

A G E N D A
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
August 10, 2017
4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. July 13, 2017 Meeting Minutes

D. OLD BUSINESS

E. NEW BUSINESS

1. Preliminary Review & Discussion of the R8, Rural Residential, District and the Residential Cluster Overlay District
2. Process Overview: Policy Committee review of proposed amendments to the Zoning Ordinance

F. ADJOURNMENT

ITEM SUMMARY

DATE: 8/10/2017
TO: The Policy Committee
FROM: Paul D. Holt, III, Secretary
SUBJECT: July 13, 2017 Meeting Minutes

ATTACHMENTS:

	Description	Type
▣	July 13, 2017 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Secretary, Policy	Approved	8/3/2017 - 11:51 AM

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
July 13, 2017
4:00 PM

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present:

Mr. Rich Krapf, Acting Chair

Mr. Danny Schmidt

Mr. Heath Richardson

Mr. Jack Haldeman

Absent:

Ms. Robin Bledsoe

Staff:

Mr. Paul Holt, Planning Director

Ms. Tammy Rosario, Principal Planner

Ms. Lauren White, Planner

Ms. Roberta Sulouff, Planner

Mr. Tom Leininger, Community Development Assistant

Mr. Maxwell Hlavin, Assistant County Attorney

C. MINUTES

1. May 11, 2017, Meeting Minutes

Mr. Jack Haldeman made a motion to Approve the May 11, 2017, meeting minutes.

The motion passed 3-0-1, with Mr. Rich Krapf abstaining, as he was not present at the meeting.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. Zoning Ordinance Revisions to Permit Short-Term Residential Vacation Rentals

Ms. Roberta Sulouff stated that during the course of two recent public hearing cases, members of both the Planning Commission (PC) and the Board of Supervisors (BOS) expressed their desire to address the emerging issue of short-term residential vacation rentals, also known globally as home-sharing. She stated that since the last public hearing, staff have received several Conceptual Plan Applications for this use. She stated that the Ordinance currently addresses several uses such as transient occupancy ranging from more residential in nature to expressly commercial in character. She stated that members of the BOS stated that none of the existing uses directly address the emerging movement of home-sharing that has a residential footprint.

Ms. Sulouff stated that staff is recommending a two-pronged approach of multiple stages. She stated that first, staff is recommending the creation of a new use and definition to address the types of short-term residential rental applications that have been received by staff. She stated that staff recommends creating a new definition for the use homestay.

Ms. Sulouff also stated that staff is seeking the Policy Committee's direction in the pursuit of a new policy and permitting standards to address the new use. She stated that permitting standards, including, but not limited to the ones located in Attachment No. 3, could be used to build a framework or a supplemental policy under which future Special Use Permit (SUP) applications could be reviewed.

Ms. Sulouff stated that staff recommends creating a definition and permitting policy that addresses the residential character of the use while considering compliance and providing clarity to those wishing to pursue the use and those that review future applications for the use. She stated that staff is planning to take the Committee's feedback to further research any concerns and to begin drafting zoning ordinance language to be reviewed in stage two of this process.

Mr. Rich Krapf thanked Ms. Sulouff and asked if the Committee had any questions for staff.

Mr. Jack Haldeman asked how the new Ordinance would differ from the rental of rooms or tourist homes classifications. He stated that he read both of them and that they both apply to the Airbnb concept.

Ms. Sulouff stated that rental of rooms and tourist homes both apply to short-term rentals in different ways. She stated that rental of rooms is not defined in the definition section and it is more of an interpretation typically applied to a bed and breakfast or to situations in which people want to rent rooms above and beyond the family definitions. She stated that home-sharing would address the applications that are coming in, where people own homes and reside in them and want to rent out a room at a transient rate to people for a night. She stated that tourist home is traditionally interpreted as a vacation home rental where it wouldn't require anyone to be there at the time of the

rental. She stated that the proposed definition would create a new class and would be clearly secondary to a residential use.

Mr. Haldeman asked if this would replace the current Ordinances or if it would be an addition.

Ms. Sulouff stated that staff is seeking the Committee's direction such as defining rental of rooms, but right now staff is proposing home-share in addition to the other uses.

Mr. Krapf asked how accessory homestay ties into the health, safety and welfare of the surrounding neighborhood.

Ms. Lauren White stated that the two examples put the homestay use in the home occupation zoning code, then an additional layer is added to the homestay use. She stated that it may include limits such as the number of cars, noise and buffering to make sure the use is secondary to the primary residential use.

Ms. Sulouff stated that in both Charlottesville and Arlington County, with homestay being a home occupation, it becomes an administrative process rather than an SUP process. She stated that staff can explore ways to have the homestay fit in the SUP framework as well.

Mr. Heath Richardson stated that when he looked at the examples, he liked the Blacksburg example where there is a definition of homestay which provides two types of rentals. He stated that Type A defines the number of rooms and Type B has a caveat where the homeowners do not need to be at the residence. Mr. Richardson stated that the Blacksburg example provides more flexibility.

Mr. Danny Schmidt stated that the Blacksburg example also stood out to him. He stated that he initially voted against the two SUPs regarding homestays when he first started on the Planning Commission. Mr. Schmidt stated that the County already has a tourist home definition. He stated that his family has taken advantage of similar situations in other areas across the country. Mr. Schmidt stated that there haven't been many issues with Vacation Rental by Owner (VRBO).

Ms. Sulouff stated that VRBO would still come to the staff as an SUP application in most districts as they are a tourist home. She stated that the complaints received are anonymous.

Ms. Christy Parrish stated that there have been calls stating that houses have been seen on Airbnb websites. She stated that there are places in Kingsmill where these homes are permitted by-right. She stated that there will be times that the homes will show up in the R-2, Residential Zoning District and a letter would be sent out, stating that they are in violation with the Zoning Ordinance without an SUP approval.

Mr. Richardson stated that he noticed during previous BOS meetings that there are some citizens running businesses without an SUP approval and that depending on how homestay is defined, citizens would be able to legally run their business.

Mr. Krapf asked if having someone come in and clean their home or provide housekeeping duties violates the definition under the Arlington County example.

Ms. White stated that it would be allowed because it would be considered typical home maintenance.

Ms. Sulouff stated that Arlington County is trying to prevent someone living out of state, but has an inn-keeper function to allow an agent to act for them.

Mr. Schmidt asked if staff looks at the Airbnb websites.

Ms. Parrish stated that staff would only look up houses in violation if they were brought to staff's attention.

Mr. Schmidt stated he wants to prevent a lot of SUP applications coming in at once.

Mr. Richardson stated that the regulation for the Blacksburg example requires a floorplan.

Ms. White confirmed and stated that some localities require a floorplan and a site plan.

Mr. Richardson asked why staff thought that Blacksburg has that regulation. He asked if it could be that they are a university town or was it in place before or after the popularity of Airbnb.

Ms. White confirmed and stated that it was after the wave of popularity of Airbnb.

Mr. Schmidt asked if that applied to the other examples.

Ms. White confirmed.

Ms. Sulouff stated that there are other localities that have not made changes to their ordinance and there are cities like Williamsburg and Virginia Beach that are still in the developmental process.

Mr. Krapf asked what staff thought about the use of accessory structures for a home-share category.

Ms. Parrish stated that it would be a larger issue because there are limits on a secondary structure.

Mr. Krapf asked if this would only apply to the primary residential structure.

Ms. Parrish confirmed.

Mr. Paul Holt stated that it would complicate things more and put two homes on one property. He stated that it was up to the direction of the Policy Committee, but previous SUP conditions have attempted to ensure a single-family house continues to look like a single-family home.

Ms. Tammy Rosario stated that it is important to consider the additional impacts such as traffic.

Mr. Schmidt stated that he has heard from citizens that the number of cars at a home has a negative impact on the neighborhood.

Ms. Sulouff asked if parking would be an important permitting standard.

Mr. Schmidt confirmed.

Mr. Krapf stated that the A-1 and R-8 Districts are larger properties and the parking limitations could potentially be different. He asked if there should be a distinction in the Ordinance.

Mr. Richardson confirmed.

Mr. Schmidt confirmed. He stated that the tourism economy is important and keeping up with the times is important.

Mr. Haldeman asked if the County would limit the number of rooms, meals, owner presence and number of days.

Ms. Sulouff stated that staff is looking for feedback on those regulations.

Mr. Richardson stated that it is possible to be too restrictive. He stated that if there are two types, the property owner would announce which direction they are going. He stated that one type could be less restrictive. He stated there would be a burden on staff.

Ms. Parrish stated that it would depend on the number of people wanting to do a homestay and the number of complaints that would come in. She stated that she does not anticipate there being an issue, but a policy can be created that is straightforward.

Mr. Holt stated that staff would let the Policy Committee know what can and cannot be enforced. He stated that proper documentation could be provided ahead of time.

Mr. Krapf asked about the possibilities including limiting the number of

residences on a street.

Ms. Sulouff stated that it was just an example from another locality. She stated that there was a concern from other localities regarding blocks where there are a lot of homes in one neighborhood renting out their houses. She stated that staff can look further into the other localities if need be.

Mr. Holt stated that there are issues regulating the number of homestays. He stated that Zoning Ordinances could potentially have separation distances between homes. He stated that it would limit the number of homes and it would be easier for staff to regulate.

Mr. Haldeman asked if Homeowners Associations (HOA) play a role.

Mr. Holt confirmed and stated that Zoning Ordinances can't trump covenants and declarations, as in the example of chicken keeping.

Mr. Schmidt stated that the HOA can be the more restrictive process. He stated that Airbnbs are going to keep happening and it is best to work with the homeowners.

Mr. Krapf asked if there would be a registration fee or keep just the business license component.

Mr. Schmidt stated that it is similar to the food truck situation.

Ms. Sulouff stated that creation of a registry would be outside of the Zoning Ordinance; however, the Policy Committee can get the process going. She stated that the homeowners could potentially register with the Commissioner of Revenue (COR), pay the transient occupancy tax, a potential application fee and possibly a registration fee.

Mr. Richardson stated that given the nature of the area, this would give the COR a tool for taxation.

Ms. Sulouff asked if there would be compliance with a registry.

Mr. Richardson confirmed.

Mr. Krapf asked if there wasn't a registry how the homestays would be tracked.

Ms. Sulouff stated that staff would keep track similar to the home occupations and the COR would keep track similar to other business licenses.

Mr. Krapf asked if there were any pros and cons for a registry on homestays.

Mr. Maxwell Hlavin stated that most localities are in the same spot in terms of the developmental process. He stated that it could be best to run the process

through the COR.

Mr. Krapf asked if there would be a downside.

Mr. Hlavin stated that he does not see one. He stated that it is required to register with the COR to obtain a business license. He stated that this would give staff a mechanism to establish a fine.

Mr. Holt stated that the fine encourages homeowners to comply.

Mr. Schmidt stated that the COR would be a separate track from the process handled by planning staff.

Ms. Sulouff stated that it would be part of the planning process. She stated that staff can say that they can't approve their application without the business license.

Mr. Krapf asked Committee members if they would want a penalty associated with the failure to register their homestay.

Mr. Richardson confirmed.

Mr. Hlavin stated that the fee would not come through the policy process.

Mr. Richardson stated that there can be a reference to the need to register in the Zoning Ordinance.

Mr. Schmidt stated that it would help with the citizens in the County to see a penalty.

Mr. Richardson asked other Committee members if they preferred the Blacksburg example where the number of rooms is defined.

Mr. Haldeman stated that he wouldn't want a lot of rooms to be available to be rented out in a single home. He stated that he would have a concern with the competition with the hotels and the quality of neighborhoods together with the traffic generated. He stated that three to four rooms available to rent would be sufficient.

Ms. Rosario asked if the four-bedroom maximum would exclude rental of an entire home.

Mr. Haldeman stated that he would not want to allow rental of the entire home.

Ms. Parrish stated that many Airbnbs are full home rentals.

Mr. Richardson stated that staff could come up with some options where the host is present with limited rooms and then other options with no host present.

Ms. Sulouff asked if there were two types, would there be a difference in the applications.

Mr. Krapf asked the purpose of establishing two types. He asked what the end goal would be for establishing two types.

Mr. Richardson stated that Type A would be a resident that has a couple of rooms to rent out and Type B could be more of a hostel scenario.

Mr. Holt stated that there could be a number of different directions. He stated that there could be a locational pairing going with each type. He stated that the smaller homes with one to two bedrooms for rent are located in R-1 and R-2 Residential Districts. He stated the larger homes, where the homeowner rents out the entire house, could be located in the A-1 Zoning District or possibly located on major roads instead of internal to a subdivision. He stated that the smaller and easier homestays could be handled administratively and that the larger ones could have an SUP.

Ms. White stated that in the case of Blacksburg, the reason they break it down could be because the two different types may have different impacts on a neighborhood. She stated that it is possible to limit the number of days for Type A rentals and the number of days for Type B rentals. She stated that when the applicant fills out an application they state their intent.

Mr. Krapf stated that he liked the idea of having an Ordinance focused around Zoning Districts. He stated that it could be the easiest way to put a matrix together. He stated that it is important to keep in mind the number of vehicles generated.

Ms. Sulouff stated that staff can do some research into other localities and how they handle parking. She stated that some conditions on previous SUPs were limiting the types of vehicles such as campers and RVs.

Ms. Rosario stated that the number of vehicles may correlate with the number of bedrooms available.

Ms. Sulouff stated that previous cases limited the number of cars per rented bedroom.

Ms. Rosario stated that based upon the conversation, the most relevant characteristics to put into the matrix are ownership, number of rooms, parking and the consideration by Zoning District and if there would be an administrative process.

Mr. Holt asked if by ownership she meant whether the owner did or did not live on the property.

Ms. Rosario confirmed and asked if there were any other items.

Mr. Haldeman asked if guest rooms were secondary to single-family use.

Ms. Sulouff confirmed. She stated that the definition for homestay being proposed would be secondary to the single-family residence, which is the same requirement as the current home occupation application.

Mr. Haldeman asked if the owner had to reside at the time of rental.

Ms. Sulouff stated that it is not necessary for the owner to reside at the time of rental. Ms. Sulouff stated that whether or not the owner is present at the time of the rental could fall in the matrix. She stated that it would be someone's home that they reside in.

Mr. Schmidt stated that owners could rent out their home while they are gone for the weekend.

Mr. Krapf stated that if it were a VRBO, the owner could rent the home during the peak tourist season such as May through October and the owner would not have to live there.

Mr. Haldeman asked if that would be considered a tourist home.

Ms. Sulouff stated that currently that would fall under a tourist home.

Ms. Rosario stated that as the definition becomes finalized, there could be some overlap between the other definitions, necessitating additional definition amendments.

Mr. Krapf asked if there should be a requirement on residency.

Mr. Richardson stated that he would prefer that the definition stay flexible for now. He stated that a couple could rent out their rooms while they were away and it gives the homeowners some flexibility to not be present.

Mr. Krapf stated that there are some general provisions outside of the matrix that would be incorporated. He stated that the registry is an example.

Mr. Schmidt stated that one of the concerns from the previous SUP was that people wanted to know who their neighbors are. He stated that he preferred having the homeowner present during the time of the rental.

Mr. Holt stated if someone wanted to operate a tourist home they still could, but for the Airbnb example, there should be someone living there.

Mr. Schmidt agreed and stated that he felt there would be more changeover from tenant to tenant.

Ms. Sulouff stated that the definitions may overlap with each other and that

the tourist home and rental of rooms' uses need not go away. She stated that requiring the homeowner to be present does not take away from the ability to rent out their home under another definition.

Mr. Schmidt stated that there will be times where we have VRBO and Airbnb cases.

Ms. Rosario stated that Airbnb rents by room and whole houses as well.

Mr. Holt asked if there was a consensus from the Committee that when staff puts the matrix together, the homeowner needs to be living there.

Mr. Schmidt confirmed.

Mr. Richardson stated that if the homeowner rents out their whole home, they would fall under the tourist home definition.

Mr. Krapf stated that looking under the definition of home-share, the owner is there sharing the home along with the tenants.

Ms. Sulouff stated that the home would be the primary residence and the homeowner would occupy the home at the time of the rental.

Mr. Krapf asked if there were any questions from anyone.

Mr. Hlavin stated that, from a legal standpoint, enforceability is tough because there would need to be proof that the homeowner is there during the time of the rental. He stated that it is a good start to the discussion.

Mr. Holt stated that the homeowner doesn't have to be present at all times, just that the home must be their primary residence.

Ms. Sulouff stated that the homeowner being present is not confirmed.

Mr. Krapf asked what it would be considered if he had a secondary residence to rent out.

Ms. Rosario stated that it would fall under the tourist home definition. She stated that there could be separate processes for homestay and for tourist home.

Ms. Sulouff stated that across the country, localities are dealing with the same conflicts. She stated that people want to know who their neighbors are.

Ms. Parrish stated that it is important to define a primary residence to avoid a home being used for a transient use.

Ms. Sulouff stated that staff is hoping to use the regulations under home occupation to follow for homestay.

Mr. Krapf asked if there were any other topics needed for staff to discuss.

Ms. Sulouff stated that she felt there is enough information for staff to begin.

Ms. Rosario stated that this is the beginning stage where staff can come back to get more clarification and then begin drafting an Ordinance.

Mr. Holt stated that it is important to keep it simple, protecting the neighborhood and to begin small by making sure someone lives there. He additionally stated that parking and the Zoning District can be factored in as well.

Ms. Rosario asked if some applications can be handled administratively and some by SUP.

Mr. Krapf confirmed. He also stated that it can be based on the number of rooms.

Mr. Holt stated that the Zoning District will factor in as well.

Mr. Richardson stated that homestays can be considered by-right in certain Zoning Districts.

Mr. Krapf asked if by-right requires administrative approval.

Ms. Sulouff confirmed. She stated that the by-right can have an administrative process attached to the definition similar to chicken keeping.

Mr. Krapf stated that it is important to keep the process simple. He stated that the next step would be to get something back, such as a matrix, from staff to help move the Policy Committee forward.

2. Review and Discussion of the Planning Commission Bylaws as it pertains to Article IV. Outside Meetings with Applicants

Mr. Holt stated to the Policy Committee that staff wanted to explore any concerns and possibly change anything with respect to the current bylaw.

Mr. Richardson stated that the PC members do a good job of acknowledging when they have conversations with developers. He stated that it is best to avoid times when multiple members meet with a single applicant where minutes are required from the meeting.

Mr. Haldeman stated that he attended a seminar regarding high growth communities where this topic arose.

Mr. Hlavin asked if the seminar was regarding the new proffer legislation.

Mr. Haldeman confirmed.

Mr. Hlavin stated that the Planning Commission and Board is saved from the proffer legislation because BOS members are not taking proffers for residential applications. He stated that proffers are still accepted for commercial applications. He stated that members do not have to worry about having conversations regarding proffers from residential development because the County is not taking them.

Mr. Richardson asked if a developer could offer another benefit for the County.

Mr. Hlavin stated that they could; however, there would be no binding effect with regard to the rezoning. He stated that a developer could improve a road and then want an area rezoned and the BOS could take that into consideration.

Mr. Krapf stated that two years ago the Outside Meeting with Applicant item was added to the bylaws. He explained that the bylaw stated the purpose of meetings is limited to fact finding and clarifications for all parties. He stated that PC members are encouraged to go with a colleague. He stated that it is also encouraged to include a staff member and possibly have the meeting in Building A. He stated that it is helpful to meet with an applicant and get a better understanding before the public hearing. He stated that the General Assembly legislation only pertains to residential rezoning. He asked what happens if it is a mixed-use rezoning.

Mr. Hlavin stated that he is not worried about members meeting with applicants because proffers are not accepted. He stated that proffers could be accepted on the commercial component of a mixed use rezoning so legal staff would treat any such application with heightened caution.

Mr. Holt stated that if proffers were accepted for residential rezoning, he would advise PC members not to meet with applicants. He stated that there is not a lot of concern right now.

Mr. Hlavin agreed.

Mr. Richardson stated that there are times that applicants will contact him before a public hearing. He stated that the bylaw requires a summary to be provided to all members. He stated that he interpreted the bylaw as requiring him to state during the public meeting that he has met with an applicant.

Mr. Krapf stated that he will always ask for disclosures from members before getting into a public hearing. He stated that guidelines in Article IV are helpful. He stated that it is good to rely on the integrity of individuals and knowing what is appropriate. He stated that if he felt it was helpful to meet with an applicant, he would ask other members to join him.

Mr. Schmidt stated that it has been helpful to him when members send an

email out to other members after going on a site visit.

Mr. Krapf stated that he does not see a need to revise the bylaws regarding meeting with applicants.

Mr. Richardson agreed and stated that they were revised in March.

Mr. Hlavin stated that there are also other issues such as conflict of interest issues. He stated that members can't have an interest in a transaction. He stated that members can't receive money for voting a certain way. He stated that there are exceptions. He stated that, in certain circumstances, if there is a personal interest in a transaction, the members can disclose it as long as their impartiality remains.

Mr. Krapf stated that there wasn't any other new business.

F. ADJOURNMENT

Mr. Schmidt made a motion to Adjourn. By verbal vote, the motion passed.

Mr. Krapf adjourned the meeting at approximately 5:15 p.m.

Mr. Rich Krapf, Acting Chair

Mr. Paul Holt, Secretary

ITEM SUMMARY

DATE: 8/10/2017

TO: The Policy Committee

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Preliminary Review & Discussion of the R8, Rural Residential, District and the Residential Cluster Overlay District

As part of the FY18 Planning Division work plan, the Board of Supervisors initiated a review of the Zoning Ordinance in order to address the provision of age-restricted housing, independent living facilities and specially permitted density bonuses in the R8, Rural Residential, District.

Staff is currently reviewing the R-8 District and the Residential Cluster Overlay District portions of the Zoning Ordinance and the proposed schedule for review of this item is as follows:

- o Policy Committee Stage 1 review: September 14
- o Policy Committee Stage 2 review, if needed: October 13
- o Policy Committee Stage 3 review: December 14
- o Planning Commission: February 7

At the August 10th meeting, staff looks forward to preliminary discussions with the Policy Committee on this item.

ATTACHMENTS:

	Description	Type
▣	Board of Supervisors Initiating Resolution	Backup Material
▣	Current Zoning Ordinance regulations for the R-8, Rural Residential, District	Backup Material
▣	Current Zoning Ordinance regulations for the Residential Cluster Overlay District	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy Secretary	Secretary, Policy	Approved	7/31/2017 - 2:14 PM
Publication Management	Trautman, Gayle	Approved	7/31/2017 - 2:29 PM
Policy Secretary	Secretary, Policy	Approved	8/2/2017 - 9:50 AM

RESOLUTION

**INITIATION OF CONSIDERATION OF AMENDMENTS TO THE RURAL RESIDENTIAL
DISTRICT, R-8, AND THE RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY DISTRICT
OF THE ZONING ORDINANCE TO ADDRESS AGE-RESTRICTED HOUSING AND
INDEPENDENT LIVING FACILITIES**

WHEREAS, Virginia Code § 15.2-2286 and County Code § 24-13 permit the Board of Supervisors of James City County, Virginia (the "Board") to, by resolution, initiate amendments to the regulations of the Zoning Ordinance that the Board finds to be prudent; and

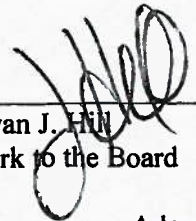
WHEREAS, the Board is of the opinion that the public necessity, convenience, general welfare and good zoning practice warrant the consideration of amendments to the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of James City County Code, Chapter 24, Zoning, Article V, Districts, Division 8, Rural Residential District, R-8 and James City County Code, Chapter 24, Zoning, Article VI, Overlay Districts, Division 1, Residential Cluster Development, in order to address the provision of age-restricted housing, independent living facilities and specially permitted density bonuses. The Planning Commission shall hold at least one public hearing on the consideration of amendment of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.



Kevin D. Onizuk
Chairman, Board of Supervisors

ATTEST:



Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	✓	—	—
SADLER	✓	—	—
HIPPLE	✓	—	—
LARSON	—	—	—
ONIZUK	✓	—	—

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2017.

InitResAgeRest-res

DIVISION 8. - RURAL RESIDENTIAL DISTRICT, R-8

Sec. 24-347. - Statement of intent.

Generally, the Rural Residential District, R-8, is intended for application to rural areas of the county which remain inside the primary service area where utilities and urban services are planned but not yet fully available and where urban development may be expected in the near future. The district may also be applied to certain outlying areas where residences exist at similar densities or may be appropriate in view of housing needs. The district is intended to maintain a rural environment suitable for farming, forestry and low-density rural residence, together with certain recreational and public or semipublic and institutional uses, until such time as an orderly expansion of urban development is appropriate.

(Ord. No. 31A-88, § 20-35, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90)

Sec. 24-348. - Permitted uses.

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Accessory apartments, attached, in accordance with section 24-32.

Accessory buildings and structures.

Accessory uses, as defined herein.

Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures; or multi-antenna systems up to a height of 35 feet. All facilities shall be in accordance with article II, division 6 of this chapter.

Farmers' markets, limited in area to 2,500 square feet.

General agriculture, dairying, forestry, general farming and specialized farming, excluding the raising of hogs, but not commercial livestock or poultry operations which require a special use permit in the General Agricultural District, A-1.

Home occupations, as defined herein.

Horse and pony farms of less than 50 animals (including the raising and keeping of horses), riding stables.

House museums.

Nurseries.

Off-street parking as required by section 24-54.

Petroleum storage on a farm as an accessory use and not for resale.

Preserves and conservation areas for protection of natural features and wildlife.

Rest homes for fewer than 15 adults.

Site-built single-family detached dwellings and modular homes.

Slaughter of animals for personal use but not for commercial purposes.

Storage and repair of heavy equipment as accessory use to a farm.

Timbering in accordance with section 24-43.

Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet.

Wayside stands for seasonal sale of agricultural products, limited in area to 500 square feet.

Wineries, as herein defined, including a shop for retail sale of wine, but not including other commercial accessory uses.

(Ord. No. 31A-88, § 20-36, 4-8-85; Ord. No. 31A-99, 10-6-86; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90; Ord. No. 31A-131, 6-3-91; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-202, 12-21-99; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-293, 8-12-14; Ord. No. 31A-319, 11-8-16)

Sec. 24-349. - Uses permitted by special use permit only.

In the Rural Residential District, R-8, structures to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and such other guides and standards as may be contained in this chapter:

Accessory apartments, detached, in accordance with section 24-32.

Adult day care centers.

Airports and landing fields, helistops or heliports and accessory uses.

Barber and beauty shops.

Business, governmental, and professional offices.

Campgrounds.

Cemeteries and memorial gardens, not accessory to a church or other place of worship.

Child day care centers.

Commercial livestock or poultry operations for more than 100 slaughter or feeder cattle, 70 dairy cattle, 250 swine, 1,000 sheep, lambs, goats or similar animals, 50 horses, 10,000 chickens, or 5,500 turkeys or ducks.

Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged; or multi-antenna systems greater than a height of 35 feet. All facilities shall comply with article II, division 6 of this chapter.

Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities, but not those approved as a part of a planned unit development.

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

Drug stores.

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.

Excavation or filling, borrow pits, extraction, processing and removal of sand and gravel and stripping of topsoil (but not farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval, which activities do not require a special use permit).

Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled, or other developmentally disabled persons for more than five such persons.

Farm equipment sales and service establishments.

Farmers' markets over 2,500 square feet.

Feed, seed and farm supplies.

Fire stations or rescue squad stations, volunteer or otherwise.

Fish farming and aquaculture.

Flea markets, temporary or seasonal.

Food processing and storage, but not the slaughter of animals.

Food processing and storage in a residence.

Gift shops, antique shops.

Golf courses and country clubs.

Greenhouses, commercial.

Group quarters for agricultural workers.

Home care facilities.

Horse and pony farms with 50 or more animals.

Horse show areas, polo fields.

Hospitals.

Hotels and motels.

Houses of worship and cemeteries accessory thereto.

Hunting clubs.

Kennels.

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

Manufacture and sale of wood products.

Manufactured home parks.

Manufactured homes in accordance with section 24-107 and section 24-108 not located within the primary service area.

Medical clinics or offices.

Neighborhood Resource Centers.

Nursing homes and facilities for the residence and/or care of the aged.

Photography, artist and sculptor studios.

Photography sales and arts and crafts shops.

Post offices and public buildings generally.

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.

Raising of hogs.

Rental of rooms to a maximum of three rooms.

Rest homes for 15 or more adults.

Restaurants, taverns.

Retail shops associated with community recreation facilities.

Retreat facilities.

Sanitary landfills in accordance with section 24-40, waste disposal or publicly owned solid waste container sites.

Schools, libraries, museums and similar institutions.

Seminaries.

Telephone exchanges and telephone switching stations.

Tourist homes.

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, private extensions or 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.

Two-family dwellings.

Utility substations.

Veterinary hospitals.

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.

Water impoundments, new or expansion of, 20 acres or more or with dam heights of 15 feet or more.

Wayside stands for sale of agricultural products over 500 square feet in area.

Yacht clubs and marinas and commercial and service facilities accessory thereto.

(Ord. No. 31A-88, § 20-36.1, 4-8-85; Ord. No. 31A-104, 10-5-87; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90; Ord. No. 31A-131, 6-3-91; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-202, 12-21-99; Ord. No. 31A-208, 8-13-02; Ord. No. 31A-220, 10-11-05; Ord. No. 31A-242, 7-14-09; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-293, 8-12-14; Ord. No. 31A-319, 11-8-16)

Sec. 24-350. - Area requirements.

Minimum lot size. The minimum lot size shall be three acres.

(Ord. No. 31A-88, § 20-37, 4-8-85; Ord. No. 31A-99, 10-6-86; Ord. No. 31A-202, 12-21-99)

Sec. 24-351. - Setback requirements.

Structures shall be located a minimum of 35 feet 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 a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line," except that the following shall apply:

- (1) Where 40 percent or more of frontage on one side of street within the same block is improved with buildings, no building shall project beyond the average front yard so established.
- (2) No building shall be required to have a front yard greater than that of one of two existing buildings on the immediately adjoining lots on each side, whichever is the farthest removed from the street.
- (3) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, will be allowed to adhere to these established setback lines.

(Ord. No. 31A-88, § 20-38, 4-8-85; Ord. No. 31A-202, 12-21-99)

Sec. 24-352. - Minimum lot width.

- (a) Lots of up to 43,560 square feet shall have a minimum width at the setback line of 100 feet.
- (b) Lots of 43,560 square feet or more shall have a minimum width at the setback line of 150 feet.

(Ord. No. 31A-88, § 20-39, 4-8-85)

Sec. 24-353. - Yard regulations.

- (a) *Side.* The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.
- (b) *Rear.* Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet.

(Ord. No. 31A-88, § 20-40, 4-8-85)

Sec. 24-354. - Height limits.

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, rear and side yards shall be increased one foot for each foot in height above 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations may be erected to a total height of 60 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 upon finding that:
 - a. Such structure will not obstruct light to adjacent property;
 - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.
- (4) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that

the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (3) above and may exceed the height of the main structure and may exceed 45 feet in height.

- (5) Heights of communications facilities shall be permitted in accordance with division 6, communications facilities, antennas, towers and support structures.

(Ord. No. 31A-88, § 20-40.1, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-215, 2-22-05; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-319, 11-8-16)

Sec. 24-355. - Special provisions for corner lots.

- (a) For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.
(b) No structures shall be located closer than 35 feet to the side street.
(c) Each corner lot shall have a minimum width at the setback line of 125 feet or more.

(Ord. No. 31A-88, § 20-41, 4-8-85)

Sec. 24-356. - Sign regulations.

To assure an appearance and condition which is consistent with the purposes of the Rural Residential District, R-8, 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, § 20-41.1, 4-8-85; Ord. No. 31A-122, 6-18-90)

Sec. 24-357. - BMP requirements.

To assure an appearance and condition which is consistent with the purpose of the Rural Residential District, R-8, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

(Ord. No. 31A-202, 12-21-99)

Sec. 24-358. - Buffer requirements.

- (a) *Right-of-way buffer.* Within any major subdivision approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

(1)

The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
 - (3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.
- (b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a) of this chapter.
- (c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning commission may reduce the buffer depth requirements of this section for residential developments when:
- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable housing; or
 - (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
 - (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.
- In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.
- (d) *Modifications to the landscape requirements.* The planning commission may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.
- (e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within

any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning commission under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is nonwooded, defined as having no mature trees.
 - (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
 - (3) Stockpiles shall not exceed 35 feet in height.
 - (4) Stockpiles shall be temporary, with a time limit of six months.
 - (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (f) *Limitations on stormwater management facilities within buffers.* Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:
- (1) The need is necessitated by site conditions rather than economic factors; and
 - (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.
- (g) *Improvements allowed within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon the recommendation of the environmental director and the approval of the planning commission.
- (h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.

(Ord. No. 31A-202, 12-21-99)

Secs. 24-359—24-366. - Reserved.

DIVISION 1. - RESIDENTIAL CLUSTER DEVELOPMENT

Sec. 24-538. - Statement of intent.

The purpose and intent of this article is to achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable and workforce housing, minimize environmental impacts, provide for usable and meaningful open space, and provide recreation amenities within a more practical and efficient development. Recognizing that greater variety and affordability are more obtainable with higher densities, developers have the flexibility to provide this product and still provide reasonable amenities within variously priced residential cluster communities. Hand in hand with the opportunities offered in higher density development is the expectation that the development will provide certain benefits to the community. As stated in the comprehensive plan, examples of these benefits include mixed-cost housing, affordable and workforce housing, unusual environmental protection or development that adheres to the principles of open space development design. Such design may include maintaining open fields; preserving scenic vistas; protecting wildlife habitats and corridors; retaining natural vegetative buffers around water bodies, wetlands, and along roads; preserving historic sites; creating adequate recreational areas; designing efficient pedestrian circulation to include trail systems; and ensuring that common land adjoins protected open space on adjacent parcels.

(Ord. No. 31A-88, § 20-153.1, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-539. - Residential cluster development defined.

A "residential cluster development," for purposes of this article, shall be a planned development of land consisting of predominantly residential uses together with its recreational facilities, supporting roads, utilities and other public facilities.

(Ord. No. 31A-88, § 20-153.2, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99)

Sec. 24-540. - Where permitted.

A residential cluster development is permitted in the R-1 and R-2 zoning districts inside the primary service area. The requirements of this article shall govern where there is a conflict with the requirements of the underlying district.

(Ord. No. 31A-88, § 20-153.3, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-541. - Minimum site size.

The minimum site size for a residential cluster development is five acres, except that extensions to an existing cluster development may be less than five acres. The planning director may waive the minimum site size requirements for residential cluster developments which provide affordable and workforce housing set forth in section 24-549 below. However, in no case shall such development be less than two acres. Such a waiver may be considered upon the applicant providing a written request to the planning director to waive the minimum acreage requirement demonstrating to the satisfaction of the planning director that:

- (1) The proposed development is consistent with the comprehensive plan;
- (2) Verification of affordable and workforce housing is provided; and
- (3) Evidence that the property can be subdivided as proposed.

Upon receipt of the request, the planning director shall, within thirty days of the request, either grant or deny the waiver with reasons to that effect.

(Ord. No. 31A-88, § 20-153.4, 4-8-85; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-542. - Permitted uses.

Uses permitted in a residential cluster development shall be the same as those permitted in the zoning district in which the residential cluster development is located. In the event that the individual units within attached dwellings are proposed to be sold as separate living units, the attached dwelling may be divided to permit separate deed descriptions for conveyance purposes. A limited amount of commercial development may be allowed within residential clusters as permitted in the zoning district in which the development is located. Commercial uses shall be shown on the master plan and be consistent with the Comprehensive Plan land use description and development standards.

(Ord. No. 31A-88, § 20-153.5, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-543. - Utilities.

Lots in a residential cluster development shall be served by a public sewage disposal system and a public water system.

(Ord. No. 31A-88, § 20-153.6, 4-8-85)

Sec. 24-544. - Buffer requirements.

(a) *Right-of-way buffer.* Within any residential cluster approved under this division, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

- (1)

The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
 - (3) The right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along community character corridor roads shall also adhere to the community character corridor buffer treatment guidelines and map.
- (b) *Perimeter buffers.* Within any residential cluster approved under this division, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-96 of this chapter.
- (c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements specified in (a) and (b) of this section for residential developments when:
- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable and workforce housing; or
 - (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
 - (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

- (d) *Modifications to the landscape requirements.* The planning director may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.
- (e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the planning director or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning director under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
 - (2) The stockpile shall not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
 - (3) Stockpiles shall not exceed 35 feet in height.
 - (4) Stockpiles shall be temporary, with a time limit of six months.
 - (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
 - (6) Stockpiling shall conform with any applicable requirements of the Virginia erosion and sediment control regulations, the Virginia Erosion and Sediment Control Handbook and county erosion and sediment control program policies.
- (f) *Limitations on buffers.* Structural BMPs such as wet and dry ponds shall not generally be permitted in the buffers, except that the planning director may approve them under the following circumstances:
- (1) The need is necessitated by site conditions rather than economic factors; and
 - (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.
- (g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning director. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at a different angle to the property line upon approval of the planning director.
- (h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning director.
- (i) *Appeals.* In the event the planning director disapproves the items specified in (c), (d), (e), (f), (g), and (h) in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.

(Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

The minimum setback from the right-of-way shall be shown on the plan of development and on the recorded subdivision plat. The minimum setback from external streets shall be the same as that required by the zoning district in which the lot is located, except as superseded by section 24-544. The minimum setback from internal streets may be reduced to zero, provided that no building in a residential cluster shall be closer than 25 feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

(Ord. No. 31A-88, § 20-153.8, 4-8-85; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-546. - Minimum lot width and area requirements.

There are no lot width or area requirements.

(Ord. No. 31A-88, § 20-153.9, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99)

Sec. 24-547. - Yard requirements.

The rear and side yards may be reduced to zero feet subject to the following conditions:

- (a) The minimum distance between any two buildings within the residential cluster development shall be governed by the Virginia Uniform Statewide Building Code.
- (b) No building in a residential cluster development shall be closer than 25 feet to the internal edge of perimeter buffers.
- (c) Easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Documents establishing such easements or covenants shall be satisfactory to the county attorney and submitted prior to approval of the development plan.

(Ord. No. 31A-88, § 20-153.10, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-548. - Density.

The density of a proposed subdivision shall be calculated as the number of units divided by the gross acreage. For the purposes of this section, the gross acreage shall be calculated as follows:

Percent non-developable	Percent of gross acreage added to the developable land
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0 - 20 percent	Use total parcel acreage
21 - 40 percent	20
41 - 70 percent	15
71 - 100 percent	10

Illustration of Gross Acreage Calculation

- (a) If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.
- (b) If a 50-acre parcel has 14 acres of non-developable land, then the non-developable area of the site is 28 percent. Because 28 percent is between 21 percent and 40 percent, the total developable area of the parcel (36 acres) and 20 percent of the total parcel acreage (ten acres) are added together to obtain the total acreage used to calculate allowed density (46 acres).

In this example, if an applicant sought a density of two dwelling units per acre, they would yield a maximum of 100 units in (a) and 92 units in (b).

(Ord. No. 31A-88, § 20-153.11, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-175, 3-25-97; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-549. - Density standards.

No project shall have a density (including bonuses) of more than four units per acre. In order to achieve the densities listed below, the developer shall provide at least the minimum amount of open space, and shall make assurances in a master plan, proffers, or other document approved by the county attorney, for the density bonus items. The approval process for cluster development shall be as stated in section 24-556.

Density	Percent of developable acreage as open space	Required density bonus points from list below
Up to 1	25 percent	None

More than 1, but no more than 2	25 percent	2
More than 2, but no more than 3	30 percent	4
More than 3, but no more than 4	35 percent	6

	Bonus Item Options	Bonus Points
A.	For every 10 percent of the units committed to provision of affordable and workforce housing (starting above the threshold set in the county's housing opportunities policy, as amended)	2, up to a max of 4
B.	Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of better site design/low impact development techniques, as approved by the engineering and resource protection division	1.5
C.	Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division	1.5
D.	Meeting a majority of items (a) - (d) listed in <u>section 24-551</u> , Open space development design elements, as determined by the planning director	1.5

E.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units	1
F.	Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee	1
G.	Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved greenway master plan, the Virginia outdoors plan, or such other useful and logical location as approved by the parks and recreation director or designee	1
H.	Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present	1
I.	Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size	1
J.	Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least five percent of the developable area of the site.	1
	1. <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer;	
	2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer</u> (retain at least 50 percent of these soils on site);	

	3. <u>Conservation area as identified by an approved watershed management plan</u> ; or	
	4. <u>Wildlife habitat corridors</u> that:	
	a. Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and	
	b. Consist of mature forestland	
K.	Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements set forth in <u>section 24-35</u> of this chapter	1
L.	Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director	0.5
M.	Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least five percent of the developable area of the site)	0.5

N.	Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the comprehensive plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA	0.5
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(Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-550. - Open space.

Within every residential cluster development approved under this division, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

- (a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.
- (b) In addition, a percentage of the developable area shall also be set aside as open space, as specified in section 24-549. The developable area open space may include, but is not limited to:
 - (1) Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
 - (2) Areas on site used to achieve density bonus points in accordance with section 24-549;
 - (3) The following areas, up to the percent specified:
 - a. Golf courses cannot exceed 30 percent of the developable open space required
 - b. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 - c. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).
- (c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

- (1) Area on any individual private lots, or in the case of condominiums, within 15 feet of the units, or
- (2) Land within public road rights-of-way and utility or drainage easements.

(d) Conceptual and/or master plans shall include a table with the open space information as follows:

Open space	
Nondevelopable open space, as defined	Acreage
Developable open space required	Acreage
Developable open space provided	Acreage
<ul style="list-style-type: none"> • Area(s) used to meet county policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable) 	
<ul style="list-style-type: none"> • Area(s) on site used to achieve density bonus points in accordance with <u>section 24-549</u> 	
<ul style="list-style-type: none"> • Area of golf courses 	
<ul style="list-style-type: none"> • Area in required right-of-way and perimeter buffers 	
<ul style="list-style-type: none"> • Area in stormwater management facilities 	
<ul style="list-style-type: none"> • Other qualifying open space area 	
Total nondevelopable and developable open space	

(e) Open space shall be arranged on the site in a manner that coordinates with section 24-551, Open space development design elements. While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the open space:

- (1) Conservation/general open space:
 - a.

Located to preserve existing significant natural and historic features and scenic viewsheds such as ponds and views to open water, particularly those that can be seen from public roads;

- b. Located to adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future protected open space;

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- c. Located to be interconnected and contiguous to the extent possible, and located to benefit and be accessible to the maximum number of units; and
 - d. Prominently located within the development (for example, at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within the residential area).

(2) Recreation

- a. Cluster developments shall adhere to the parks and recreation master plan proffer guidelines. Any additional land intended for recreation shall be useable for the purpose intended, and also follow the design specifications in the parks and recreation master plan proffer guidelines.

(Ord. No. 31A-88, § 20-153.14, 4-8-85; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-551. - Open space development design elements.

While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the development. These considerations shall be coordinated with the open space design.

- (a) The design should take advantage of the compact design by clustering development into a walkable scale neighborhood and preserving significant open space and natural features;
- (b)

The development should be designed to complement existing topography and minimize the need for alteration of the landscape;

(c) The development should use a mixture of diverse unit types, lot sizes, and/or unit prices; and

(d) The design should use a creative layout. Examples include:

(1) Fronting on open space;

(2) Constructed with one side exterior wall along the side property line to allow side or rear yard garages;

(3) Detached or attached homes on loop lanes;

(4) Use of better site design techniques such as group or shared parking, and shared driveways; and

(5) Clear access from the units to the open space by abutting it, or via sidewalks or trails.

(Ord. No. 31A-279, 11-27-12)

Sec. 24-552. - Establishment of homeowners association.

A homeowners association shall be established in accordance with chapter 19 of the county code. The homeowners association documents shall set forth the nature (recreation or conservation) and location of the open space(s) either through illustration or through incorporation by reference of the development's master plan. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan.

(Ord. No. 31A-88, § 20-153.15, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-553. - BMP requirements.

To assure an appearance and condition which is consistent with the purpose of the residential cluster development overlay district, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

(Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-554. - Performance assurance.

For all improvements proposed by the applicant pursuant to section 24-549, assurances shall be provided, satisfactory to the county attorney, that such improvements will be constructed and completed for use by project residents within a specific, reasonable period of time.

(Ord. No. 31A-88, § 20-153.13, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-555. - Pedestrian accommodations.

Pedestrian accommodations shall be provided in accordance with section 24-35.

(Ord. No. 31A-279, 11-27-12)

Sec. 24-556. - Review and approval process.

- (a) *Conceptual plan and master plan.* Any conceptual plan or master plan for a residential cluster development proposed under this division shall include the elements listed below. For master plans, these elements shall be in addition to meeting the requirements of section 24-23.
- (1) Depiction and/or documentation of the items that the applicant plans to pursue when a bonus density above the base density is sought;
 - (2) Conceptual development design, including required setbacks and buffers, and illustration of the features listed above in the open space and open space development design sections;
 - (3) Marginal data and depiction which shows the gross acreage of the site, the nondevelopable area, the total number of dwelling units and/or lots, and, in the table format specified in section 24-550, the amount of open space required and the amount of open space provided; and
 - (4) Conceptual stormwater design, illustrating use of better site design and low impact development techniques, where possible.
- (b) *Approval process.*
- (1) In instances where a special use permit is not required by the residential district, a master plan shall be filed with the planning director who shall recommend action on the plan to the development review committee, which shall forward a recommendation to the planning commission. The planning commission shall approve the master plan upon finding that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the Comprehensive Plan.
 - (2) In instances where a special use permit is required by the residential district:
 - a. Prior to submission of a master plan for legislative action, the applicant is strongly encouraged to file a conceptual plan for review by the development review committee. The development review committee shall provide a recommendation on the conceptual plan based upon its findings regarding the extent that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the comprehensive plan.
 - b. A master plan in accordance with section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the planning commission.

(Ord. No. 31A-88, § 20-153.16, 4-8-85; Ord. No. 31A-97, 6-2-86; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-233, 12-11-07; Ord. No. 31A-279, 11-27-12)

Secs. 24-557—24-563. - Reserved.

ITEM SUMMARY

DATE: 8/10/2017

TO: The Policy Committee

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Process Overview: Policy Committee review of proposed amendments to the Zoning Ordinance

As part of the FY18 Planning Division work plan, several amendments to the Zoning Ordinance are proposed to be considered.

In advance of items coming forward to the Policy Committee over the next few months, below is a summary of the current, multi-stage process that staff will be following:

- Stage 1: Review benchmarking data and background research
- Stage 2: Review a draft ordinance
- Stage 3: Vote on the final ordinance and consideration of forwarding the amendments on to the full Planning Commission

Staff looks forward to highlighting upcoming work plan items and reviewing the process with the Policy Committee.

REVIEWERS:

Department	Reviewer	Action	Date
Policy Secretary	Secretary, Policy	Approved	7/31/2017 - 2:14 PM
Publication Management	Trautman, Gayle	Approved	7/31/2017 - 2:27 PM
Policy Secretary	Secretary, Policy	Approved	8/2/2017 - 9:50 AM