option 3 – Use VEC 2020 Population Projection and Census Household Size

$15,772 / 2.49 = 6,334$ DUs needed

UDA designated areas support 6,648 DUs

Passes

6,648 > 6,334

Summary

Original problem created by under estimating growth. Option 2 is the most consistent with the proposed selection criteria.

- However staff chose option 3 with:
 - Smallest growth rate
 - Smallest absolute population growth
 - Deviates the most from the Planning Department's own official 2020 project

Next Step



**READING FILE
MEMORANDUM**

DATE: June 7, 2011

TO: Policy Committee

FROM: Christy Parrish, Proffer Administrator
Leanne Reidenbach, Senior Planner

SUBJECT: Cumulative Impacts

Since there is no ordinance text associated with the cumulative impacts database, for the purposes of Stage II of the Zoning and Subdivision Ordinance Update, this memo is intended as an update to staff's progress and summary of upcoming milestones.

Staff presented an outline and series of stages necessary to track cumulative impacts of development at the January 31st Policy Committee meeting. As a review, the stages were identified as follows:

- I) Residential development tracking
- II) Residential assessment of key impacts
- III) Commercial development tracking
- IV) Water and sewer impacts of commercial projects
- V) Additional tracking and impacts
- VI) Adding tracking of by-right development potential

The Policy Committee provided feedback regarding the overall vision and uses for the cumulative impact tracking database and shared that the primary goal was to be able to track the location of development and the impact of that development on public facilities and infrastructure. The Committee identified schools, transportation, environment, and water/sewer as the four impacts of greatest importance and agreed that reporting should be presented annually through the Planning Commission Annual Report in tabular and graphical format.

Following this meeting, the Board of Supervisors held multiple work sessions to discuss priority ordinance sections. As part of the cumulative impacts discussion, the Board discussed simplifying the process if possible and including a more direct assessment of impacts in relation to finances. Specifically, Board members were interested in being able to assess the incremental impacts of new development to the overall tax rate and cost to provide County services. They also requested that the database be updated semi-annually and be a working database that staff can draw on for reports.

Since these meetings, staff has accomplished several objectives.

- (1) Based on the Board's feedback, staff considered ways to simplify the cumulative impact tracking method. All of the steps are necessary in order to produce a quality product that is replicable and does not require significant data verification every time the database is updated. Staff's efforts to simplify the scope will likely come as part of the actual analysis of impacts and limiting the areas (water, sewer, etc) that staff assesses into smaller more manageable groupings.
- (2) Based on the Board's feedback, staff met with the manager of Financial and Management Services to

discuss broadening out the cumulative impact analysis to also look at fiscal impacts. Due to the complexities of the issue, lack of fiscal impact data for older development projects, changes related to project-level fiscal assumptions, and changes to the uses of buildings, financial impacts are outside the scope of staff's current work program and would likely require outside consultant services to pursue further.

- (3) Staff met with representatives from J4C to discuss the methodology and data sources for their annual growth reports. The method that will be followed by staff is similar but more inclusive than J4C. The group's insight was helpful in forming ideas of categorizing neighborhoods and other potential data sources. Staff's database will also use similar data sources (like Real Estate Assessments and GIS) but will be able to pull directly from these sources. This will allow staff to refresh the data automatically every six months and map the data in GIS. Staff's database will also include all acreage parcels (parcels that are not included in a named subdivision such as Ford's Colony but still include residential units) and will differentiate between vacant parcels that can be developed into single-family homes and vacant parcels that are in common area or cannot be further developed. These considerations were not accounted for in the J4C report and could have measurable effects on cumulative impacts.
- (4) As part of a separate task associated with a request from the Hampton Roads Transportation Planning Organization (HRTPO), staff developed an existing land use map for the County. This involved manually classifying more than 38,000 parcels into broad land use categories. This is a good starting point for residential and commercial parcels for the purposes of the cumulative impact database; however, the classifications will need to be more specific and verified.
- (5) Staff completed classifying the existing residential development in the Jamestown District and is working toward completion of the Berkeley District. This has included more than 10,000 parcels and has involved multiple re-workings of the tracking spreadsheet to include as much information as possible. Staff has also determined a way to more easily incorporate approved but not yet built development into the current spreadsheet. As a result, staff has been including this information during the initial phase of spreadsheet development rather than waiting to later phases. Staff's goal is to finish classifying existing residential developments by the Board work session in July. A table demonstrating staff's progress on this item is found in attachment 1.

Staff anticipates having a draft report of the raw residential figures ready for review by the Policy Committee this fall for inclusion in the Planning Commission Annual Report. At this time staff also hopes to present the Committee with proposed methodologies for assessing impacts of residential development for comment.

Staff is not requesting additional feedback at the Policy Committee meeting, but will be available at the meeting for questions.

Attachments:

1. Jamestown District residential tracking table

MEMORANDUM

DATE: June 7, 2011

TO: Policy Committee

FROM: Luke Vinciguerra, Planner
Leanne Reidenbach, Senior Planner

SUBJECT: Development Standards – Draft Pedestrian Accommodation Ordinance

Staff presented a framework for the pedestrian accommodation ordinance to the Policy Committee in February. As a reminder, topics discussed included:

- referencing a Pedestrian Accommodation Master Plan in the Zoning Ordinance;
- providing exemptions for small or temporary structures;
- referencing VDOT’s Secondary Street Acceptance Requirements (SSARs) for pedestrian standards in the ordinance with parallel requirements for private streets;
- allowing a fee in-lieu-of constructing pedestrian accommodations option when they are shown on the Pedestrian Accommodation Master Plan;
- requiring internal connections to adjacent public facilities and to community amenities; and
- creating minimum construction standards based on VDOT’s standards.

The Policy Committee was supportive of staff’s recommendations but offered changes to the draft Pedestrian Accommodation Master Plan and recommended providing the Planning Director with more flexibility to approve alternatives rather than sending all requests to the Development Review Committee. Specifically, the Policy Committee requested staff examine eliminating any requirement along Jolly Pond, Lake Powell, and Brick Bat roads. Additionally, the Policy Committee recommended a multi-use path along Neck-O-Land Road and News Road. Staff revised the draft master plan and added a multi-use path along undeveloped or less developed portions of News Road; however, due to the narrow right-of-way and drainage ditches was unable to add a multi-use path along Neck-O-Land Road as there would not be enough room for a path; staff’s original recommendation for a sidewalk is still shown on the draft plan. Staff strongly supports maintaining pedestrian accommodation facilities along Brick Bat, Lake Powell, and Jolly Pond roads due to their proximity to schools and to facilitate safe routes to schools.

The Committee also requested that staff consider requirements for pedestrian accommodations internal to industrial and office parks. Some provisions for office parks have been included in the draft ordinance language. Staff also consulted with the Director of Economic Development regarding this request, who expressed concerns over any new requirements for industrial parks (particularly for uses such as warehousing and distribution) citing that sidewalk requirements would increase the cost to develop the sites. Staff has left the existing language (that buildings and parking areas are connected by sidewalks according to ADA requirements) and removed the originally proposed requirement (that sidewalks along roads internal to industrial parks be provided if they connect to a public transit stop or to a planned or existing pedestrian accommodation on a road that is external to the development) in the draft language. Industrial portions of Economic Opportunity areas were also exempted from having to provide sidewalks along any internal private streets. Staff notes that if streets internal to an industrial park are public, they will have to provide sidewalks in accordance with VDOT’s standards (sidewalks on both sides of the street if the floor area ratio exceeds 0.4). Also in response to OED’s comments, staff has provided an additional exemption for existing office parks with

private streets that already exist at the time the ordinance is adopted.

Following that meeting, the Board of Supervisors held a work session to discuss pedestrian accommodation and other ordinance sections. Similar to the Policy Committee, the Board was supportive of staff recommendations. Board members' concerns included:

- setting low thresholds that require most development to participate in facility construction unless the County could commit to funding pedestrian accommodations;
- providing for some minimal exemptions/exceptions when appropriate;
- exempting developments that will not benefit from pedestrian accommodation from paying into a pedestrian fund (namely any property not identified as needing a pedestrian accommodation on the Master Plan);
- providing the Planning Director with the ability to request right-of-way as a condition of any exception if needed; and
- maintenance of the facilities.

Attached is the proposed draft pedestrian accommodation ordinance language and Master Plan. Staff finds the draft ordinance language and master plan to address Board and Policy Committee concerns and promulgate the pedestrian accommodation recommendations in the Comprehensive Plan. Staff requests that the Policy Committee endorse or offer comments on this draft ordinance prior to the Board of Supervisors work session later this summer.

Attachments

1. Draft Pedestrian Accommodation Master Plan (available on <http://www.jccplans.org/schedule.html> under the June 7 meeting)
2. Draft ordinance language

Pedestrian Accommodations Draft Ordinance Language

Chapter 24 Article I. In General

Sec. 24-2. Definitions

Pedestrian Accommodation. A paved right-of-way for pedestrians and/or bicyclists that is separate and protected from the traveled portion of the roadway and is free of vehicular traffic that may include but is not limited to sidewalks and multiuse paths.

Chapter 24 Article II. Special Regulations Division I. In General

Sec. 24-35. ~~Sidewalks~~ *Pedestrian Accommodation.*

(a) ~~Sidewalks~~ *Pedestrian accommodations* shall be required for all projects requiring site plan ~~or major subdivision~~ review ~~and residential developments~~ in accordance with the following:

(1) *External sidewalks: Pedestrian accommodations shall be required along all public roads abutting property to be developed as shown on the pedestrian accommodation master plan.*

(2) *Internal public streets. Pedestrian accommodation internal to a residential, commercial, office, or industrial development with public streets shall be required pursuant to the Secondary Street Acceptance Requirements found in 24VAC30-92 as amended.*

(3) *Internal private streets.*

(i) *Pedestrian accommodation internal to a residential, commercial, or office development with private streets shall be required on at least one side of all internal streets.*

(ii) *For development designated by the comprehensive plan as mixed use; moderate density residential; or the residential, commercial, and office sections of an economic opportunity area, pedestrian accommodations shall be required on both sides of the private streets.*

(iii) *Sidewalks on private streets shall not be required internal to industrial parks or industrial sections of areas designated economic opportunity on the comprehensive plan.*

(iv) *The planning director or his designee may approve alternative locations for pedestrian accommodations that are found to have equivalent connectivity as providing sidewalks along the roads internal to the development, such as paved connections between or from cul-de-sacs to other pedestrian accommodations.*

~~(1) Sidewalks shall be built to VDOT standards and located within VDOT right-of-ways when they are to be publicly maintained. If sidewalks are to be privately maintained, they shall be built to standards acceptable to the county engineer or the planning commission.~~

(4) *Interconnectivity internal to a parcel. Sidewalk plans* *Pedestrian accommodations shall be required providing for internal pedestrian access between parking areas, buildings, and public areas as well as access to abutting property shall be provided for multifamily residential, development and for commercial, and office nonresidential development sites. Pedestrian accommodation internal to a development shall link with any existing or master planned pedestrian accommodation along an abutting road external to the development and any existing public transit stops. Development within industrial parks and industrial sections of the Economic Opportunity zone shall be required to meet ADA requirements and standards only for connecting buildings and parking areas.*

(5) *Interconnectivity between parcels. Pedestrian accommodations shall be required between residential developments and adjoining schools, park, or recreational facilities as determined by the planning director or his designee. The property owner shall provide a connection internal to the development to the property line with the adjoining facility. This criterion may be waived by the planning director or his designee if the owner of the contiguous parcel objects to a connection or if a significant obstruction exists (such as wetlands, slopes exceeding 25% gradient and guardrails) that would prohibit a connection.*

~~(3) Sidewalks shall be provided along all existing public roads abutting property to be developed.~~

~~(4) Sidewalks shall be provided for one block commencing at the entrance(s) on at least one side of all entrance roads serving residential developments which shall or would be expected to serve more than 500 vehicles per day based on the application of the Institute of Transportation Engineers' traffic generation rates to a projected density assigned to undeveloped land remaining within a proposed subdivision. Sidewalks shall be provided on one side of all roads which shall serve or would be expected to serve more than 1,000 vehicles per day based on the method listed above.~~

(b) *Construction Standards: Pedestrian accommodations required by 24-35(a) shall be built in accordance with the following construction standards:*

(1) *Pedestrian accommodations shall be built to VDOT standards and located within VDOT right-of-way when they are to be publicly maintained. If accommodations are to be privately maintained, they shall be built to VDOT construction standards.*

(2) *Right-of-way and pedestrian accommodations shall be shown on the final plat.*

(3) *Sidewalks shall be paved and a minimum of 5 feet in width. Multi-use paths shall be paved and a minimum of 8 feet in width. All pedestrian accommodations shall meet the requirements of the Americans with Disabilities Act Accessibility Guidelines.*

(c) *Exemptions: Exemptions to this section may be granted by the planning director or his designee if:*

(1) *a proposed temporary structure(s) will not be erected for more than six (6) months; or*

(2) *a proposed addition to an existing structure is less than 1,000 square feet or no changes to the building footprint are proposed; or*

(3) *the development is located within an office park with private streets in existence prior to (date of ordinance adoption) and providing pedestrian accommodations along the frontage of the development site would not result in a safe and continuous connection to an existing or planned pedestrian accommodation or public transit stop.*

(d) *Exceptions: Exceptions to this section may be granted by the planning director or his designee if:*

(1) *a pedestrian accommodation is required; however, would be substantially damaged or need to be replaced as a result of a fully engineered roadway construction project implemented by the County or VDOT. The planning director or his designee may request dedication of sufficient right-of-way for pedestrian accommodations related to said road project in lieu of construction of the pedestrian requirement. The requirement to dedicate right-of-way shall be based on existing right-of-way, the design of the engineered project, and additional right-of-way that is needed; or*

(2) *in cases where topographical conditions make construction of pedestrian accommodations impractical, the planning director or his designee may approve an alternative alignment that is accessible by the public that differs from the pedestrian accommodation master plan that links with adjacent pedestrian accommodations ; or*

(3) *pedestrian accommodations shown on a master plan approved by the board of supervisors differs from the pedestrian accommodation master plan.*

(4) *If an exception is granted for (d)(1) or (d)(2) above, the applicant shall be required to pay into the pedestrian accommodation construction and maintenance fund in an amount determined by the*

engineering and resource protection division director or his designee. The amount shall be based on:






- (i) projected engineering costs;
- (ii) projected material costs;
- (iii) projected labor and mobilization costs;
- (iv) current topographical conditions of the site; and
- (v) linear feet of road frontage.

The applicant may appeal the decision of the planning director to the development review committee.

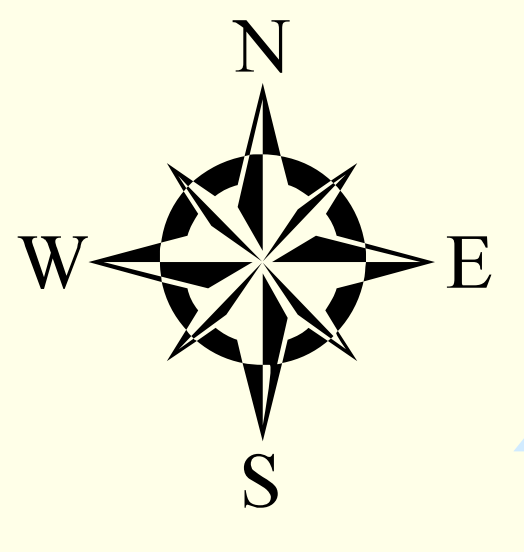
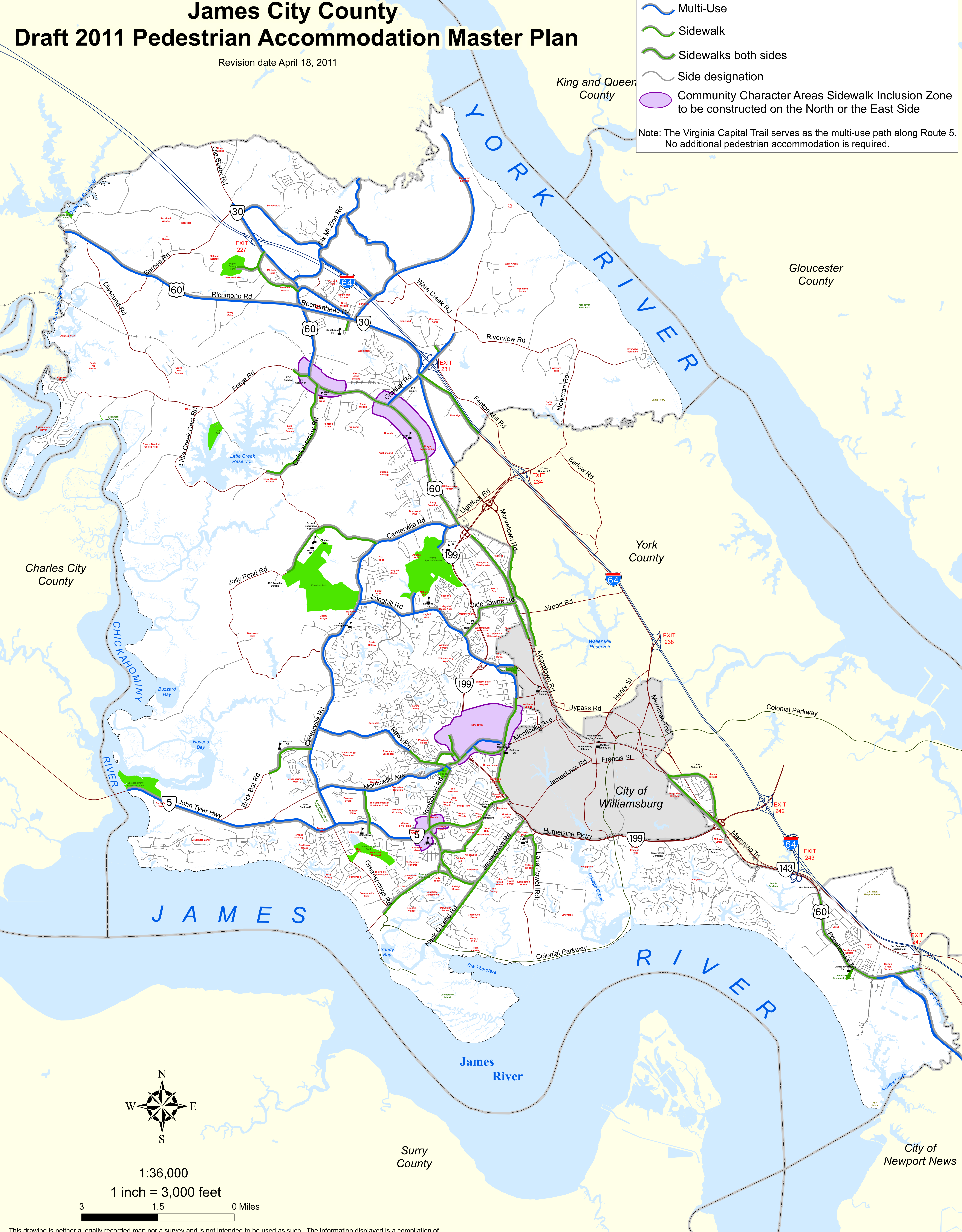
- ~~(b) Upon a favorable recommendation of the development review committee, the planning commission may modify the requirements listed in item (4) above; provided, that equivalent pedestrian facilities have been provided which adequately provide for pedestrian access within the development and to abutting property.~~
- ~~(c) Upon a favorable recommendation of the development review committee, the planning commission may modify the requirements listed in item (3) above; provided that:~~
 - ~~(1) Sidewalks are provided along an existing public road as identified in the transportation element of the Comprehensive Plan; or~~
 - ~~(2) Access to abutting properties has been provided for by way of a pedestrian connection constructed to the minimum standards listed in (d) below; or~~
 - ~~(3) A combination of (1) and (2) above, have been provided in a manner and location acceptable to the development review committee.~~
- ~~(d) Where pedestrian connections are provided in accordance with (c)(2) above, such connections shall be constructed to the following minimum standards:~~
 - ~~(1) Such pedestrian connections should avoid lands with greater than 25 percent slopes, areas subject to flooding, environmentally sensitive land or lands otherwise designated as a resource protection area.~~
 - ~~(2) Such pedestrian connections shall be at least eight feet wide and constructed of an all-weather surface. In instances where a soft surface is provided, the surface shall be underlaid with filter cloth. In no case shall a multi-use pedestrian connection be closer than five feet to the property line of an adjoining residential property.~~
 - ~~(3) The right of way and pedestrian connection shall be indicated on the final plat.~~

James City County Draft 2011 Pedestrian Accommodation Master Plan

Revision date April 18, 2011

-  Multi-Use
-  Sidewalk
-  Sidewalks both sides
-  Side designation
-  Community Character Areas Sidewalk Inclusion Zone to be constructed on the North or the East Side

Note: The Virginia Capital Trail serves as the multi-use path along Route 5. No additional pedestrian accommodation is required.



1:36,000

1 inch = 3,000 feet

3 1.5 0 Miles

This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section.

MEMORANDUM

DATE: June 7, 2011
TO: Policy Committee
FROM: Leanne Reidenbach, Senior Planner
SUBJECT: Development Standards: Draft Floodplain Ordinance

Staff presented a framework for changes to the Floodplain Ordinance to the Policy Committee in January with a follow up meeting in March. Topics discussed at these Stage I meetings included increasing the freeboard requirement for construction, requirements for hydrologic and hydraulic studies for any encroachment into the floodplain, a reference to the Virginia Uniform Statewide Building Code for the purposes of requiring floodproof construction, and the Stormwater Division's recommendation to require building sites within floodplain districts to be two feet above the 100-year floodplain (allowing the use of fill to accommodate this in tidal floodplain districts).

Following that meeting, the Board of Supervisors held a work session to discuss a number of ordinance sections. Staff has developed draft ordinance language for Stage II which addresses the consensus reached at the previous Policy Committee meetings. The Stormwater Division has withdrawn their recommendation to change Section 24-596; it is believed that the same results will be accomplished through the changes made to Section 24-595.

Staff requests the Policy Committee offer comment on this draft ordinance prior to the Board of Supervisors work session in July.

Attachments:

- 1) Draft floodplain ordinance language

Draft Floodplain Ordinance:

Chapter 24 Article I. In General

Sec. 24-2. Definitions.

Flood or flooding

- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.
- (a) the overflow of inland or tidal waters; or,
- (b) the unusual and rapid accumulation or runoff of surface waters from any source.
- (c) mudflows which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 (a) of this definition.

Floodplain *Flood-prone area*. Any land area susceptible to being inundated by water from any source.

Chapter 24 Article VI. Overlay Districts Division 3. Floodplain Area Regulations

Sec. 24-588 Compliance and liability

- (a) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of these regulations and any other applicable ordinances and regulations; including, but not limited to: *The Virginia Uniform Statewide Building Code (USBC), the Virginia Industrialized Building Safety Regulations (IBSR), and the Manufactured Home Safety Regulations (MHSR).*

Sec 24-590. Designation of Flood Districts

- (a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not limited to, the September 28, 2007, flood insurance study prepared by the Federal Emergency

Management Agency (FEMA), Federal Insurance Agency (FIA), since other flood-prone areas exist in James City County which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the county engineer in accordance with the hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the county engineer.

Where flood elevations are provided by the FIAS, these elevations shall not be changed except with FEMA approval. Local sources of floodplain flood-prone area data include, but are not limited to, the following reports: *Drainage Study of Upper Powhatan Creek Watersheds, Camp Dresser and McKee, 1987; Mill Creek-Lake Watershed Study, GKY and Associates, 1988; Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2008; Upper Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2010.* (Ord. No. 31A-127, 10-29-90; Ord. No. 31A-179, 9-8-98; Ord. No. 31A-228, 9-25-07)

Sec. 24-595. Regulations for Construction

(a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the 100-year floodplain shall not be permitted unless the project is in conformance with the following requirements:

- (1) In case of residential usage, the finished ~~grade~~ *elevation of the lowest floor* shall be at least ~~one foot~~ *two feet* above the 100-year flood elevation ~~for the lowest floor~~, including basement or cellar of structure. For nonresidential structures, watertight floodproofing in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein. Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate as appropriate to the director of ~~code compliance~~ *the building safety and permits division.*
- (2) Utility and sanitary facilities shall be flood proofed up to the level of *two feet above* the 100-year *base* flood *elevation.*
- (3) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway *or any floodplain district having a 100-year elevation greater than 7-1/2 feet (North American Vertical Datum - NAVD, 1988)* unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. *Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the development manager or designee.*

- (4) All other federal and state permits shall be obtained by the applicant before a building permit can be issued.
- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of ~~code compliance~~ *the building safety and permits division*.
(Ord. No. 31A-127, 10-29-90)

Sec. 24-596. Regulations for subdivisions and site plans

The applicant of any subdivision of land or site plan within the county shall submit with his application a statement by a licensed surveyor or engineer as to whether or not any property shown on the plat or plan is at an elevation lower than the 100-year flood level. Where a 100-year flood level exists, the extent of this area shall be shown on the plat or plan. Further, the elevation of the finished surface of the ground at each building location shall be shown. Lots created after February 6, 1991, which are within a floodplain district having a 100-year flood elevation greater than 7-1/2 feet, shall contain a natural, unfilled building site at least one foot above the 100-year flood elevation adequate to accommodate all proposed structures. All structures shall be constructed solely within such building site *and outside of the 100-year flood plain*.

(Ord. No. 31A-127, 10-29-90; Ord. No. 31A-228, 9-25-07)

Sec. 24-597. Regulations for replacement manufactured homes.

- (a) Replacement manufactured homes shall be elevated on a permanent foundation so that the lowest floor is ~~one foot~~ *two feet* above the level of the 100-year flood *elevation*.
- (b) In floodplain areas, replacement manufactured homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors in either of the following arrangements:
- (1) Over-the-top ties at each corner plus one frame tie at the middle of each side; or
 - (2) Frame ties at each corner plus no less than five evenly spaced additional frame ties per side.
- (c) All ties to the ground shall be able to carry a force of 4,800 pounds.
(Ord. No. 31A-127, 10-29-90)

Sec. 24-601. Watercourse modification.

The Federal Insurance Administrator, adjacent jurisdictions and the Department of Conservation and Recreation, Division of ~~Soil and Water Conservation~~ *Dam Safety and Floodplain Management* shall be notified prior to the alteration or relocation of any watercourse. The flood-carrying capacity to such watercourse shall be maintained.
(Ord. No. 31A-127, 10-29-90)

MEMORANDUM

DATE: June 7, 2011
TO: Policy Committee
FROM: Leanne Reidenbach, Senior Planner
SUBJECT: Development Standards: Draft Timbering Ordinance

Staff presented a framework for revisions to timbering requirements to the Policy Committee in February 2011. At that meeting, the Policy Committee generally concurred with staff's recommended amendments. The Committee suggested that staff consider treating land outside the Primary Service Area (PSA) that is zoned R-8 the same as land zoned A-1. The Committee also suggested requiring timbering buffers along rights-of-way for properties zoned A-1 outside the Primary Service Area. Staff supports not changing the current timbering ordinance requirements as stated above, but recommends Option 1 listed below.

Following this meeting, the Board of Supervisors held multiple work sessions to discuss priority ordinance sections. As part of the timbering discussion, the Board recommended developing an application and guidelines for owners who request a modification to the timber buffer and setback requirements. The Board also expressed an interest in considering ways to preserve buffers along Community Character Corridors (CCCs) for A-1 properties outside the PSA that preserved the aesthetics but were either based on incentives or at least not punitive.

Since these meetings, staff has developed an application form for timber buffer/setback modifications. Staff also looked at R-8 properties outside the PSA and determined that there are few R-8 parcels outside the PSA that appear to be wooded. The majority of these parcels are located along Chickahominy Road and Little Creek Dam Road and no parcels were along Community Character Corridors. Most of the area is developed as single-family residential and only a few are larger wooded tracts. The decision on whether to treat these parcels the same as A-1 areas outside the PSA will rest on how the Board decides to treat those A-1 parcels (see discussion below).

Based on these questions and directives, staff researched surrounding and out-of-state localities (including York County, Charles City County, New Kent County, Loudoun County, Clarke County, New Hampshire, Georgia, and North Carolina) to determine current practices in timber buffering. There was a mix of localities that required buffers on all public rights-of-way and those that did not have performance standards. Those localities that did require buffers (York County; Clarke County; DeKalb County, GA; and Holly Springs, NC), also required that the property owner contact the county or submit a forestry management or pre-harvest plan in advance of commencing timbering activities. Currently, James City County does not receive notification of timbering activities. Requiring a plan or similar notification could give the County the ability to evaluate the location of the property and suggest that a buffer be left if the property is along a CCC or verify that buffers already required by the ordinance are incorporated in the timbering plan. It would also give staff the opportunity to contact the Greenspace coordinator to evaluate whether this may be an area where the County would be interested in purchasing timbering rights on the property. In any of these options, the intent in acquiring a conservation easement or timbering rights would be to protect the visual corridor and any easements could be tailored to the specific property and written in a way that would not limit proposed road projects along the property's frontage.

Staff consulted with Billy Apperson, the James City County Forester for the Virginia Department of Forestry (DoF). His comments are incorporated in the summary of options listed below but he did note that each option was acceptable under State code. He also noted that since Virginia is a right-to-timber state, he did not favor any additional requirements that would add cost or time to timber harvesting or detract from the value of the property.

Staff has provided three draft timbering ordinances for consideration:

- **Option 1** is based on staff’s initial recommendations to the Policy Committee. Mr. Apperson suggested that if this option is selected, the County can develop a Memorandum of Agreement stating that the DoF will verbally notify a designated Development Management representative of timbering activity, giving the County the opportunity to consider acquiring a timbering easement along any rights-of-way.
- **Option 2** includes a requirement that landowners submit a pre-harvest plan to the County at least 10 days prior to commencing timbering activities. Staff would accept a relatively simple hand-drawn plan with the intention of it serving as notification to the County and as the property owner’s acknowledgement of any ordinance buffer requirements. This requirement would apply to all timbering operations regardless of zoning or location relative to the PSA and the proposed language mirrors requirements in York County. Mr. Apperson was generally opposed to anything that would require a property owner to submit a more formal plan or drawing showing the timbering operation as it would be an additional requirement and could delay the timbering process. He also recommended that the pre-harvest plan notification only be required for parcels with buffer requirements or parcels outside the PSA that are on a Community Character Corridor. Based on consultation with the County Attorney’s office, requiring a pre-harvest plan only in certain circumstances as recommended by Mr. Apperson is not legally defensible.
- **Option 3** includes requirements for submission of a pre-harvest plan and for setbacks for timbering on A-1 properties outside the PSA. It includes language for a 50 foot setback, which aligns with the setback requirement for A-1 properties inside the PSA. Additionally, landowners would be permitted to conduct limited timbering inside the setback in order to obtain valuable trees. This provision would allow landowners to still realize the full value of timbering their property. Mr. Apperson noted that the setback would be able to withstand most wind damage if hardwood trees of less than 10 inch diameter are left, but that a setback is still not a safe or appropriate treatment for every property. Staff included a clause in the ordinance allowing the setback requirement to be modified if the DoF determines that the required buffer could cause a threat to public health or safety. DoF reviewed the proposed draft language and noted that it would provide the property owner flexibility in allowing them to harvest within the setback and would provide a solid buffer within five years of the initial timbering that would be less subject to wind and other damage. Staff does not support Option 3.

Staff requests the Policy Committee offer comments on this draft ordinance and the alternative options prior to the Board of Supervisors work session in July. Staff recommends that the Policy Committee endorse Option 1, including developing a Memorandum of Agreement with DoF.

Attachments:

1. Timber Buffer Modification application
2. Pre-Harvest Plan application
3. Option 1: Staff draft ordinance
4. Option 2: Notification only required
5. Option 3: Notification and setback outside the PSA required

Timber Buffer Modification Application

James City County, Virginia

Applicants can receive landscape modifications from the Planning Director for Chapter 24, Article II Special Regulations, Division I, Section 24-43 of the Zoning Ordinance – Buffer and setback requirements for timbering activities.

The modification process is available to allow flexibility with timber buffer requirements when it is deemed appropriate.

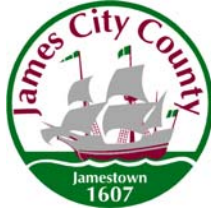
Questions? Call the James City County Planning Division at (757)253-6685

When is a modification appropriate?

- ◆ If an alternative design provides equivalent measures to the required buffer, or retains the rural character of the property.
- ◆ If buffers or setbacks for timbering are unnecessary due to a site's physical conditions, such as topography, presence of streambeds, wetlands, or natural features.
- ◆ If it involves the selective removal of weakened, dying, diseased, or insect damaged trees and such removal will enhance the long term effectiveness of the buffer as a visual barrier.
- ◆ If your property is zoned A-1, General Agricultural, is outside the Primary Service Area, and is located along a Community Character Corridor and you are proposing to harvest a portion of your buffer in accordance with Section 24-43(c)(3).

Helpful Tips:

- ◆ Section 24-43 of the Zoning Ordinance provides detailed information about modifications for timber buffers and setbacks.
- ◆ A County planner is available to consult about modification requests or questions about your application before it is submitted. Call the Planning Office at (757)253-6685.
- ◆ Requests for modifications must be filed in writing with the Planning Director, through the form provided on the back of this pamphlet. The Planning Director will make the final decision about whether clearing within a buffer or setback is permitted and is required to notify the applicant of the decision within 10 days of receipt of a completed request.



Timber Buffer Modification

For Internal Use: Date Received: _____ Along a CCC: YES___ NO___

Please complete all sections of the application. If you have questions, call (757) 253-6685 or visit www.jcegov.com/planning.

1. **Project Information:**

Property Address: _____

Number of Acres: _____ Zoning: _____

Tax Map & Parcel ID: _____

Is this property within the Primary Service Area? Yes___ No___

Has a certified arborist or forester been consulted Yes___ No___

Is a harvesting management plan in place for this property? Yes___ No___

Please provide a description of the modification request. The description should include the following information (*use an additional page if necessary*):

(A) What is the effect of the timbering on the long-term effectiveness of the buffer/setback on adjacent roads and properties? _____

(B) Describe development located on the property and in the surrounding area. _____

(C) Describe the condition of any adjacent dwelling or subdivision. _____

(D) Detail any recommendations of the state forester, including recommendations on the use and type of equipment for partial timbering. _____

(E) What is the health and diversity of the trees in the buffer/setback area? _____

(F) What is the market value of:

-The timber that will remain in the buffer/setback (if any): _____

-The timber to be removed from the buffer/setback: _____

- The timber on the balance of the property: _____

2. Applicant/Contact Information:

Name: _____	
Company: _____	Phone: _____
Address: _____	Fax: _____
_____ e-mail: _____	

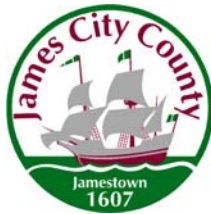
3. Property Owner Information:

Name: _____	
Company: _____	Phone: _____
Address: _____	Fax: _____
_____ e-mail: _____	

4. Property Map:

Please provide a map of the property to scale which includes the following information (*Note that the map can be hand drawn or developed using JCC's Property Information page at <http://property.jccgov.com/parcelviewer/>. No survey is required. Planning staff is also available to help put this map together.):*

- (A) Topographic contours
- (B) Property lines and names of adjacent public roadways
- (C) All existing and proposed driveway entrances to the property
- (D) All required timbering buffers or setbacks
- (E) Tree protection measures
- (F) Areas of the buffer/setback you propose to timber within and what trees are proposed to be left in the buffer/setback
- (G) Existing basal area per acre within the buffer/setback and proposed basal area per acre within the buffer/setback after any proposed timbering (*note that this information is only required for properties zoned A-1, located outside the Primary Service Area, and along a Community Character Corridor*)



Pre-Harvest Plan Application

For Internal Use: Date Received: _____ Along a CCC: YES___ NO___

Please complete all sections of the application. If you have questions, call (757) 253-6685 or visit www.jccegov.com/planning.

1. **Project Information:**

Property Address: _____

Number of Acres: _____ Zoning: _____

Tax Map & Parcel ID: _____

Is this property within the Primary Service Area? Yes___ No___

Has a certified arborist or forester been consulted Yes___ No___

Is a harvesting management plan in place for this property? Yes___ No___

Please provide a description of the timbering proposal. The description should include the following information* (*use an additional page if necessary*) (*Note that no formal studies or surveys are required to provide this information. Base the descriptions off your knowledge of your property.):

(A) Describe development located on the property and in the surrounding area. _____

(B) Describe the condition of any adjacent dwelling or subdivision. _____

(C) Is any portion of the property not included in the timbering proposal? _____

(D) Detail any recommendations of the state forester, including recommendations on the use and type of equipment for partial timbering. _____

(E) Are there any known historic or cultural resources on the property (known through oral or family history, an archaeological survey, by the Virginia Department of Historic Resources, etc)? _____

(F) Are there any environmentally sensitive areas on the property (for example streams, wetlands, steep slopes, etc identified on the County's Property Information page)? _____

(G) Describe the harvesting procedures and the timing of the harvest. _____

2. Applicant/Contact Information:

Name: _____	
Company: _____	Phone: _____
Address: _____	Fax: _____
_____ e-mail: _____	

3. Property Owner Information:

Name: _____	
Company: _____	Phone: _____
Address: _____	Fax: _____
_____ e-mail: _____	

4. Property Map:

Please provide a map of the property to scale which includes the following information (*Note that the map can be hand drawn or developed using JCC's Property Information page at <http://property.jccgov.com/parcelviewer/>. No survey is required. Planning staff is also available to help put this map together.):*

- (A) Property lines and names of adjacent public roadways
- (B) All existing and proposed driveway entrances to the property
- (C) All required timbering buffers or setbacks
- (D) Tree protection measures
- (E) Areas excluded from timbering proposal

Option 1 DRAFT: Staff's original recommended changes

Chapter 24 Article I. In General

Sec. 24-2. Definitions.

Setback for timbering. The distance which any timbering activity must be set back from a public road right-of-way. It is an area in which no timbering shall occur except in accordance with section 24-43.

Timbering. Tree harvesting, cutting, or removal where the total amount of land on which tree cutting occurs exceeds 10,000 square feet, *which is performed in accordance with accepted Virginia Department of Forestry best management practices for timber harvesting as determined by the state forester pursuant to § 10.1-1105 of the Code of Virginia, and which includes reforestation either by natural or artificial reforestation, or both.* However, timbering shall not include:

- (1) Harvesting, cutting, removal or other clearing of trees in accordance with an ~~approved~~ site plan, subdivision plan, or building permit *that is currently under review by the county or has received final approval*; or
- (2) *Removal of tree stumps or conduct of other land disturbing activities; or*
- ~~(2)~~ (3) Removal of dead, diseased, dying, or insect damaged trees.

Chapter 24 Article II. Special Regulations Division 1. In General

Sec. 24-43. Buffer and setback requirements for timbering activities.

The requirements in this section shall apply to timbering activities located in all districts. This section shall not apply to *tree removal* ~~timbering~~ activities conducted as part of an ~~approved~~ a site plan, subdivision plan, or building permit *that is currently under review by the county or has received final approval*. Approval of site plans, subdivision plans, or building permits shall be in accordance with other provisions of the zoning ordinance and shall not be governed or guided by the provisions of this section. This section shall also not apply to timbering activities where all timbering is conducted outside of the buffers or setback for timbering listed in paragraph (1), (2) or (3) or for timbering within such buffers or setback for timbering to construct access drives having a maximum width of 30 feet. The following provisions shall apply to all timbering activities subject to this section except as otherwise noted:

- (1) *Buffer along public roads.* This paragraph shall not apply to the General Agricultural District, A-1. An undisturbed buffer at least 75 feet wide shall be maintained along all public roads. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

- (2) *Buffer along community character corridor.* This paragraph shall not apply to the General Agricultural District, A-1. On all other property fronting on roads that are identified as community character corridors on the Comprehensive Plan, an undisturbed buffer at least 150 feet wide shall be maintained along the community character corridor on properties that are zoned residential. No trees or other vegetation shall be removed from this buffer except as permitted under this section.
- (3) *Setback for timbering.* In the General Agricultural District, A-1, *for properties that are in the primary service area, all timbering activities shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with other provisions in section 24-43. This distance shall be known as the setback for timbering. In the General Agricultural District, A-1, for properties outside the primary service area, there shall be no setback for timbering.* ~~* a setback for timbering shall be provided in accordance with section 24-215(c).~~
- (*NOTE: this language is not a new requirement. It is being relocated from Section 24-215(c) so that all timber buffer and setback information is in the same place.)**
- (4) *Buffer and setback for timbering measurement and determinations.* The width of required buffers and setbacks for timbering shall exclude any planned future right-of-way as designated on the Six-Year Primary or Secondary Road Plan.
- (5) *Tree protection.* Required buffer areas and setbacks for timbering shall be marked by painting trees along the interior edge of the buffer. Equipment, timber, or other materials shall not be placed within the buffer or setback for timbering area.
- (6) *Processing requirements.* Prior to commencing any timbering activities within a buffer or setback for timbering except for a 30-foot access drive, the property owner or agent shall complete an application and submit it along with a James City County Tax Map (with topography ~~and planimetric detail at a scale of 1"=200'~~) to the planning director that shows the site's property lines, any existing and proposed driveway entrances, required buffer areas, and setbacks for timbering, and tree protection measures. The planning director shall determine whether to permit timbering activities within a buffer or setback for timbering in accordance with paragraphs (7) and (8) below. Upon approval of the application by the planning director, timbering activities within a buffer or setback for timbering may proceed. All timbering activities within a buffer or setback for timbering including location of driveways or any other land disturbing activities, shall take place only in those areas indicated on the approved map and in accordance with the methods approved by the planning director. The planning director shall have no more than ~~14~~ **10** *working* days from the filing of such application to approve or disapprove the application. If disapproved, the planning director shall write a letter to the applicant identifying the revisions to be made to gain approval.
- (7) *Modifications.* The planning director may grant modifications to the buffer, setback for timbering, and tree protection requirements when, in the opinion of the planning director,

an alternative design provides equivalent measures, or retains the rural character of the property, or when buffers, setbacks for timbering, or tree protection are unnecessary due to a site's physical conditions such as topography or presence of streambeds, wetlands or other natural features. The planning director may also permit tree removal within the buffer or setback for timbering when trees are weakened, dying, diseased, or insect damaged, or, in the opinion of the state forester *or a certified horticulturalist*, unlikely to survive or such removal will enhance the long term effectiveness of the buffer or setback for timbering as a visual barrier.

- (8) *Partial timbering within a buffer or setback for timbering.* The planning director may approve partial timbering of buffer areas and setback for timbering and the use and type of equipment for partial timbering, after considering the following:
- a. The effect of the timbering on the long-term effectiveness of the buffer area, or setback for timbering and on adjacent roads and properties;
 - b. The anticipated development of the property and the surrounding area;
 - c. The condition of any adjacent dwelling or subdivision including whether the structures are abandoned or dilapidated;
 - d. Any recommendations of the state forester *or certified horticulturalist*, including recommendations on the use and type of equipment for partial timbering;
 - e. The health and diversity of trees with emphasis on protection of mixed hardwood trees, and the reforestation of the buffer or setback for timbering; and
 - f. The market value of the timber in the buffer or setback for timbering and the timber to be removed, and the market value of the timber on the balance of the property.
- (9) *Development review committee review.* The development review committee shall consider the timbering application if there are unresolved problems between the applicant ~~or~~ *and* the planning director.
- (10) *Tree Replacement.* If timbering occurs within the buffers or setbacks for timbering described above in paragraphs (1), (2) and (3) and such timbering is not approved in accordance with paragraphs (7) and (8) above, trees shall be replaced at a ratio of one tree for each 800 square feet of area timbered. All replacement trees shall be of a species native to eastern Virginia. Such trees shall meet the standards for trees stated in section 24-2. The number and type of trees and their placement shall be approved by the planning director.

All trees shall be planted within 30 days from the date the trees were removed from the buffer or setback unless such period does not fall within the planting season. In such cases, their replacement in the next planting season (October 1 through March 31) shall be guaranteed by entering into a written agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover all costs of the plantings and their installation as estimated by the

planning director. Such written agreement shall be entered into and such financial guarantee shall be provided to the County within 30 days from the date the trees were removed. The form of the agreement, financial guarantee, or type of surety shall be to the satisfaction of and approved by the county attorney. If the improvements are not completed in a timely manner, the planning director shall proceed to complete the improvements by calling on the surety or financial guarantee. After the first full growing season (February 1 to November 30) after planting, any trees not in a healthy growing condition or determined to be dead, diseased, or dying, shall be replaced as determined by the planning director. Thereafter, all trees shall be maintained in a healthy growing environment and in a healthy growing condition.

The planning director may allow some or all of the trees required by this paragraph to be planted outside the buffer or off-site when, if in the opinion of the planning director, such an alternative mitigates the environmental, buffering, or wildlife habitat impacts of the tree removal.

- (11) Violations and penalties. Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days written notice of the violation to the owner of the property prior to commencing enforcement. The violation of any provision of this section concerning tree replacement in paragraph 10 above is subject to a civil fine pursuant to section 24-22. The violation of any other provisions in this section is subject to a criminal sanction under section 24-22.

Chapter 24
Article V. Districts
Division 2. General Agricultural District, A-1

Sec. 24-212. Permitted uses.

~~Silviculture, with timbering in accordance with Section 24-215(c).~~

Timbering in accordance with section 24-43.

Sec. 24-215. Setback requirements.

~~(c) All timbering activities in the primary service area shall be located a minimum of 50 feet from any public road right of way unless done in accordance with section 24-43. This distance shall be known as the setback for timbering.*~~

(*NOTE: This text was relocated to Section 24-43(c)(3) above)

Option 2 DRAFT: Pre-Harvest Plan submission

Chapter 24 Article I. In General.

Sec. 24-2. Definitions.

Setback for timbering. The distance which any timbering activity must be set back from a public road right-of-way. It is an area in which no timbering shall occur except in accordance with section 24-43.

Timbering. Tree harvesting, cutting, or removal where the total amount of land on which tree cutting occurs exceeds 10,000 square feet, *which is performed in accordance with accepted Virginia Department of Forestry best management practices for timber harvesting as determined by the state forester pursuant to § 10.1-1105 of the Code of Virginia, and which includes reforestation either by natural or artificial reforestation, or both.* However, timbering shall not include:

- (1) Harvesting, cutting, removal or other clearing of trees in accordance with an ~~approved~~ site plan, subdivision plan, or building permit *that is currently under review by the county or has received preliminary or final approval*; or
- (2) *Removal of tree stumps or conduct of other land disturbing activities; or*
- ~~(2)~~ (3) Removal of dead, diseased, dying, or insect damaged trees.

Chapter 24 Article II. Special Regulations Division 1. In General

Sec. 24-43. ~~Buffer and setback r~~Requirements for timbering activities.

The requirements in this section shall apply to timbering activities located in all districts. This section shall not apply to *tree removal* ~~timbering~~ activities conducted as part of an ~~approved~~ a site plan, subdivision plan, or building permit *that is currently under review by the county or has received final approval*. Approval of site plans, subdivision plans, or building permits shall be in accordance with other provisions of the zoning ordinance and shall not be governed or guided by the provisions of this section. ~~This section shall also not apply to timbering activities where all timbering is conducted outside of the buffers or setback for timbering listed in paragraph (1), (2) or (3) or for timbering within such buffers or setback for timbering to construct access drives having a maximum width of 30 feet.~~ The following provisions shall apply to all timbering activities subject to this section except as otherwise noted:

- (a) *A pre-harvest plan for all timbering activities shall be submitted to and approved by the Virginia Department of Forestry and the planning director. The planning director shall review the pre-harvest plan for compliance with all applicable requirements of this chapter.*

The planning director shall either approve or disapprove the plan no later than ten (10) working days after submittal. If disapproved, the planning director shall identify in writing to the applicant what revisions must be made to gain approval. In no case shall timbering activities occur on any land that does not have a preliminary or final approved site plan, subdivision plan, or building permit without the approval of a pre-harvest plan by the planning director.

(b) All timbering activities shall be in accordance with the approved pre-harvest plan. A pre-harvest plan shall be in accordance with the Virginia Department of Forestry best management practices for timber harvesting and shall include:

(1) property address, property identification number, legal acreage of the parcel, and a description of any land not included in the pre-harvest plan;

(2) a description of the property to be timbered including its current condition, characteristics of adjacent property, identification of known cultural and historical resources, the presence of any known environmentally sensitive features, and the recommendations of a state forester or a certified horticulturist;

(3) a narrative description of harvesting procedures, timing of harvest, and tree protection measures for required buffer and setback areas;

(4) A map to scale showing the location of property lines, potential driveway entrances, resource protection areas, adjacent roadways, and required buffers and setbacks; and

(5) a timber buffer modification application, if applicable.

(c) The following buffer and setback requirements shall apply to all districts as follows:

(1) Buffer along public roads. This paragraph shall not apply to the General Agricultural District, A-1. An undisturbed buffer at least 75 feet wide shall be maintained along all public roads. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

(2) Buffer along community character corridor. This paragraph shall not apply to the General Agricultural District, A-1. On all other property fronting on roads that are identified as community character corridor on the Comprehensive Plan, an undisturbed buffer at least 150 feet wide shall be maintained along the community character corridor on properties that are zoned residential. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

(3) Setback for timbering. In the General Agricultural District, A-1, for properties that are in the primary service area, all timbering activities shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with other provisions in section 24-43. This distance shall be known as the setback for timbering. In the General

*Agricultural District, A-1, for properties outside the primary service area, there shall be no required setback for timbering.** ~~a setback for timbering shall be provided in accordance with section 24-215(c).~~

(*NOTE: this language is not a new requirement. It is being relocated from Section 24-215(c) so that all timber buffer and setback information is in the same place.)

- (4) *Buffer and setback for timbering measurement and determinations.* The width of required buffers and setbacks for timbering shall exclude any planned future right-of-way as designated on the Six-Year Primary or Secondary Road Plan.
- (5) *Tree protection.* Required buffer areas and setbacks for timbering shall be marked by painting trees along the interior edge of the buffer. Equipment, timber, or other materials shall not be placed within the buffer or setback for timbering area.
- (6) *Processing requirements.* Prior to commencing any timbering activities within a buffer or setback for timbering except for a 30-foot access drive, the property owner or agent shall complete an **timber buffer modification** application and submit it along with a James City County Tax Map (with topography ~~and planimetric detail at a scale of 1"=200'~~) to the planning director that shows the site's property lines, any existing and proposed driveway entrances, required buffer areas, and setbacks for timbering, and tree protection measures. The planning director shall determine whether to permit timbering activities within a buffer or setback for timbering in accordance with paragraphs (7) and (8) below. Upon approval of the application by the planning director, timbering activities within a buffer or setback for timbering may proceed. All timbering activities within a buffer or setback for timbering including location of driveways or any other land disturbing activities, shall take place only in those areas indicated on the approved map and in accordance with the methods approved by the planning director. The planning director shall have no more than ~~14~~ **10** *working* days from the filing of such application to approve or disapprove the application. If disapproved, the planning director shall write a letter to the applicant identifying the revisions to be made to gain approval.
- (7) *Modifications.* The planning director may grant modifications to the buffer, setback for timbering, and tree protection requirements when, in the opinion of the planning director, an alternative design provides equivalent measures, or retains the rural character of the property, or when buffers, setbacks for timbering, or tree protection are unnecessary due to a site's physical conditions such as topography or presence of streambeds, wetlands or other natural features. The planning director may also permit tree removal within the buffer or setback for timbering when trees are weakened, dying, diseased, or insect damaged, or, in the opinion of the state forester *or a certified horticulturalist*, unlikely to survive or such removal will enhance the long term effectiveness of the buffer or setback for timbering as a visual barrier.

- (8) *Partial timbering within a buffer or setback for timbering.* The planning director may approve partial timbering of buffer areas and setback for timbering and the use and type of equipment for partial timbering, after considering the following:
- a. The effect of the timbering on the long-term effectiveness of the buffer area, or setback for timbering and on adjacent roads and properties;
 - b. The anticipated development of the property and the surrounding area;
 - c. The condition of any adjacent dwelling or subdivision including whether the structures are abandoned or dilapidated;
 - d. Any recommendations of the state forester *or certified horticulturalist*, including recommendations on the use and type of equipment for partial timbering;
 - e. The health and diversity of trees with emphasis on protection of mixed hardwood trees, and the reforestation of the buffer or setback for timbering; and
 - f. The market value of the timber in the buffer or setback for timbering and the timber to be removed, and the market value of the timber on the balance of the property.

~~(d)(9)~~ *Development review committee review.* The development review committee shall consider the timbering *buffer modification* application if there are unresolved problems between the applicant ~~or~~ *and* the planning director.

~~(e)(10)~~ *Tree Replacement.* If timbering occurs *without an approved pre-harvest plan or* within the buffers or setbacks for timbering described above in paragraphs (1), (2) and (3) and such timbering is not approved in accordance with paragraphs (7) and (8) above, trees shall be replaced at a ratio of one tree for each 800 square feet of area timbered. All replacement trees shall be of a species native to eastern Virginia. Such trees shall meet the standards for trees stated in section 24-2. The number and type of trees and their placement shall be approved by the planning director.

All trees shall be planted within 30 days from the date the trees were removed from the buffer or setback unless such period does not fall within the planting season. In such cases, their replacement in the next planting season (October 1 through March 31) shall be guaranteed by entering into a written agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover all costs of the plantings and their installation as estimated by the planning director. Such written agreement shall be entered into and such financial guarantee shall be provided to the County within 30 days from the date the trees were removed. The form of the agreement, financial guarantee, or type of surety shall be to the satisfaction of and approved by the county attorney. If the improvements are not completed in a timely manner, the planning director shall proceed to complete the improvements by calling on the surety or financial guarantee. After the first full growing season (February 1 to November 30) after planting, any trees not in a healthy growing condition or determined to be dead, diseased, or dying, shall be replaced as determined

by the planning director. Thereafter, all trees shall be maintained in a healthy growing environment and in a healthy growing condition.

The planning director may allow some or all of the trees required by this paragraph to be planted outside the buffer or off-site when, if in the opinion of the planning director, such an alternative mitigates the environmental, buffering, or wildlife habitat impacts of the tree removal.

~~(f)(11)~~ Violations and penalties. Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days written notice of the violation to the owner of the property prior to commencing enforcement. The violation of any provision of this section concerning tree replacement in paragraph 10 above is subject to a civil fine pursuant to section 24-22. The violation of any other provisions in this section is subject to a criminal sanction under section 24-22.

Chapter 24
Article V. Districts
Division 2. General Agricultural District, A-1

Sec. 24-212. Permitted uses.

~~Silviculture, with timbering in accordance with Section 24-215(c).~~

Timbering in accordance with section 24-43.

Sec. 24-215. Setback requirements.

~~(e) All timbering activities in the primary service area shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with section 24-43. This distance shall be known as the setback for timbering.*~~

(*NOTE: This text was relocated to Section 24-43(c)(3) above)

Option 3 DRAFT: Pre-Harvest Plan submission and required setbacks for timbering outside the PSA

Chapter 24 Article I. In General.

Sec. 24-2. Definitions.

Basal area per acre. The area of an acre of land that is occupied by tree trunks. Equivalent to the total cross sectional area of group of trees expressed in square feet per acre. Cross sectional area of each tree is measured at a point 4.5 feet above the ground.

Setback for timbering. The distance which any timbering activity must be set back from a public road right-of-way. It is an area in which no timbering shall occur except in accordance with section 24-43.

Timbering. Tree harvesting, cutting, or removal where the total amount of land on which tree cutting occurs exceeds 10,000 square feet, which is performed in accordance with accepted Virginia Department of Forestry best management practices for timber harvesting as determined by the state forester pursuant to § 10.1-1105 of the Code of Virginia, and which includes reforestation either by natural or artificial reforestation, or both. However, timbering shall not include:

- (1) Harvesting, cutting, removal or other clearing of trees in accordance with an approved site plan, subdivision plan, or building permit that is currently under review by the County or has received preliminary or final approval; or
- (2) Removal of tree stumps or conduct of other land disturbing activities; or
- (2) (3) Removal of dead, diseased, dying, or insect damaged trees.

Chapter 24 Article II. Special Regulations Division 1. In General

Sec. 24-43. ~~Buffer and setback r~~Requirements for timbering activities.

The requirements in this section shall apply to timbering activities located in all districts. This section shall not apply to tree removal timbering activities conducted as part of an approved a site plan, subdivision plan, or building permit that is currently under review by the County or has received final approval. Approval of site plans, subdivision plans, or building permits shall be in accordance with other provisions of the zoning ordinance and shall not be governed or guided by the provisions of this section. ~~This section shall also not apply to timbering activities where all timbering is conducted outside of the buffers or setback for timbering listed in paragraph (1), (2) or (3) or for timbering within such buffers or setback for timbering to construct access drives having a maximum width of 30 feet.~~ The following provisions shall apply to all timbering activities subject to this section except as otherwise noted:

(a) *A pre-harvest plan for all timbering activities shall be submitted to and approved by the Virginia Department of Forestry and the planning director. The planning director shall review the pre-harvest plan for compliance with all applicable requirements of this chapter.*

The planning director shall either approve or disapprove the plan no later than ten (10) working days after submittal. If disapproved, the planning director shall identify in writing to the applicant what revisions must be made to gain approval. In no case shall timbering activities occur on any land that does not have a preliminary or final approved site plan, subdivision plan, or building permit without the approval of a pre-harvest plan by the planning director.

(b) *All timbering activities shall be in accordance with the approved pre-harvest plan. A pre-harvest plan shall be in accordance with the Virginia Department of Forestry best management practices for timber harvesting and shall include:*

(1) *property address, parcel identification number, legal acreage of the parcel, and a description of any land not included in the pre-harvest plan;*

(2) *a description of the property to be timbered including its current condition, characteristics of adjacent property, identification of known cultural and historical resources, the presence of any known environmentally sensitive features, and the recommendations of a state forester or a certified horticulturist;*

(3) *a narrative description of harvesting procedures, timing of harvest, and tree protection measures for required buffer and setback areas;*

(4) *a map to scale showing the location of property lines, potential driveway entrances, resource protection areas, adjacent roadways, and required buffers and setbacks; and*

(5) *a timber buffer modification application, if applicable.*

(c) *The following buffer and setback requirements shall apply to all districts as follows:*

(1) *Buffer along public roads.* This paragraph shall not apply to the General Agricultural District, A-1. An undisturbed buffer at least 75 feet wide shall be maintained along all public roads. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

(2) *Buffer along community character corridor.* This paragraph shall not apply to the General Agricultural District, A-1. On all other property fronting on roads that are identified as community character corridors on the Comprehensive Plan, an undisturbed buffer at least 150 feet wide shall be maintained along the community character corridor on properties that are zoned residential. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

- (3) *Setback for timbering.* In the General Agricultural District, A-1, *for properties that are in the primary service area, all timbering activities shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with other provisions in section 24-43. This distance shall be known as the setback for timbering.* ~~*a setback for timbering shall be provided in accordance with section 24-215(c).~~

(*NOTE: this language is not a new requirement. It is being relocated from Section 24-215(c) so that all timber buffer and setback information is in the same place.)

In the General Agricultural District, A-1, for all properties that are outside the primary service area and front on roads that are identified as community character corridors on the Comprehensive Plan, a setback for timbering at least 50 feet wide shall be maintained. Within this setback up to 50% of the basal area per acre of the trees in the setback can be harvested. Existing hardwood trees with a diameter breast height 10 inches or less shall be preserved within the required setback. The planning director or his designee shall permit the harvesting of trees within the setback after submittal of a timber buffer modification application and documentation verifying consultation with the state forester or a certified horticulturalist. Any harvesting within the setback shall be in accordance with the tree protection standards in Section 24-89 (b) (3) and (4).

- (4) *Buffer and setback for timbering measurement and determinations.* The width of required buffers and setbacks for timbering shall exclude any planned future right-of-way as designated on the Six-Year Primary or Secondary Road Plan.
- (5) *Tree protection.* Required buffer areas and setbacks for timbering shall be marked by painting trees along the interior edge of the buffer. Equipment, timber, or other materials shall not be placed within the buffer or setback for timbering area.
- (6) *Processing requirements.* Prior to commencing any timbering activities within a buffer or setback for timbering except for a 30-foot access drive, the property owner or agent shall complete an *timber buffer modification* application and submit it along with a James City County Tax Map (with topography ~~and planimetric detail at a scale of 1"=200'~~) to the planning director that shows the site's property lines, any existing and proposed driveway entrances, required buffer areas, and setbacks for timbering, and tree protection measures. The planning director shall determine whether to permit timbering activities within a buffer or setback for timbering in accordance with paragraphs (7) and (8) below. Upon approval of the application by the planning director, timbering activities within a buffer or setback for timbering may proceed. All timbering activities within a buffer or setback for timbering including location of driveways or any other land disturbing activities, shall take place only in those areas indicated on the approved map and in accordance with the methods approved by the planning director. The planning director shall have no more than ~~14~~ *10 working* days from the filing of such application to approve or disapprove the application. If disapproved, the planning director shall write a letter to the applicant identifying the revisions to be made to gain approval.

- (7) *Modifications.* The planning director may grant modifications to the buffer, setback for timbering, and tree protection requirements when, in the opinion of the planning director, an alternative design provides equivalent measures, or retains the rural character of the property or when buffers, setbacks for timbering, or tree protection are unnecessary due to a site's physical conditions such as topography or presence of streambeds, wetlands or other natural features. The planning director may also permit tree removal within the buffer or setback for timbering when trees are weakened, dying, diseased, or insect damaged, or, in the opinion of the state forester *or a certified horticulturalist*, unlikely to survive; or such removal will enhance the long term effectiveness of the buffer or setback for timbering as a visual barrier; *or, in the opinion of the state forester or a certified horticulturalist, due to topography or other site specific conditions the buffer would result in a public safety hazard.*
- (8) *Partial timbering within a buffer or setback for timbering.* The planning director may approve partial timbering of buffer areas and setback for timbering and the use and type of equipment for partial timbering, after considering the following:
- a. The effect of the timbering on the long-term effectiveness of the buffer area, or setback for timbering and on adjacent roads and properties;
 - b. The anticipated development of the property and the surrounding area;
 - c. The condition of any adjacent dwelling or subdivision including whether the structures are abandoned or dilapidated;
 - d. Any recommendations of the state forester *or certified horticulturalist*, including recommendations on the use and type of equipment for partial timbering;
 - e. *The total basal area of trees per acre within the buffer or setback before and after proposed timbering within the buffer or setback;*
 - ef. The health and diversity of trees with emphasis on protection of mixed hardwood trees, and the reforestation of the buffer or setback for timbering; and
 - fg. The market value of the timber in the buffer or setback for timbering and the timber to be removed, and the market value of the timber on the balance of the property.
- ~~(d)~~(9) *Development review committee review.* The development review committee shall consider the timbering *buffer modification* application if there are unresolved problems between the applicant ~~or~~ *and* the planning director.
- ~~(e)~~(10) *Tree Replacement.* If timbering occurs *without an approved pre-harvest plan or* within the buffers or setbacks for timbering described above in paragraphs (1), (2) and (3) and such timbering is not approved in accordance with paragraphs (7) and (8) above, trees shall be replaced at a ratio of one tree for each 800 square feet of area timbered. All replacement trees shall be of a species native to eastern Virginia. Such trees shall meet the standards for trees stated in section 24-2. The number and type of trees and their placement shall be approved by the planning director.

All trees shall be planted within 30 days from the date the trees were removed from the buffer or setback unless such period does not fall within the planting season. In such cases, their replacement in the next planting season (October 1 through March 31) shall be guaranteed by entering into a written agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover all costs of the plantings and their installation as estimated by the planning director. Such written agreement shall be entered into and such financial guarantee shall be provided to the County within 30 days from the date the trees were removed. The form of the agreement, financial guarantee, or type of surety shall be to the satisfaction of and approved by the county attorney. If the improvements are not completed in a timely manner, the planning director shall proceed to complete the improvements by calling on the surety or financial guarantee. After the first full growing season (February 1 to November 30) after planting, any trees not in a healthy growing condition or determined to be dead, diseased, or dying, shall be replaced as determined by the planning director. Thereafter, all trees shall be maintained in a healthy growing environment and in a healthy growing condition.

The planning director may allow some or all of the trees required by this paragraph to be planted outside the buffer or off-site when, if in the opinion of the planning director, such an alternative mitigates the environmental, buffering, or wildlife habitat impacts of the tree removal.

~~(f)(11)~~ Violations and penalties. Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days written notice of the violation to the owner of the property prior to commencing enforcement. The violation of any provision of this section concerning tree replacement in paragraph 10 above is subject to a civil fine pursuant to section 24-22. The violation of any other provisions in this section is subject to a criminal sanction under section 24-22.

Chapter 24
Article V. Districts
Division 2. General Agricultural District, A-1

Sec. 24-212. Permitted uses.

~~Silviculture, with timbering in accordance with Section 24-215(c).~~

Timbering in accordance with section 24-43.

Sec. 24-215. Setback requirements.

~~(c) All timbering activities in the primary service area shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with section 24-43. This distance shall be known as the setback for timbering.*~~

(*NOTE: This text was relocated to Section 24-43(c)(3) above)

MEMORANDUM

DATE: June 7, 2011
TO: Policy Committee
FROM: Christopher Johnson, Principal Planner
SUBJECT: Commercial Districts, Ordinance Changes

Staff presented a framework to the Policy Committee in January 2011 for revisions to the commercial districts (LB, B-1, M-1 and M-2) as well as the special use permit triggers for certain commercial uses (Sect. 24-11) and Development Review Committee triggers (Sect. 24-147). As a reminder, topics discussed at that meetings included a review of the Business Climate Task Force report findings, the two previous amendments to the list of specially permitted uses in the commercial districts, the sustainability audit recommendations, infill development, performance standards, and commercial SUP and DRC triggers. At that meeting, the Policy Committee generally concurred with staff's recommended amendments. The Committee suggested that staff consider a more nuanced approach to changes to commercial SUP and DRC review triggers and provide the opportunity for flexibility to the application of the triggers by location, parcel size, or another measure. The Committee also recommended that staff examine the list of permitted and specially permitted uses in each of the four commercial districts.

Following that meeting, the Board of Supervisors held a work session in February 2011 to discuss ordinance sections previously determined to be priority items in the ordinance update process. Commercial districts are one of the four topics identified as a priority by the Board of Supervisors. The Board discussed the role and mission of the DRC as a body that evaluates development cases administratively and the benefits of the newly adopted enhanced conceptual plan review process. The Board and staff discussed changes to triggers for legislative review, including specific types of uses and buildings size thresholds that may impede development in the County. Discussion was held on the potential loss of commercial development due to a negative cost-benefit of locating in James City County as opposed to finding an alternative location. The majority of the Board expressed support for moving forward with staff's recommendations.

Since these meetings, staff has examined the administrative and legislative development review process in surrounding jurisdictions as well as the list of permitted and specially permitted uses in the four commercial districts. Staff has also worked to identify ways to incorporate the recommendations provided by the consultant as part of the sustainability audit.

Staff requests the Policy Committee offer comment on the attached draft ordinances prior to the Board of Supervisors work session on June 28th.

Attachments:

1. Draft ordinance, Section 24-11, Commercial Special Use Permits
2. Draft ordinance, Section 24-147, Development Review Committee Criteria
3. Draft ordinance, Article 5, Division 9, Limited Business District, LB
4. Draft ordinance, Article 5, Division 10, General Business District, B-1
5. Draft ordinance, Article 5, Division 11, Limited Business/Industrial District, M-1
6. Draft ordinance, Article 5, Division 12, General Industrial District, M-2

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

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

(1) Any convenience store;

(2) Any commercial building or group of buildings which exceeds ~~10,000~~ 20,000 square feet of floor area; or

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

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

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

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

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

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

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

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

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

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

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

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

(2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;

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

(Ord. No. 31A-121, 5-21-90; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-155, 1-3-94; Ord. No. 31A-201, 12-1-99)

Sec. 24-147. Criteria for review.

- (a) Upon application and review, the development review committee (DRC) and the commission, or the commission's designee(s), shall consider site plans if any of the following conditions are present:
- (1) The site plan proposes:
- a. a single building or group of buildings which contain a total floor area that exceeds 30,000 square feet *50,000 square feet* or a multifamily unit development of 50 or more units, which is not subject to a binding master plan that has been legislatively approved; or
 - b. ~~a fast food restaurant~~ *a multifamily unit development of 10 or more units which is not subject to a binding legislatively approved master plan;* or
 - c. a shopping center; or
- (2) There are unresolved problems between the applicant, adjacent property owners or any departmental reviewing agency. *Unresolved problems shall be defined as disagreements in the interpretation or application of ordinance requirements which have a quantifiable and/or objective impact on the proposed developments off-site impacts and/or density.*
- (b) Site plans which meet any of the conditions listed above shall generally be reviewed by the DRC and the commission in accordance with section 24-148. However, the commission's designee may consider and review, pursuant to section 24-149, any site plan which the ~~development manager~~ *Economic Development Director* determines, creates or significantly expands a use which contributes to the achievement of the economic development goals of the Comprehensive Plan.
- (c) If site plans do not qualify for review by the commission or its designees under this section, they may be considered and reviewed administratively by the zoning administrator.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-136, 1-6-92; Ord. No. 31A-157, 11-12-94; Ord. No. 31A-191, 4-13-99; Ord. No. 31A-246, 6-22-10)

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 9. LIMITED BUSINESS DISTRICT, LB

Sec. 24-367. Statement of intent.

The Limited Business District, LB, is intended to provide opportunities for a limited range of office, retail and service establishments of small to moderate size, with ~~small~~, well-landscaped parking areas *and an appropriate amount of perimeter and right-of-way landscape buffering when located adjacent to residentially zoned or Comprehensive Plan Land Use Map designated residential or agricultural property*. The district is characterized by the absence of nuisance factors such as constant heavy trucking and excessive noise, dust, light and odor. This classification is appropriate where proximity to residential areas, existing land uses, traffic patterns and other factors make it desirable to maintain a commercial character which is less intense than permitted in the General Business District, B-1. To enhance the character of the district and to improve its compatibility with low-density surroundings, limitations on building height and ~~bulk~~ *size* are imposed, and special requirements are imposed on areas designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

(Ord. No. 31A-88, 20-LB.1, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-368. Permitted uses.

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

Adult day care centers.

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

Auction houses.

Bakeries and fish markets.

Banks and other similar financial institutions.

Barber and beauty shops.

Business, governmental and professional offices.

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

Child day care centers.

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

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

Dry cleaners and laundries.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Grocery Stores 10,000 sq. ft. or less.

Health clubs, exercise clubs, fitness centers.

~~Houses of worship.~~

Libraries.

Lodges, civic clubs, fraternal organizations and service clubs.

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

Mailing and facsimile transmission reception.

Medical clinics or offices.

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

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

Office supply stores, secretarial and duplicating services.

Pet stores and pet supply sales.

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

Places of public assembly, including houses of worship or public meetings halls.

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

Post offices.

~~Public meeting halls.~~

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

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

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

Schools, *public or private*.

Timbering in accordance with section 24-43.

Tourist homes.

Veterinary hospitals (with all activities limited to a fully enclosed building *with the exception of supervised animal exercise while on a leash*).

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

(Ord. No. 31A-88, 20-LB.2, 4-8-85; Ord. No. 31A-95, 4-7-86; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-174, 1-28-97; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-244, 2-9-10)

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

In the Limited Business District, LB, buildings or structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in Section 24-269.1*:

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

Convenience stores without the sale of fuel, *in areas not designated Neighborhood Commercial or Low Density Residential on the Comprehensive Plan Land Use Map*.

Drug Stores 10,000 sq. ft. or more

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

Firearms sales and service.

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

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

Privately or publicly owned solid waste container sites.

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

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

Retail food stores over 5,000 sq. ft.

Telephone exchanges and telephone switching stations.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an

individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

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

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

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

(Ord. No. 31A-88, 20-LB.3, 4-8-85; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-173, 12-10-96; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-244, 2-9-10)

Sec. 24-369.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by Special Use Permit in the Limited Business District, LB:

- (1) Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.*
- (2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.*
- (3) Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.*

(4) *Lighting – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.*

(5) *Water Conservation Standards – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.*

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-369.1 (1) – (5) after finding that such information would not be germane to the application.

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

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

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

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

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

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

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

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

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

(5) Site landscaping shall be reviewed and approved by the director of planning and shall be consistent with the natural landscape and character of the surroundings. A unified landscape design shall be provided, including street trees.

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

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

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

(Ord. No. 31A-187, 3-23-99)

Sec. 24-371. Area requirements.

No area requirements.

(Ord. No. 31A-88, 20-LB.4, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-372. Setback requirements.

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

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

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

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

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

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

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

(Ord. No. 31A-88, 20-LB.5, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-373. Yard regulations.

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

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

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

(Ord. No. 31A-88, 20-LB.6, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-187, 3-23-99)

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

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

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

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

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

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

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

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

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

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

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

(Ord. No. 31A-88, 20-LB.7, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-187, 3-23-99)

Sec. 24-375. Height limits and height limitation waivers.

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

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

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

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

(Ord. No. 31A-88, 20-LB.9, 4-8-85; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

Sec. 24-376. Building coverage limits.

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

(Ord. No. 31A-187, 3-23-99)

Sec. 24-377. Sign regulations.

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

(Ord. No. 31A-88, 20-LB.10, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-378. Outdoor storage prohibited.

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

(Ord. No. 31A-88, 20-LB.11, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-379. Site plan review.

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

(Ord. No. 31A-88, 20-LB.12, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-380. Sidewalks.

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

(Ord. No. 31A-187, 3-23-99)

Sec. 24-381. Landscaping.

Landscaping shall be provided as required in article II, division 4.

(Ord. No. 31A-187, 3-23-99)

Secs. 24-382 - 24-388. Reserved.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 10. GENERAL BUSINESS DISTRICT, B-1

Sec. 24-389. Statement of intent.

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

(Ord. No. 31A-88, 20-81, 4-8-85)

Sec. 24-390. Permitted uses.

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

Adult day care centers.

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

Banks and other similar financial institutions.

Barber and beauty shops.

Business, governmental and professional offices.

Child day care centers.

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

Drug stores.

Dry cleaners and laundries.

Farmer's Market.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Health clubs, exercise clubs, fitness centers.

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

~~Houses of worship.~~

Indoor sport facilities (excluding shooting ranges).

Indoor theaters.

Libraries.

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

Lodges, civic clubs, fraternal organizations and service clubs.

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

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

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

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

Medical clinics or offices.

Micro-breweries.

Museums.

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

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

Parking lots, *parking structures* and garages.

Photography *studios and sales*, artist and sculptor studios, *arts and craft shops and sales, antique shops gift shops and souvenir shops*.

Places of public assembly, including houses of worship and public meeting halls.

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

Police stations.

Post offices.

Printing and publishing.

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

~~Public meeting halls.~~

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

Research, development and design facilities or laboratories.

Restaurants, fast food restaurants, tea rooms and taverns.

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

Retail food stores, bakeries and fish markets.

Schools, *public or private*.

Security service offices.

Telephone exchanges and telephone switching stations gap.

Timbering in accordance with section 24-43.

Vehicle rental facilities.

Veterinary hospitals.

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

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

(Ord. No. 31A-88, 20-82, 4-8-85; Ord. No. 31A-96, 4-7-86; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A -145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-174, 1-28-97; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-236, 8-12-08; Ord. No. 31A-244, 2-9-10)

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

In the B-1, General Business District, buildings to be erected or the land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in Section 24-391.1*:

Amphitheaters or stadiums.

Antennas and towers in excess of 60 feet in height.

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

Campgrounds.

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

Convention centers.

Country clubs and golf courses, public or private.

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

Firing ranges, shooting ranges or paintball ranges, limited to a fully enclosed building.

Flea markets.

Heliports and helistops, as an accessory use.

Hospitals.

Kennels.

Nonemergency medical transport.

Nursing homes.

Outdoor centers of amusement, *including miniature golf courses, waterslide parks, baseball and/or softball hitting cages.*

Outdoor sport facilities, *including golf driving ranges and skate parks.*

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

Privately or publicly owned solid waste container sites.

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

Taxi service.

Theme parks of ten acres or more.

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

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

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

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

~~Vehicle rentals.~~

Waste disposal facilities.

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

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

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

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

(Ord. No. 31A-88, 20-82.1, 4-8-85; Ord. No. 31A-96, 4-7-86; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-133, 11-4-91; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-234, 4-8-08; Ord. No. 31A-236, 8-12-08; Ord. No. 31A-244, 2-9-10)

Sec. 24-391.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by a Special Use Permit in the Limited Business District, LB:

(1) Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

(2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.

(3) *Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.*

(4) *Lighting – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.*

(5) *Water Conservation Standards – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.*

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-391.1 (1) – (5) after finding that such information would not be germane to the application.

Sec. 24-392. Area requirements.

No area requirements.

(Ord. No. 31A-88, 20-83, 4-8-85)

Sec. 24-393. Setback requirements.

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

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

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

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

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

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

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

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

(Ord. No. 31A-88, 20-84, 4-8-85; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-241, 6-9-09)

Sec. 24-394. Yard regulations.

(a) Buildings shall be located 20 feet or more from side or rear property lines. However, the minimum side yard shall be 50 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be 50 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards shall be increased an additional one foot for each one foot of building height in excess of 35 feet.

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

(Ord. No. 31A-88, 20-84.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-180, 9-8-98)

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

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

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

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

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

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

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

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

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

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

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

(Ord. No. 31A-88, 20-84.2, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-180, 9-8-98)

Sec. 24-396. Reserved.

Sec. 24-397. Height limits and height limitation waivers.

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

(1) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and accessory and non-accessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

a. The regulations of section 24-398 regarding building coverage, floor area ratio and open space are met;

b. Such structure will not obstruct light from adjacent property;

c. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

d. Such structure will not impair property values in the surrounding area;

e. Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and the building is reasonably

well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

f. Such structure would not be contrary to the public health, safety or general welfare.

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

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

(Ord. No. 31A-88, 20-86, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

Sec. 24-398. Building coverage limits.

Building coverage shall not exceed ~~25~~ **40** percent of the total lot area and the floor area ratio shall not exceed 60 percent. ~~However, the floor area ratio may be increased to 75 percent if the additional floor area is used to provide indoor parking.~~

(Ord. No. 31A-180, 9-8-98)

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

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

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

(Ord. No. 31A-88, 20-86.1, 4-8-85; Ord. No. 31A-180, 9-8-98)

Sec. 24-400. Site plan review.

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

(Ord. No. 31A-88, 204-86.3, 4-8-85; Ord. No. 31A-180, 9-8-98)

Sec. 24-401. Sidewalks.

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

(Ord. No. 31A-180, 9-8-98)

Sec. 24-402. Landscaping.

Landscaping shall be provided as required in article II, division 4.

(Ord. No. 31A-180, 9-8-98)

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

Chapter 24

ARTICLE V. DISTRICTS

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

Sec. 24-410. Statement of intent.

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

- (1) Encourage the use of land for limited business and industrial purposes;
- (2) Prohibit residential developments on land reserved for limited business and industrial uses;
- (3) Permit certain commercial and office uses in a manner which is compatible with limited business and industrial uses; and
- (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects *or impacts commonly associated with* ~~of~~ the development of limited business and industrial uses.

(Ord. No. 31A-88, 20-87, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-411. Permitted uses.

Reference section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

Adult day care centers.

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

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

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

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

Banks and other similar financial institutions.

Barber and beauty shops.

Business, professional and governmental offices.

Child day care centers.

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

Contractor offices *or shops, including plumbing, electrical, HVAC, home improvement or construction, swimming pool, landscaping, cabinet making, general building, excavating,* equipment storage yards, shops and warehouses with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Courier services.

Data processing centers.

Drugstores.

Dry cleaners and laundries.

Farmer's markets.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Health clubs, exercise clubs, and fitness centers.

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

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

~~Houses of worship.~~

Indoor sport facilities.

Industrial dry cleaner and laundry.

Industrial and technical training schools.

Janitorial service establishments.

Kennels.

Laboratories, research and development facilities.

Laser technology production.

Laundry and dry cleaning operations.

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

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

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

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of textiles and textile products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly, or fabrication of sheet metal products.

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

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.
Manufacture of cans and other products from previously processed metals.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

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

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

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

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

Manufactured home or mobile home sales.

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

Medical clinics and offices, *including emergency care and first air centers.*

Micro-breweries.

Nonemergency medical transport.

Nurseries.

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

Places of public assembly including houses of worship and public or private meeting halls.

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

Post offices.

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

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

Publicly *or privately* owned solid waste container sites.

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

Recycling center or plant.

Research, development and design facilities or laboratories.

Restaurants, *fast food restaurants*, tearooms and taverns.

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

Retail food stores, bakeries and fish markets.

Security service offices.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

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

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

Vehicle rentals.

Veterinary hospitals.

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

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

Water well drilling establishments.

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

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

(Ord. No. 31A-88, 20-88, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-208, 8-13-02; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-236, 8-12-08)

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

In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in 24-412.1*:

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

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

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

Heliports, helistops and accessory uses.

Hospitals.

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

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

Petroleum *products bulk* storage *and retail distribution*.

Propane storage, distribution and sale.

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

Resource recovery facilities.

Shooting ranges, indoor.

Solid waste transfer stations.

Theme parks of ten acres or more.

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

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

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

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

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

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

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

(Ord. No. 31A-88, 20-88.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A- 121, 5-21-90; Ord. No. 31A- 144, 6-1-92; Ord. No. 31A- 146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-156, 5-16-94; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-236, 8-12-08)

Sec. 24-412.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by a Special Use Permit in the Limited Business District, LB:

- (1) Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites,*

such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

- (2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.*
- (3) Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.*
- (4) Lighting – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.*
- (5) Water Conservation Standards – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.*

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-412.1 (1) – (5) after finding that such information would not be germane to the application.

Sec. 24-413. Outdoor operations and storage.

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

(Ord. No. 31A-144, 6-1-92)

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

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

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

(Ord. No. 31A-88, 20-89, 204-89.1, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-415. Setback requirements.

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

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

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

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

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

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

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

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

(e) Appeals. In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the

applicant may appeal the decision of the director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-88, 20-90, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-241, 6-9-09)

Sec. 24-416. Yard regulations.

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

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

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

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

(Ord. No. 31A-88, 20-90.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-417. Reserved.

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

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

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

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

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

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

(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-414 through 24-416;

(2) Adequate parking is provided as per the requirements of this chapter. The ~~planning commission~~ *director of planning* also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;

(3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and

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

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

(Ord. No. 31A-88, 20-90.3, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-419. Height limits and height limitation waivers.

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

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

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

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

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

(3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

(4) Such structure will not impair property values in the area;

(5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is

reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

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

(Ord. No. 31A-88, 20-91, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98)

Sec. 24-420. Reserved.

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

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

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

(Ord. No. 31A-88, 20-93, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-422. Utilities.

(a) Unless otherwise specified in this district, all development in the Limited Business/Industrial District, M-1, shall be served by public water and sewer.

(b) The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter.

(Ord. No. 31A-88, 20-92, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-156, 5-16-94)

Sec. 24-423. Site plan review.

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

(Ord. No. 31A-88, 20-94, 4-8-85; Ord. No. 31A-144, 6-1-92)

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

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-435. Statement of intent.

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

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

(Ord. No. 31A-88, 20-95, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-436. Permitted uses.

Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

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

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

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

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

Boiler shops.

Breweries and other necessary associated activities.

Business, professional and governmental offices.

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

Contractor offices, equipment storage yards, shops and warehouses.

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

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

Fire stations.

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

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

Industrial and technical training schools.

Janitorial service establishments.

Laser technology production.

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

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of acrylic and other synthetic fibers.

Manufacture and processing of textiles and textile products.

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

Manufacture and sale of wood products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly or fabrication of sheet metal products.

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

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

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

Manufacture of batteries.

Manufacture of boats, marine equipment and boat trailers.

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

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

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

Manufacture or assembly of aircraft and aircraft parts.

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

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

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

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

Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood *canning, curing, grinding, smoking*, receiving, packing or distribution.

Metal foundry and heavy weight casting.

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

Post offices.

Printing and publishing establishments.

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

Propane storage, distribution, and sale.

Publicly owned solid waste container sites.

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

Research, development and design facilities or laboratories.

Restaurants as an accessory use to other permitted uses.

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

Security service offices.

Structural iron and steel fabrication.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Warehouse, storage and distribution centers.

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

Water well drilling establishments.

Welding and machine shops including punch presses and drop hammers.

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

(Ord. No. 31A-88, 20-96, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-229, 9-25-07; Ord. No. 31A-236, 8-12-08)

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

In the General Industrial District, M-2, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in Section 24-437.1*:

Alcohol refining, manufacturing and storage.

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

Asphalt mixing plants.

Automobile graveyards and scrap metal storage yards.

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

Heliports, helistops and accessory uses.

Manufacture and compounding of chemicals.

Manufacture of adhesives or glue.

Manufacturing of fertilizer.

Manufacture and production of paint or shellac.

Manufacturing and storage of fireworks and explosives.

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

Petroleum refining.

Petroleum storage.

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

Ready mix concrete production.

Resource recovery facilities.

Solid waste transfer stations.

Tanning or curing of animal hides.

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

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

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

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

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

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

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

Wood preserving operations.

(Ord. No. 31A-88, 20-96.1, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-236, 8-12-08)

Sec. 24-437.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by Special Use Permit in the Limited Business District, LB:

- (1) *Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic*

Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

(2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.

(3) Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.

(4) Lighting – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.

(5) Water Conservation Standards – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-437.1 (1) – (5) after finding that such information would not be germane to the application.

Sec. 24-438. Outdoor operations and storage.

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

(Ord. No. 31A-144, 6-1-92)

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

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

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

(No. 31A-88, 20-97, 20-98, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-440. Setback requirements.

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

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

(Ord. No. 31A-88, 20-98.1, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-441. Yard regulations.

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

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

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

(Ord. No. 31A-88, 20-98.2, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-442. Reserved.

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

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

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

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

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

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

- (1) The overall complex or structure, if considered as a single unit, meets all of the requirements of sections 24-439 through 24-441;
- (2) Adequate parking is provided as per the requirements of this chapter. The planning commission also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;
- (3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and
- (4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.

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

(Ord. No. 31A-88, 20-98.4, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-444. Height limits and height limitation waivers.

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

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

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

- (1) Additional setbacks have been provided as required by section 24-440 and section 24-441; however, the Board may waive additional setbacks in excess of 60 feet;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the area;

(5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

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

(Ord. No. 31A-88, 20-99, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98)

Sec. 24-445. Reserved.

Sec. 24-446. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the General Industrial District, M-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

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

(Ord. No. 31A-88, 20-100, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-447. Utilities.

All development in the General Industrial District, M-2, shall be served by public water and sewer unless this requirement is waived in accordance with section 24-448. The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter. (Ord. No. 31A-88, 20-100.1, 4-8-85; Ord. No. 31A-111, 1-9-89; Ord. No. 31A-144, 6-1-92)

Sec. 24-448. Public utilities waiver.

(a) The board of supervisors may waive the public water and sewer service requirement specified by section 24-447 upon finding:

(1) The development is located in the primary service area as designated by the land use element of the Comprehensive Plan;

(2) The development is located in an area not planned for extension of public water or sewer service as part of the adopted master water or sewer plan; and

(3) The development causes no adverse impact on the water resources of the county.

(b) A condition of such waiver shall be that the development shall connect to public water and sewer at such time that the board of supervisors determines utilities are available.

(c) The board of supervisors may attach additional conditions to any such waiver.

(Ord. No. 31A-111, 1-9-89)

Sec. 24-449. Site plan review.

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

(Ord. No. 31A-88, 20-101, 4-8-85; Ord. No. 31A-144, 6-1-92)

Secs. 24-450 - 24-459. Reserved.

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

**JAMES CITY COUNTY
ADMINISTRATIVE
REGULATION
OPERATING PROCEDURES**

NUMBER: 51

**REVISED DATE:
EFFECTIVE DATE: June 13, 2008**

TITLE: Secondary Street Parking Regulations

PURPOSE: Sets forth policy regarding designation of parking restrictions and/or prohibitions on secondary roads in the County and the subsequent erection of signs.

APPLIES TO: All applications for parking restrictions and/or prohibitions along roads in the state secondary system in the County.

I. APPLICATION

- a. This Administrative Regulation shall apply to all requests to impose parking restrictions or prohibitions on any roads that are a part of the state secondary system within the County.
- b. This is intended to complement County Code Section 13-36, as amended.

II. APPLICATION PROCEDURE

- a. Any individual, organization, or entity may apply to the chief of police to have a qualifying road in the County designated for parking restrictions and/or prohibitions, provided, however, that:
 - i. If the road is located within a neighborhood with a homeowners association, whether mandatory or not, such application shall be in the name of the homeowners association and shall be signed by a duly-authorized representative of the homeowners association.
 - ii. If the road is not located within a neighborhood with a homeowners association, or is otherwise located outside of a neighborhood, such application shall be accompanied by a petition affirmatively seeking such restrictions or prohibitions. Such petition shall include signatures representing at least 51% of the parcels adjacent to each of the roads proposed for restrictions and/or prohibitions.
- b. At a minimum, each application shall include the following:
 - i. The full legal name of the individual, organization, or entity making the application;
 - ii. The name and route number of each road proposed for parking restrictions and/or prohibitions; and
 - iii. A petition, if one is required by II(a)(ii), above.
- c. Upon receipt and acceptance of the application by the chief of police, it shall be considered by the chief of police, who shall make a determination regarding whether such parking restrictions and/or prohibitions shall be imposed upon such roads.
 - i. In making his determination, the chief of police shall make, at a minimum, the following findings:

1. The road(s) are subject to a frequent, documented parking problem; and
2. Alternative, documented methods to resolve the parking problem have been implemented and have failed to resolve the problem; and
3. In the opinion of the chief of police, imposition of parking restrictions and/or prohibitions has a much greater than average probability at reducing or eliminating the documented problem; and
4. The restrictions and/or prohibitions sought are the minimum necessary to afford relief.

III. SIGNAGE

- a. Signs alerting motorists of the parking restrictions and/or prohibitions shall be erected in such locations as determined by the chief of police.
- b. The County shall be responsible for the installation and continuing maintenance of any signs.
- c. The cost of the installation and continued maintenance of the signs shall be the responsibility of the organizations, individuals, homeowners associations, or other entities requesting the designations. All costs incurred by the County for the installation and maintenance of the signs shall be assessed to and recovered from the organization, individual, or entity that requested the designation.

IV. REVOCATION

- a. The chief of police may, at his sole discretion, permanently or temporarily suspend the parking restrictions or prohibitions at any time.

Sanford B. Wanner
County Administrator

Date

**PLANNING COMMISSIONER
ADMINISTRATIVE POLICY AND PROCEDURES**

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