

BOARD OF SUPERVISORS WORK SESSION

GOVERNMENT CENTER BOARD ROOM

JUNE 28, 2011 - 4 P.M.

A. Call to Order

B. Roll Call

C. Board Discussions

1. Zoning Ordinance Update

a. Commercial Districts – Ordinance Changes ([Memorandum](#))
([Attachment 1](#)) ([Attachment 2](#)) ([Attachment 3](#)) ([Attachment 4](#))
([Attachment 5](#)) ([Attachment 6](#)) ([Attachment 7](#))

b. Draft Economic Opportunity Ordinance ([Memorandum](#))
([Ordinance](#))

D. Break

MEMORANDUM

DATE: June 28, 2011

TO: The Board of Supervisors

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 (SUP) triggers for certain commercial uses (Section 24-11) and Development Review Committee (DRC) triggers (Section 24-147). Topics discussed at that meeting 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 presented the attached draft ordinances to the Policy Committee on June 7. The Policy Committee generally concurred with staff's recommended amendments. The Committee requested that staff present the draft ordinance for Section 24-147, DRC triggers, to the full Planning Commission for consideration on July 6 in order to receive feedback from the three DRC members who are not members of the Policy Committee. The Committee members were not in agreement on staff's recommended amendments to the DRC triggers and were considering removing all of the triggers except unresolved problems between staff and the applicant, adjacent property owners, or reviewing agencies.

Staff requests the Board of Supervisors offer comment on the attached draft ordinances prior to Stage 3 when final ordinance language will be presented to the Planning Commission later in the summer and prior to Planning Commission consideration of the draft revisions to Section 24-147 on July 6.

Christopher Johnson

CONCUR:



Steven W. Hicks

CJ/gb

CommOrdChngs_mem

Attachments:

1. Draft minutes, June 7, 2011, Policy Committee meeting
2. Draft ordinance, Section 24-11, Commercial Special Use Permits
3. Draft ordinance, Section 24-147, Development Review Committee Criteria
4. Draft ordinance, Article 5, Division 9, Limited Business District, LB
5. Draft ordinance, Article 5, Division 10, General Business District, B-1
6. Draft ordinance, Article 5, Division 11, Limited Business/Industrial District, M-1
7. Draft ordinance, Article 5, Division 12, General Industrial District, M-2

MEMORANDUM

DATE: June 28, 2011

TO: The Board of Supervisors

FROM: Jason Purse, Senior Planner

SUBJECT: Draft Economic Opportunity (EO) Ordinance

For Stage II of the zoning and subdivision ordinance update process, staff has constructed a draft ordinance for a newly created Economic Opportunity (EO) district. This ordinance addresses the topics discussed at both the November 2010 and April 2011 Policy Committee meetings, as well as the January 2011 Board work session. This EO ordinance is intended to serve all existing and possible future EO areas, rather than be designed for one specific location. Staff has drafted this ordinance so that is flexible enough to accommodate a master plan consistent with the Comprehensive Plan description of the Hill Pleasant Farm area, but also so that is not constrained by the specific characteristics of that development.

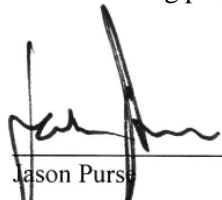
The draft ordinance has been attached for your review prior to Stage III, when the Policy Committee, Planning Commission, and Board of Supervisors will review the final ordinance language in the coming months. The following list represents a brief summary of each of the sections included in the draft ordinance that has been attached for your review (the italicized sections represent specific Policy Committee recommendations that were not included in the draft ordinance):

- Statement of Intent - Language was included directly from the Comprehensive Plan which establishes that the purpose of the district is to facilitate economic development, increase the non-residential tax base, and the creation of jobs.
- Submittal Requirements - Includes specifics about the master planning process, outlines requirements for identifying the urban/residential core, and references a construction phasing policy guideline. (**The Policy Committee recommended adding language about the inclusion of affordable housing in this section; however, staff believes that the Comprehensive Plan language for the individual EO areas contains adequate information on the appropriateness of affordable housing, and future EO areas may not include that type of development.* Also, Board direction has been to minimize residential components.)
- Density - Discusses a desired balance of uses (not to exceed 10 percent residential and 15 percent for both commercial/residential as non-primary workplace uses, with 85 percent of developable land area reserved for primary light industrial, office, and research uses). Furthermore, densities have been lowered to accommodate a Transfer of Development Rights density bonus should one be adopted for this area. (**The Policy Committee recommended investigating a minimum density for this area; however, staff notes that a minimum density might be appropriate for the Hill Pleasant Farm EO area, there may be future areas where a higher density residential component will not be appropriate since residential development may not be a component of all EO areas*). Staff also received comments from the public about possibly capping the percentage of retail development similar to the cap for residential. Given that the urban/residential core is the only area that would permit commercial development and a 15 percent cap is in place for both residential/commercial developments, staff is comfortable with the existing proposed language for all future EO areas.
- Permitted/Specially-Permitted Uses - The Policy Committee and staff discussed a number of uses that may be appropriate for the EO district. Since this was a first draft, staff was generally more inclusive with uses in order to initiate discussion of the purpose of the EO district. (**The Policy Committee recommended investigating a way to tie the Balance of Uses section to the various "sections" of uses on the use list. For*

instance, stating the primary uses should be from the "Industrial" uses and non-primary uses would include "Residential" and "Commercial". However, the comprehensive plan provides a more specific list of proposed primary uses that include both industrial development as well as office and research and technology uses that do not lend themselves to general categories (i.e. primary suggested uses contain industrial uses, as well as offices which would be listed under commercial). Staff received public comment suggesting a more limited list of commercial uses. A number of those uses were removed, however, staff wanted to leave in the rest of the uses to facilitate discussion of the possible visions for EO in the future.

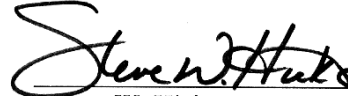
- Complementary Design - Many of the requirements for complementary design, including building design, open space design, parks and recreation facilities, and traffic circulation have been included as regulations governing the urban/residential core. These requirements would not apply to the industrial/primary use areas of the EO district in order to remain competitive with adjacent localities and to promote flexibility for developers of the industrial/office area.
- Open Space - Staff recommends including a 10 percent open space requirement for the urban/residential core. Similar to the complementary design, open space requirements have been limited to the residential area in order to ensure that the primary uses are not be subject to any additional requirements in order to remain competitive with adjacent localities. (**The Policy Committee requested that staff investigate including the open space requirements for the entire EO area, as well as possibly increasing the percentage of open space required.*)
- Height of Structures - The by-right height limit has been set at 75 feet. This height is consistent with what is allowed by-right in the York County EO district.
- Setbacks and Buffers - The external building setback and perimeter buffer have been established at 25 feet. There is also a perimeter buffer of 100 feet from properties that are not designated EO on the Comprehensive Plan or that are designated as Community Character Areas. (**The Policy Committee, along with public input, recommended including buffers of at least 50 feet from the perimeter of the EO district.*)
- Street Improvements - Similar to the Mixed Use and industrial districts, private streets will be allowed in the EO district, with Board approval.

Staff requests the Board of Supervisors offer comment on this draft ordinance prior to Stage III presenting the final ordinance language to the Policy Committee later in the summer and making preparations for advertising the ordinance this fall.



Jason Purs

CONCUR:



Steven W. Hicks

JP/nb
EOOrd_mem

Attachment

ECONOMIC OPPORTUNITY, EO

Sec. 24-XXX. Statement of intent.

The purpose of the Economic Opportunity district is to facilitate economic development, an increased non-residential tax base, and the creation of jobs. The lands should be at strategic locations in the County relative to both available and planned transportation and utilities infrastructure, the lands should be developed consistent with the approved comprehensive plan. All parcels zoned Economic Opportunity shall be located inside the Primary Service Area.

The principal uses and development form should optimize the economic development potential of the area and encourage development types that have certain attributes, principally that they offer a positive fiscal contribution, provide quality jobs, enhance community values, are environmentally friendly, and support economic stability. Master planning is at the core of this designation, and development should be limited unless incorporated into master planning efforts, which should address environmentally sensitive areas, available infrastructure (roads, water, sewer, transit, etc.), public facilities, and adjacent land uses to include lands in adjacent jurisdictions.

Sec. 24-XXX. Documents required for submission.

(a) *Required documents.* In addition to the submittal requirements set forth in section 24-23 of the zoning ordinance, the applicant shall submit the following documents to the planning director for submission to the planning commission:

(1) *Documentation of master planning efforts.* Because the Economic Opportunity district may incorporate parcels owned by many different property owners, encounter multiple infrastructure capacity issues, and in some cases cross jurisdictional boundaries, it is important that a comprehensive master plan is established for each EO designated area. The master planning effort shall ensure that all property owners have an opportunity to participate. If an individual land owner who owns property designated EO does not wish to participate in the master planning process, such land shall still be included in the master planning effort in order to create a cohesive development, although individual land owners will retain discretion in use and rezoning of properties. Properties not designated EO shall be recognized and adequate buffers provided in the master plan to protect the current use of that land if applicable.

Prior to any rezoning, the applicant must demonstrate that any planning effort has ensured that a project has phased development to be concurrent with, and provide for, adequate road infrastructure, water, sewer, transit, fire stations, police and general government services, parks and recreation facilities, schools, and other facilities and service needs generated by the development.

(2) *Transit.* A master plan that shows the proposed location of any bus, rapid transit or commuter/light rail stations, and documentation supporting the plan or infrastructure for construction of such facilities.

(3) *Urban/Residential Core.* If any residential/commercial development is proposed, the master plan shall delineate an area as the urban/residential core of the Economic Opportunity area. The urban/residential core shall include all areas planned for residential development in the Economic Development area, as well as all areas planned for commercial/retail uses to serve as support uses to the residential and employment centers of the Economic Opportunity area. There shall be no more than one urban/residential core for an entire Economic Opportunity, as designated on the Comprehensive Plan. The urban/residential core shall not exceed fifteen (15) percent of the total developable Economic Opportunity area, as designated on the Comprehensive Plan. If bus rapid transit or commuter/light rail stations are proposed, the urban/residential core must be within one-quarter (1/4) mile of those stops.

Development outside the urban/residential core shall consist of primary workplace uses, including office, research, and light industrial.

(4) *Construction Phasing.* A project build-out schedule shall be submitted for review by staff, the planning commission and board of supervisors, in accordance with the board of supervisors adopted construction phasing guidelines adopted on _____. The purpose of such phasing plan shall be to provide assurance to the board of supervisors that infrastructure improvements will be constructed in order to support the development intensities proposed. The project build-out schedule shall also provide assurances that the development will include both the proposed non-residential and residential elements at certain project milestones and/or at build-out.

(5) *Accommodating Rail Usage.* If rail or bus rapid transit is proposed or approved, the master plan shall demonstrate design characteristics supportive and accommodating of rail usage (i.e. reduced and/or structured parking, pedestrian accommodations, finer mixing of uses, etc.)

(6) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be preserved to the maximum extent possible, and an environmental inventory shall be provided in accordance with sec. 24-23.

Sec. 24- XXX. Minimum area of districts.

Economic Opportunity districts shall be located on a single parcel of land, or separate parcels that are a part of an approved master plan, which shall total not less than twenty-five acres.

Sec. 24- XXX. Density.

(a) *Balance of land uses.* Not more than fifteen (15) percent of the developable land area within an Economic Opportunity area, as delineated on the master plan, shall be dedicated to non-primary workplace uses. The remaining 85% of the developable land area shall be dedicated to primary uses. Non-primary workplace uses include retail, convenience and service uses, restaurants, child care, residential development or other uses intended to support and compliment primary workplace uses. For the purposes of this requirement primary workplace uses include office, research, light industrial or other uses that will provide a significant fiscal benefit to the County.

Additionally, non-primary workplace uses should be grouped together in an effort to maximize the area for workplace uses. The location of the non-primary workplace uses should not prevent the availability of large contiguous sections of land for office, research, or light industrial development.

(b) *Residential.* Residential dwelling units are permitted in the urban/residential core area, as delineated on the master plan, which shall not exceed ten (10) percent of the total developable master planned Economic Opportunity area. The number of dwelling units which may be constructed in any the urban/residential core as indicated on the master plan shall be determined by the number of gross acres of the Economic Opportunity master plan area and the use proposed. The maximum densities of dwelling units per acre which may be constructed are:

<i>Dwelling Type</i>	<i>Maximum Density*</i>
Multi-Family structures	7
Apartments	10

*It should be noted that the EO District is being evaluated as a possible receiving area for a Transfer of Development Rights program. Should a TDR program be enacted, the densities in this district would be

increased. Any increase would be reflected in a separate TDR ordinance, and not in this EO chart. A TDR ordinance may also included commercial density bonuses. If commercial bonuses area included a commercial density chart will need to be added to this ordinance as well. (This language will not be included in the final ordinance).

(1) For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 35% of the total site area is non-developable. For parcels where more than 35% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 35% of the total parcel acreage.

(c) Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, wetlands and area's with slopes exceeding 25 percent gradient. * (This section may require updating at a later date due to ordinance update discussions for other topics)

Sec. 24- XXX. Permitted uses.

In the Economic Opportunity districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory structures, as defined in section 24-2	P	
	Apartments		SUP
	Multiple-family dwellings		SUP
	Group quarters		SUP
	Nursing homes		SUP
	Townhouses		SUP
	Two-family dwellings		SUP
Commercial Uses	Accessory structures, as defined in section 24-2	P	
	Adult day care centers	P	
	Automobile rental	P	
	Automobile repair and service including tire, transmission, glass, body and fender, and other automotive product sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing	P	
	Automobile service stations; if fuel is sold, then in accordance with section 24-38	P	
	Banks and other similar financial institutions	P	
	Barber and beauty shops	P	
	Business, professional and governmental offices	P	
	Child day care centers	P	
	Clubs, public or private, civic or service clubs, county clubs, lodges and fraternal organizations	P	
	Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Contractor offices, equipment storage yards, shops and warehouses with storage under cover or	P	

screened with landscaping and fencing from adjacent property		
Convenience stores; if fuel is sold, then in accordance with section 24-38	P	
Corporate offices	P	
Courier services	P	
Data processing centers	P	
Drug stores	P	
Dry cleaners and laundries	P	
Employment services or agencies	P	
Farmer's markets	P	
Fast food restaurants		SUP
Feed, seed and farm supply stores	P	
Fire stations	P	
Fish farming	P	
Gift stores	P	
Greenhouses and nurseries	P	
Health clubs, exercise clubs and fitness centers	P	
Home occupations as defined	P	
Hotels, motels, tourist homes and convention centers	P	
Indoor sport facilities	P	
Indoor theaters	P	
Janitorial service establishments	P	
Limousine service	P	
Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38		SUP
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packaging or distribution under cover or screened with landscaping and fencing from adjacent property		SUP
Off-street parking as required by section 24-53	P	
Office supply stores, secretarial and duplicating services	P	
Parking lots and garages	P	
Photographer, picture, artist and sculptor stores and studios	P	
Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Printing and publication establishments	P	
Property maintenance facilities, sheds or garages	P	
Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of	P	

	amusement		
	Rental of rooms to a maximum of three rooms	P	
	Restaurants, tea rooms and taverns	P	
	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, plan supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods	P	
	Retail food stores, bakeries and fish markets	P	
	Security service offices	P	
	Shooting ranges, indoor		SUP
	Taxi service	P	
	Theme parks		SUP
	Truck stop; if fuel is sold, then in accordance with section 24-38		SUP
	Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
	Vehicle and trailer sales and service (with major repair limited to a fully enclosed building)	P	
	Veterinary hospitals	P	
	Water well drilling establishments	P	
Civic	Nonemergency medical transport	P	
	Post offices	P	
	Water impoundments, new or expansion of	P	
Utility	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		SUP
	Radio stations, television stations, transmission relay stations and communication towers		SUP
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communication Facilities		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, 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		SUP

	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, 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 (a) Distribution lines and local facilities within a development, including pump stations		SUP
Open	Timbering	P	
	Wineries	P	
Industrial Uses	Food processing and storage, but not the slaughter of animals	P	
	Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property		SUP
	Heliports, helistops		SUP
	Hospital		SUP
	Industrial and technical training schools	P	
	Laser technology production	P	
	Machinery sales and service with major repair under cover		SUP
	Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks and wine	P	
	Manufacture and processing of textiles and textile products in structures not more than 10,000 square feet	P	
	Manufacture and processing of textiles and textile products in structures more than 10,000 square feet		SUP
	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, and yarn	P	
	Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	

Manufacture of carpets and carpet yarns in structures of not more than 10,000 square feet	P	
Manufactured home or mobile home sales	P	
Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity	P	
Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment	P	
Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments	P	
Petroleum storage		SUP
Private streets within “qualifying industrial parks” in accordance with section 24-55	P	
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	P	
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		SUP
Research, development and design facilities or laboratories	P	
Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property	P	
Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	

Sec. 24- XXX. Requirements for improvements and design.

(a) *Complementary design.* Economic Opportunity districts are intended to have an integrated character with strong unifying design elements meeting the following standards:

(1) **Unified Building Design.** Building design, in the urban/residential core as designated on the master plan, shall be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.

The urban/residential core shall focus on pedestrian-scaled design, a mixing of uses within buildings, and general design standards (such as landscaping, road design, etc.) that may be different from the Economic Opportunity design.

(2) *Unified Open Space.* Projects, in the urban/residential core as designated on the master plan, shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). All buildings or building clusters within the development must be connected with linkages other than roads (i.e., sidewalks, bikeways or multi-use paths). The master plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). See section 24-536.8 for more details on Open Space.

(b) *Water and sewer.* All structures and uses within an Economic Opportunity district shall be served by publicly owned and operated water and sewer systems.

(c) *Recreation areas.* Residential areas and mixed use structures, within the urban/residential core, shall be provided with a recreation area or areas adequate to meet the needs of the residents. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities in accordance with the guarantees established as part of master plan or final development plan approval. The composition of the facilities to be installed shall be approved by the planning director. Such facilities shall be owned and maintained by the developer or a residents' association.

(d) *Parking.* Off-street parking facilities, within the urban/residential core, shall be provided in accordance with the off-street parking requirements of section 24-53. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening.

(e) *Streetlights.* Streetlights, within the urban/residential core, shall generally be provided at each intersection and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development.

(f) *Signage and entry points.* All signs within an Economic Opportunity district shall comply with article II, division 3 of this chapter.

(g) *Traffic circulation* in the urban/residential core as designated on the master plan. Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. All streets shall be constructed and designed in accordance with section 24-536.11.

(h) *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and Chapter 23 of the County Code, the Chesapeake Bay Preservation Ordinance.

Sec. 24- XXX. Open space. * (This section may require updating at a later date due to ordinance update discussions for other topics)

Development within the urban/residential core of the Economic Opportunity districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient shall not be counted towards meeting the open space requirement.

For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a Community Character Corridor on the Comprehensive Plan.
- (2) Buffer area(s) of no less than 50 feet around an RMA wetland as measured from the landward edge of the wetland.
- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.
- (4) Preservation of any developable area demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in *Virginia's Endangered Species*, (Virginia Department of Game and Inland Fisheries, 1991)), where preservation of such area is not required by local, state or federal law.
- (5) Bikeways, bike paths, sidewalks, hiking trails, greenways or other similar amenity.
- (6) Public or private picnic areas, parks, plazas or other gathering areas.
- (7) Public or private community facilities such as swimming pools, tennis courts, and recreation buildings. Golf courses may also be counted as open space for the purpose of meeting the open space requirement to a maximum of 50 percent of the required open space.

Open space area shall be protected by easements, maintenance agreements and/or other assurances satisfactory to the county attorney

Sec. 24- XXX. Height of structures.

- (a) Structures may be erected up to 75 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 the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.
- (b) A structure in excess of 75 feet in height but not in excess of 120 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, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory 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. * (The wireless communication facility section is being processed separately, so this section may require additional updating at a later date)

(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) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- (2) Such structure is part of a Transit Oriented Development that utilizes a mass transit system, or is a primary Economic Opportunity use as determined by the County Administrator and is of substantial fiscal benefit to the County;
- (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 surrounding area;
- (5) 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 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 would not be contrary to the public health, safety or general welfare.

Sec. 24- XXX. Setback and buffer requirements.

(a) *Location of structures.* Structures shall be located 25 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right-of-way, is less than 50 feet in width, structures shall be located 45 feet or more from the centerline of the external existing or planned or internal arterial public road. Structures shall be located a minimum of 50 feet or more from any Community Character Corridor.

(b) *Required buffers from Economic Opportunity districts.* A buffer of 25 feet shall be maintained from the perimeter of an Economic Opportunity district. The buffer shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development. Where uses permitted in the Economic Opportunity district adjoin an existing residentially zoned district or an A-1 or R-8 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped buffer shall be increased to 100 feet. A buffer of 100 feet shall be maintained from any property in a Community Character Area that is not included in the overall EO master plan.

(c) *Setback and/or buffer modifications; criteria for determination.* Reduction of the width of the setbacks and/or buffers specified in subsections (a) and (b) above may be approved for an Economic Opportunity zoning district upon demonstration that the proposed setback and/or buffer, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback and/or buffer requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the

Comprehensive Plan. In addition, a request for a setback and/or buffer modification must meet one or more of the following criteria:

(1) The proposed setback and/or buffer is for the purpose of integrating proposed Economic Opportunity development with adjacent development, and if located in a Community Character Area, compliments the character of the existing structures;

(2) The proposed setback and/or buffer substantially preserves, enhances, integrates and complements existing trees and topography;

(3) The proposed setback and/or buffer is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(d) *Requests for modifications.* Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) *No minimum lot size or yard requirements.* Except for required setbacks specified in (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Economic Opportunity district other than as specified in approved final plans.

(f) *Uses prohibited.* Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.

Sec. 24- XXX. Street improvements.

(a) All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted upon the approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.

The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and development manger or designee.

(c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the planning commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the development plan will be assessed for the cost of maintaining private streets and that such assessments shall constitute a pro rata lien upon the individual lots shown on the development plan.

(d) The uniqueness of each proposal for an Economic Opportunity development requires that the specifications for the width, surfacing, construction and geometric design of streets with associated drainage and the specifications for curbs and gutters be subject to modification from the specifications established in chapter 19. The development manger or designee may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for these facilities where the development manger or designee finds that such specifications are not required in the interests of the

residents and property owners of the economic opportunity development and that the modifications of such specifications are not inconsistent with the interests of the entire county.

It shall be the responsibility of the applicant to demonstrate to the satisfaction of the development manger or designee with respect to any requested waiver or modification:

- (1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;
- (2) That the waiver or modification is reasonable because of the uniqueness of the economic opportunity development or because of the large area of the economic opportunity development, within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;
- (3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur with the area of the master plan;
- (4) That traffic lanes of streets are sufficiently wide enough to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and
- (5) That waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon the soil tests for California Bearing Ratio value and erosion characteristics of the particular subgrade support soils in the area.

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UNAPPROVED MINUTES FROM THE JUNE 7, 2011 POLICY COMMITTEE MEETING

Commercial districts

Mr. Chris Johnson reviewed the proposed revision to Sec. 24-147, Development Review Committee (DRC) triggers.

In reference to Sec. 24-149, Mr. Woods asked if the Planning Commission reviews plans that have been granted expedited review status.

Mr. Johnson stated that expedited review status for commercial projects does not exempt them from DRC review, if it is necessary. Sec. 24-149 allows the DRC chair to designate two members to review site plans during the initial expedited review timeframe.

Mr. Fraley asked if there would be any changes to the Ordinance regarding the DRC subdivision review trigger.

Mr. Johnson stated that this is a Subdivision Ordinance issue, which is a non-priority item. Mr. Johnson stated that the threshold triggering DRC review of subdivisions will be addressed at a later date.

Mr. Fraley stated that he does not see a need for the DRC to review any of the uses called out in Sec. 24-147. Mr. Fraley stated that he did not think it is appropriate to have the Economic Development Director decide which proposals are granted expedited review status.

Mr. Johnson stated that staff had been directed previously by the Policy Committee to facilitate modifications to the role of the DRC. Mr. Johnson stated that the new role would define the DRC as a strategic body at the front end of the development review process and as an appellate body in later stages. The DRC would be more involved during the conceptual review of both legislative and certain administrative proposals.

Mr. Peck stated that he supports changing the role of the DRC to a strategic and appellate body.

Mr. Murphy stated that if the DRC review triggers are removed, reviews can be done administratively.

Mr. Johnson stated that the collective expertise of development management staff is fully capable of handling the vast majority of issues and concerns currently reviewed by the DRC.

Mr. Woods stated that he can recall a previous discussion at a Planning Commission meeting where retaining the existing DRC thresholds was preferred.

Mr. O'Connor stated that he generally supports changing the criteria but, this discussion should include the entire DRC.

Mr. Woods stated that if the DRC triggers were removed one advantage would be a streamlined review process for the applicant.

Mr. Fraley asked staff to review the proposed revisions to Sec. 24-11, commercial Special Use Permit (SUP) triggers.

Mr. Johnson pointed out the building size threshold increasing from 10,000 to 20,000 and noted that the exemptions for office and industrial building square footage and trip generation would remain unchanged. Mr. Johnson added that the recommended revisions would have eliminated roughly half of the commercial SUP's over the past decade.

Mr. Richard Costello, of AES stated that exemptions (d)(1) and (d)(2) are outdated and could be removed.

Mr. Johnson reviewed the proposed revisions for the Limited Business District, LB.

Mr. Fraley stated that the Ordinance materials related to LB are of particular importance since these districts are located near residential areas. Mr. Fraley asked why staff chose to add the new language seen in Sec. 24-367.

Mr. Johnson stated that Sec. 24-367 is a statement of intent for the district and language contained therein is not enforceable. It is meant to be a general, guiding statement of intent for the regulations outlined in the rest of the chapter.

Mr. Fraley stated he would prefer to see more substantive language.

Mr. Murphy stated that it does explain the specific requirements that are seen in the text later on in the chapter.

Mr. Fraley stated that he expected to see more uses shift from specially permitted to permitted and fewer uses that require a SUP. Mr. Fraley stated that he anticipated seeing more performance standards for uses requiring SUP's.

Mr. Murphy stated that staff made an effort to meet this expectation. Mr. Murphy stated that if the Policy Committee wants to shift more uses than staff will consider them.

Mr. Fraley asked for clarification on the condition placed on Veterinary hospitals under Sec. 24-368.

Mr. Johnson stated that requiring animals to be kept on a leash would prevent outdoor dog runs which create noise outside normal working hours yet still allows employees to walk or exercise dogs during the day.

Mr. Fraley suggested requiring an extra setback in Sec. 24-370(1), perhaps increasing the front setback to 75 feet.

Mr. Fraley asked for clarification regarding Sec. 24-391 pertaining to convenience stores.

Mr. Murphy stated that all convenience stores require a SUP, even those that do not sell fuel.

Mr. Johnson stated that convenience stores typically remain open for extended late night hours and promote the congregation of people around them later into the evening which can cause impacts on adjacent residential properties and often increase police presence. He stated convenience stores typically have bright lighting and other design issues that require careful review during a legislative process.

Mr. Fraley stated he was alarmed to hear at the last Board of Supervisors meeting that it is difficult for the County to enforce hours of operation. Mr. Fraley asked why convenience stores are not listed in M-2.

Mr. Murphy stated that convenience stores were deemed an inappropriate use for M-2. He stated that it was staff's intent to retain M-2 for heavy industrial uses.

Mr. Costello asked staff if outdoor centers of amusement are permitted in any other district besides, B-1.

Mr. Johnson stated that it is only permitted in B-1 with a SUP. Mr. Johnson stated that outdoor centers of amusement are not appropriate uses in industrially zoned areas or adjacent to residential neighborhoods in LB.

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.