

# **Board of Supervisors Work Session Government Center Board Room**

**September 27, 2011 - 4:00 p.m.**

**A. Call to Order**

**B. Roll Call**

**C. Board Discussions**

1. Stage II Zoning Ordinance Update for Non-Priority Items

**D. Break**

MEMORANDUM

DATE: September 27, 2011

TO: The Board of Supervisors

FROM: Tamara M. Rosario, Principal Planner  
Allen J. Murphy, Jr., Director of Planning/Assistant Development Manager

SUBJECT: Stage II Zoning Ordinance Update for Non-Priority Items

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For Stage II of the zoning and subdivision update process, staff has crafted draft ordinances and policies for the topics within non-priority categories:

1. Residential districts;
2. Multiple use districts;
3. Administrative items; and
4. Wireless communications facilities.

Staff drafted the Stage II ordinances and policies for these topics based on feedback provided this spring when the Policy Committee, Planning Commission, and Board of Supervisors reviewed initial proposals during Stage I of the process. The Policy Committee considered the draft ordinances and policies at its meetings in July and September.

The draft ordinances and policies as they were presented to the Policy Committee are attached for the Board's review prior to Stage III, when the Policy Committee, Planning Commission, and Board of Supervisors will review the final ordinance language. The proposed revisions related to each non-priority item are summarized in the list below. *Policy Committee comments, which have not been incorporated into the draft ordinances and policies, are noted in italics.* One non-priority item, green building, has been delayed work session to allow the Economic Development Authority ample time to offer comments.

Due to the volume of material, please note that some of the attachments will be made available online at [www.jccegov.com/agendas/index.html](http://www.jccegov.com/agendas/index.html) but will not be included in the packet – these items are noted in the attachments section at the end of this memorandum. Staff would be happy to provide hard copies of these materials upon request.

**I. Residential Districts and Housing Opportunities Policy**

For Stage II of the zoning and subdivision ordinance update process, staff has constructed draft ordinances and guidelines for the following residential topics.

1. R-1, R-2, and R-5  
Changes that were made to both the R-1, Limited Residential District and the R-2, General Residential, District included coordinating the density bonus system with the cluster overlay district (although the method of calculating density based on the gross area of the site was not proposed to be changed); generally coordinating the open space, ownership of open space, and buffer requirements sections with the cluster overlay district; and adding a park and playground numerical and design standard requirement. A change that was made to both the R-2, General Residential District and the R-5, Multi-family Residential, Districts was the inclusion of select commercial uses as specially permitted uses per suggestion of the Policy Committee during Stage 1. Changes to the R-5 district were more substantial, and included changing the permitted uses to include only multi-family dwellings containing more than

four dwelling units; revision of the right-of-way buffer requirement to match the R-1 and R-2 districts (150 feet for Community Character Corridors (CCC) and 75 feet for non-CCC roads, while providing for waivers if criteria listed in the ordinance are met); adjustment of the nondevelopable land density formula to coordinate with the cluster overlay district; revision of the density bonus items to coordinated with the cluster overlay district; adjustment of the open space requirement language; and deletion of the private yards requirement to provide design flexibility.

*The Policy Committee generally concurred with the draft with several minor comments on adding references and making language more concise.*

2. R-3, Residential Redevelopment, District

Staff presented the concept of a new zoning district to the Policy Committee during Stage I in February 2011. The proposed new residential zoning district would more appropriately apply to projects where previous development on the parcel had occurred, improvements to existing infrastructure were needed, rehabilitation or replacement of existing structures was needed, or legally nonconforming properties are involved. These projects often involve preservation or rehabilitation of existing affordable units as well. The new district is coordinated with and shares a number of elements (density standard system, permitted/specially permitted uses, open space requirements, etc.) of the other existing residential zoning districts, but due to its specific purpose, it allows for greater flexibility. The draft ordinance is accompanied by a Residential Redevelopment Policy that clearly establishes the purpose of the district by stating four items (locate inside the PSA; bring non-conforming parcels into greater conformance; provide or improve public infrastructure; provide workforce and/or affordable housing) that projects proposing to use this district are expected to meet or exceed.

*The Policy Committee generally concurred with the draft ordinance and policy and suggested revisions to make the draft more readable and consistent with the other residential districts. The Committee also noted that the requirement for a homeowners association or alternative structure in 24-H, Ownership and maintenance of open space, may present special challenges and require additional discussion by the Board of Supervisors.*

3. Cluster Overlay District

The draft ordinance follows the items discussed during Stage I of the process, with the more significant changes consisting of the following: revision of the nondevelopable land definition; in the density calculation section, changing the percentage that triggers use of the nondevelopable land formula; revisions to the density standards and bonus items; revision of the amount of open space that is required to a tiered system linked to desired density; and adjusting to reflect the new nondevelopable land definition; inclusion of new design information for open space and for development; and a review and approval process where submission of a conceptual plan prior to the legislative process is strongly encouraged. Along with the draft, staff included information in response to a number of questions that had come up during Policy Committee meetings and a Board work session (see Attachment No. 8).

*The Policy Committee generally concurred with the draft and asked for only a few minor changes. The Committee did ask staff to make note in future cover memorandums that revisions might be necessary depending on the outcome of the Transfer of Development Rights (TDR) feasibility analysis.*

4. Affordable Housing Opportunities Policy

In accordance with feedback from the Board regarding a preference for a policy over ordinance language, a policy has been drafted that covers topics discussed in Stage I of the process. These include the expected percentage of units to be provided in the target range that is to be integrated into the development; the reduction of cash proffer amounts for these targeted units; standards for retention of the units over time through a specific soft second mortgage term and a County right-of-first-refusal in

the deed; the flexibility to provide cash in-lieu contributions for a Housing Fund; and procedural information. Staff also provided some additional background data in response to information requested by the Board of Supervisors.

*The Policy Committee concurred with the draft policy and suggested putting together information on the parameters of the Housing Fund cited in the Policy. Based on staff inquiry, the Committee indicated they were comfortable with use of the term workforce for all affordable and workforce housing units targeted through the policy, although the tiered system would remain incorporated as defined by the income range.*

## **II. Multiple Use Districts**

Staff previously presented discussion items for changes to the Mixed-Use (MU); Planned Unit Development (PUD); and, R-4, Residential Planned Community, Districts.

The most substantive changes were made to the MU district. The overall base density was lowered and now includes density bonuses similar to what is included with the Cluster ordinance. A required mixing of uses (not more than 80 percent of one use type) was included in the density section. Provisions were also included that require unified open space design, as well as complementary site design. At the recommendation of the Office of Economic Development, several of the uses listed that were previously permitted up to 2,000 square feet and specially permitted at sizes greater than that, were revised to have a threshold of 5,000 square feet. Finally, staff included a construction phasing guideline, to be reviewed at the rezoning level, with a phasing plan approved by the Board of Supervisors.

Staff made similar changes to the PUD district, including changes to the density calculation (to include a density bonus), as well as housekeeping revisions similar to MU that do not change the content of the district, but rather change the arrangement of sections of the ordinance (i.e. use list table, removal of procedural sections to another section of the ordinance, etc.).

The changes to the R-4 district were mostly organizational in nature. Changes to the use list, removal of procedural requirements, and rewording of the gross density calculation table were the major changes.

*The Policy Committee reviewed the draft ordinances in September and the members were generally supportive of the changes. Questions mainly focused on ensuring compatibility with the changes that were made to the Commercial zoning districts and the ability to accommodate a possible TDR program.*

## **III. Administrative Items**

### **1. Procedural Descriptions, Submittal Requirements, and Administrative Items**

Staff made revisions on items under Article I (General) and Article III (site plan), particularly the removal of Section 24-7 (administrative fees), the reorganization of items under Section 24-23 (submittal requirements for legislative cases), and amendments to Section 24-143 (site plan submittal requirements). Staff is currently working with the revision of Section 24-2 (definitions) and creating illustrations which will accompany some of the definitions in order to best clarify their meaning. New and revised definitions and illustrations will be submitted for review at a later time.

*The Policy Committee concurred with staff's revised ordinances.*

2. Traffic Impact Analysis Guidelines

A Traffic Impact Analysis (TIA) is a study which assesses the effects of a particular development's projected traffic on the transportation network. Submission of a TIA is required by the zoning ordinance during the review of any legislative application that is expected to generate 100 or more weekday peak hour trips or be located on a road with a Level of Service (LOS) "D" or lower. The ordinance does not currently define or provide any guidance to an applicant regarding the scope of work or expected results of a TIA. To increase predictability and make expectations clear, staff has drafted a policy document to define the required elements and expected results of a TIA for legislative applications.

*The Policy Committee concurred with staff's draft TIA guidelines.*

3. Environmental Constraints Analysis

Three items have been drafted - a policy, a short list of environmental requirements to be amended to Section 24-145 of the Ordinance (site plan requirements), and an environmental checklist. The policy covers expectations in terms of environmental submittal requirements for legislative cases. The amendment to Section 24-145 provides clarifications as to what type of environmental information should be provided for administrative cases. The environmental checklist mirrors this information, but will be made available as part of the site plan application.

*The Policy Committee concurred with staff's revised ordinances.*

4. Fiscal Impact Study

Staff has drafted a fiscal impact study which will be made available as part of residential rezoning applications at no cost to applicants. The study has been reviewed by the James City County Financial and Management Services Director, Mr. John McDonald; Mr. Donald Messmer of the Wessex Group; the James City County Economic Development Director, Mr. Russell Seymour; the City of Williamsburg Economic Development Director, Michele DeWitt; and York County Principal Planner, Mr. Tim Cross; with positive input.

*The Policy Committee concurred with staff's draft checklist and policy.*

5. Nonconformities

Staff proposed to specifically include reference to "structure" in addition to reference to nonconforming uses throughout the ordinance for clarity. In the past, the Attorney's Office has expressed concern that the current ordinance does not specifically reference structures when discussing nonconforming status, which could lead to legal issues should an appeal be challenged in court.

*The Policy Committee generally concurred with the draft with several minor comments on adding references and making language more concise.*

#### **IV. Wireless Communication Facilities**

Staff has proposed additions and revisions to the Wireless Communication Ordinance that provides a mechanism to review applications for multi-antenna systems (such as DAS), clarifies the camouflaged tower provision, permits temporary cell sites, and encourages alternatively mounted antennas.

*The Policy Committee generally concurred with staff's revisions; however, they recommended that camouflaged freestanding towers over 80 feet require a special use permit in the residential districts. Additionally, the Committee recommended language regarding the minimum quality of products that can be used for camouflaged towers utilizing the Native Vegetation provision.*

Staff requests that the Board of Supervisors offer comment on these draft ordinances and guidelines prior to presenting the final ordinance language to making preparations for advertising the ordinance this winter during Stage III of the process.

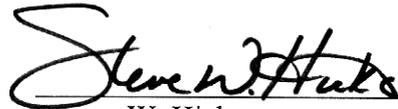


Tamara A.M. Rosario

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Allen J. Murphy, Jr.

CONCUR:



Steven W. Hicks

TMR/AJM/nb  
NonPriorItm\_mem

Attachments:

1. Unapproved Policy Committee Minutes (July 18; September 1, 6, and 15)
2. R-1 – Draft Ordinance
3. R-2 – Draft Ordinance
4. R-5 – Draft Ordinance
5. R-3 – Draft Ordinance
6. R-3 – Draft Residential Redevelopment Policy
7. Cluster Overlay District – Draft Ordinance
8. Cluster Overlay District – Response to Policy Committee Questions (available online)
9. Cluster Overlay District – Parks and Recreation Master Plan Guidelines  
(for reference –available online)
10. Affordable Housing Opportunities – Draft Policy
11. Affordable Housing – Response to Board Questions (available online)
12. Affordable Housing – Area Median Income Attachment (available online)
13. Mixed Use – Draft Ordinance
14. Mixed Use – Draft Construction Phasing Policy
15. R-4 – Draft Ordinance
16. PUD – Draft Ordinance
17. Administrative Items – Article I In General – Draft Ordinance
18. Administrative Items – Article III Site Plan – Draft Ordinance
19. Administrative Items – Traffic Impact Analysis – Draft Guidelines
20. Administrative Items – Environmental Constraints Analysis – Draft Policy
21. Administrative Items – Environmental Submittal Requirements Checklist for Site Plans (available online)
22. Administrative Items – Fiscal Impact Study – Draft Guidelines
23. Nonconformities – Draft Ordinance
24. Wireless Communication Facilities – Draft Ordinance



**MEMORANDUM COVER**

**Subject:** Stage II Zoning Ordinance Update for Non-Priority Items

**Action Requested:** Shall the Board concur with staff's recommendations and provide guidance for proceeding to Stage III of the zoning and subdivision ordinance update for the presented topics?

**Summary:** For Stage II of the zoning and subdivision update process, staff has crafted draft ordinances and policies for the topics within the non-priority categories:

- 1. Residential districts;
- 2. Multiple use districts;
- 3. Administrative items; and
- 4. Wireless communications facilities.

The draft ordinances, policies, and guidelines have been attached for review prior to Stage III, when the Planning Commission and Board of Supervisors will review the final ordinance language in the coming months.

Staff recommends approval of the attached resolution.

**Fiscal Impact:** N/A

**FMS Approval, if Applicable:** Yes  No

**Assistant County Administrator**  
  
Doug Powell \_\_\_\_\_

**County Administrator**  
  
Robert C. Middaugh \_\_\_\_\_

**Attachments:**  
1. Memorandum  
2. 26 Attachments

**WORK SESSION**  
  
**Date:** September 27, 2011

**POLICY COMMITTEE MEETING**

July 18, 2011

4:00 p.m.

County Complex, Building A

**1) Roll Call**

**Present**

Mr. Rich Krapf

Mr. Jack Fraley

Mr. Al Woods

Mr. Tim O'Connor

**Staff Present**

Mr. Allen Murphy

Ms. Ellen Cook

Ms. Tammy Rosario

Ms. Jennifer VanDyke

Mr. Jack Fraley called the meeting to order at 4:00 p.m.

**2) Old Business**

Mr. Fraley noted there was no old business to discuss and asked Ms. Ellen Cook to speak on Green Building.

**3) New Business**

**A) Green Building**

Ms. Cook stated that this is stage two for this item and the first draft of the proposed policy. Ms. Cook stated that the structure of the document is similar to the public green building policy that was adopted by the Board of Supervisors (BOS) in March 2010.

Mr. Rich Krapf made a recommendation to add a goal that includes the use of native and/or drought tolerant plants.

Ms. Cook stated that this would be suitable.

Mr. Fraley stated that he crafted a revised *Purpose* statement for everyone to consider. Mr. Fraley stated that he did not want to have the social component included within the language of the purpose. Mr. Fraley's suggestion is:

"The purpose of this policy is to establish and promote green and sustainable building practices in support of the 2009 Comprehensive Plan sustainability goals. The intent of these practices is to provide environmental benefits, conserve natural resources, increase operational efficiencies and support local economic development."

Ms. Tammy Rosario stated that the Comprehensive Plan did have social components in it, and the wording was intended to reflect that. She stated that in terms of green building, the intended benefits include keeping energy bills down for users, which is a social good.

Mr. Al Woods stated that he thought that Mr. Fraley's suggestion was suitable. He stated that the two texts suggest the same thing. He stated that Mr. Fraley's version offers fewer details; it is broader in context.

Ms. Cook asked if it would be acceptable to reference the public Sustainable Building Policy within Mr. Fraley's newly suggested *Purpose* language.

Mr. Fraley stated that that would be suitable.

Mr. Fraley stated that on page 4, number #4B it states: "For both new construction and renovation/expansion (commercial, industrial, and institutional and apartments) a single structure of less than 10,000 square feet of gross floor area." Mr. Fraley asked if these structures were to be exempt from the construction standards brought forth in this policy.

Ms. Cook stated that this language could be clarified. She stated that those structures would be commercial. She stated that this language is to be applied to commercial and industrial structures. She stated that the chart on the following page also includes commercial and industrial, though under the subheading of "Non-Residential/ Multifamily and Apartment".

Mr. Woods suggested adding a footnote to indicate that non-residential includes these other things.

Mr. Fraley suggested adding a third column.

Ms. Cook stated that these items were grouped this way to be in sync with case review requirements. She stated that single family residential units would not require a site plan.

Mr. Fraley asked for more information on "the Green Building Fund Deposit".

Ms. Cook stated that this involves essentially a bonding procedure. She stated that in stage one there was a discussion regarding a process to ensure that developers get the certification that they committed to doing.

Mr. Fraley stated that he fears hearing criticism regarding more paperwork and more money. Mr. Fraley asked if this would become a new requirement.

Ms. Cook stated that it would.

Mr. Fraley stated that at the previous meeting there had been a discussion regarding requirements versus providing incentives.

Mr. Krapf stated that it would be prudent to talk with other localities that are establishing the same green building goals. He stated that it would be good to know if they have had developers default on green building projects after the application process.

Ms. Cook stated that her inquiries have led her to believe that the rate of default is pretty low. She stated that she spoke with planners in Arlington, Virginia. She stated that they have this fund themselves to safeguard from default, though it has rarely occurred that someone had to forfeit money.

Mr. Krapf asked if there is latitude for a promissory note. He stated that he does want to encourage green building as much as possible but he does not want to put in place additional hurdles.

Mr. Tim O'Connor stated that there are currently letters of credit that are in place. He asked if it would become the County's responsibility to correct the construction standards of the structure if it did not meet these specifications.

Ms. Cook stated that the money would go to other green building projects like education or training, not correcting construction standards.

Mr. Fraley stated that in his own research he has found few jurisdictions that apply a policy like this to private development. He stated that many jurisdictions have this policy applied to public projects. He stated he is fearful of making it more challenging for the business community, unless this was more widely used.

Ms. Cook asked if Mr. Fraley was speaking specifically to the bonding proposal or the policy in general.

Mr. Fraley stated both.

Mr. Allen Murphy stated that it would be a proffered situation, not a requirement within the ordinance.

Mr. Fraley stated that it would still be a requirement for those projects going through the legislative process. He asked if it would be required that applicants make proffers as a result of this policy.

Ms. Cook stated that it would be very similar to the Archeology-policy.

Mr. Fraley stated that it would be a standard condition for a Special Use Permit (SUP) or a proffer for a rezoning.

Ms. Cook stated that the BOS would have the discretion to not apply it to a particular case.

Ms. Rosario stated that the property owner could elect to move forward without including it, with the hope that the BOS would not expect it for a particular case.

Mr. Fraley stated that this would put the BOS in a difficult position.

Ms. Rosario asked what some of the discussions were at the Round Table regarding this matter.

Ms. Cook stated that the commercial component does represent the recommendation that came from the Round Table Report. She stated more specifically, structures less than 10,000 square feet would be exempt from this requirement. She stated that it would not apply to anything less than that. She stated that the recommendation was to apply this to rezoning and SUP cases.

Mr. Fraley stated that there would then be a push to put this in by-right at some point.

Ms. Rosario stated that she was not a part of the Round Table, but she thought there was a discussion regarding the potential burden this would place on business. She stated she had heard in other venues that meeting these certifications could make the property more marketable.

Mr. Woods stated that Mr. Rich Costello of AES had previously offered input on this matter. Mr. Woods stated that Mr. Costello had advised that taking these extra measures did not amount to a great amount of additional effort and the property does become more commercially viable.

Mr. Fraley stated that obtaining LEED certification has become more obtrusive and bureaucratic.

Mr. Woods stated that his understanding of the policy was if you wanted to take advantage of a particular incentive then there is a method in which to guarantee that you will build your structure to the specified standards.

Ms. Cook stated that this policy would be applied to all legislative cases. She stated that staff intends to incentivize the use of obtaining certification for those developments that would not have otherwise fallen under this policy. She stated that in the cluster overlay district draft one of the items you can get a density bonus by exceeding green building standards beyond the basic certified level. She stated that there are other districts coming up that would have similar incentives.

Ms. Rosario stated that the basic expectation is certification for both commercial and residential legislative cases. She stated that that which is incentivized through the residential cluster district is something above the certified level; this may be replicated in other districts.

Mr. Krapf stated that it is not only LEED, it is Earth Craft or the equivalent that is required. He stated that he does not have a problem with the policy. He stated that he is hesitant to initiate the green building fund deposit. He stated that there was wide buy-in from the building and development community that participated in the Round Table.

Mr. Fraley stated that finding a method to ensure that the work was done properly would be a challenge. He stated that incentivizing versus requiring would be preferred. He stated that when he spoke with Mr. Costello of AES, he had a mixed opinion on the proposed policies. He stated that he does not see other localities taking these measures.

Ms. Cook stated that staff did utilize a Planners Advisory Service to poll other localities and found others that have similar policies in place.

Mr. Krapf stated that there should be an effort to take a more aggressive stance in adopting sustainable practices.

Mr. Fraley stated that even if this is a recommendation it will be treated like a requirement. He stated that the business community has already begun taking these measures on their own, for example, the Food Lion presently under construction.

Mr. O'Connor stated that at one dollar per square foot, it is not a big penalty.

Mr. Murphy stated that the proposed penalty is low to ensure that the development community does not take this as harsh enforcement. He stated that the intent is to avoid the practical difficulty of other kinds of enforcement.

Mr. Fraley asked if staff is fully behind this recommendation.

Mr. Murphy stated yes.

Mr. Woods asked if this has been seen by the BOS.

Ms. Rosario stated that Stage One went through the BOS. She stated that some Board members had discussed incentives, while other Board members had spoken of requirements.

Mr. Fraley asked how much the SUP fee comes to.

Mr. Murphy stated that it typically is several thousand dollars.

Mr. Fraley stated that staff tracks SUP conditions; this could be tracked in a similar way.

Ms. Cook stated that the bonding process would serve the purpose of tracking.

Mr. Fraley stated that he does not want the proposed bonding method. He stated that he preferred using a letter of credit.

Mr. O'Connor stated that there would have to be one letter of credit per project.

Ms. Cook stated that the County would permit use of a letter of credit, a bond or any of the financial instruments that the Engineering and Resource Protection Division accepts.

Mr. Woods stated that as a practice this would be just one other item that the applicant would have to submit.

Mr. Fraley stated that he would like to hear what the Economic Development Authority (EDA) would have to say about this proposal.

Mr. Krapf stated that he does not mind hearing further opinions from those entities that can speak to the pros and cons of the proposal but that this input should not be the only factor.

Mr. O'Connor stated that you want to have people comply with the certification. He stated that there are those that will voluntarily comply. He stated that at one dollar per square foot the penalty may not be effective.

Mr. Fraley suggested that there should be a list describing exactly what the County wants to see with proposed plans.

Ms. Cook stated that during Stage 1 staff had text in the memo discussing this option. She stated that staff had not recommended this path, as staff would not have the technical expertise to verify that the green building standards were being followed.

Mr. Fraley stated that this item was not identified as a priority so there is time to further discuss it.

Mr. Krapf stated that he is fine with having the EDA provide input. He stated that he would like to see more incentives to further encourage green building practices.

Mr. Woods stated that he agrees with Mr. Krapf. He stated that he is sensitive to the punitive aspect of the proposal. He stated that he would prefer incentives over requirements.

Mr. O'Connor stated that if there are only incentives they may not achieve the preferred outcome.

Mr. Fraley opened the discussion to the public.

Mr James Peters of AES stated the development community wants additional clarity. He stated when ordinances or policies are clearly spelled out, the community can better adapt.

Mr. Woods suggested adding a definition for Energy Star, since it is mentioned in the document.

#### **B) Residential Cluster Overlay Districts Zoning Ordinance update**

Ms. Cook reviewed some of the changes made to the draft ordinance.

Mr. Krapf asked a question regarding Section 24-548 on density. He asked what the reasoning was in making the calculated total developable acreage 125% for those parcels that have more than 25% of non-developable land.

Ms. Cook explained how the calculation in the ordinance was intended to work, such that parcels with a certain amount of nondevelopable land would be allowed to use some of that land in calculating density, but this would never equate to more than 100%.

Mr. Fraley stated that he would like to better understand how the cluster overlay relates to the Transfer of Development Rights (TDR) program. He stated that he would like to reserve any additional density in residential districts for the TDR program. He stated that he does not want to see density in rural lands.

Ms. Rosario stated that staff is having some difficulty since the Cluster Overlay Ordinance and the TDR Feasibility Study are being reviewed concurrently. She stated that if the TDR proposal moves forward, staff will come back and revisit the Cluster Overlay Ordinance.

Mr. Fraley stated that he sees the difficulty in this timeline. He stated that he has a completely different vision for the ordinances if the TDR is adopted.

Mr. Krapf agreed with Mr. Fraley's concern. He stated that it is best not to have competing means of achieving bonus density. He stated that in the state of Virginia there have been two attempts made at achieving a TDR program; they both failed.

Mr. Fraley asked why staff chose not to have the density based on the developable acreage.

Mr. Murphy stated that the BOS directed staff to base density as such in the Economic Opportunity (EO) district but had not provided specific guidance for the other districts. He stated that if you do not give an allowance for non-developable land, then the density numbers will be significantly lower.

Mr. Fraley suggested that everyone read the section on how to calculate density and see if they can determine how to apply the calculations. He stated that it is difficult to understand and an illustration would be helpful.

Ms. Rosario suggested adding an example.

Mr. Fraley stated that he would like to see a by-right cluster overlay option.

Ms. Rosario stated that there is a by-right option.

Ms. Cook stated that there is not much land zoned for it. She stated that up to one dwelling unit per acre in LDR and between four and twelve units per acre in MDR are allowed with Planning Commission approval of a master plan, rather than the full legislative process.

Mr. Fraley stated that staff has listed what can and cannot be counted as open space.

Ms. Cook stated that what can be counted is listed on page 19. She stated that on page 20 the design aspects are discussed.

Mr. Fraley stated that he likes the definition as well as the statement on page 20 starting with, "Open space shall be arranged..." He complemented staff on Section 24-551.

Mr. Krapf pointed out a typo on the top of page 21.

Mr. Woods asked what the rationale was for the affordable housing density bonus discussed on page 17.

Ms. Rosario stated that staff modeled this item against the previously established bonus densities. She stated that the density bonus of 1.5 was meant to give it a stronger emphasis among the list of items as opposed to a credit of one.

Mr. Woods stated that staff elected to weigh it more heavily. He asked will this incentive achieve the intended goal.

Mr. Murphy stated that by giving it greater weight, yes.

Ms. Rosario stated that the County has had success in getting both clusters and affordable units. She stated that the Comprehensive Plan recognized that more had to be done to achieve the intended outcome.

Mr. O'Connor stated that the number of affordable housing units is low. He stated that within most developments the number of affordable housing units averages between three to four percent.

Mr. Fraley stated that this discussion is centered on affordable housing units rather than workforce.

Mr. Woods stated that it is centered on both.

Mr. Fraley stated that there is no definition for workforce housing. He stated that there is a definition for affordable.

Ms. Rosario stated that the Comprehensive Plan laid a foundation for this effort, and that staff is in the process of bringing forward an affordable and workforce housing policy.

Mr. Fraley asked if there were any questions or comments from the public.

Mr. Bob Spencer of the James City County Concerned Citizens (J4Cs) committee stated that he understood the policy to mean that if you have 25% or less of undevelopable land then there is no bonus available to you. He stated that if you have more than 25% of undevelopable land then you get a bonus of 25%. He stated that this system would potentially motivate people to purchase those pieces of property that have more than 25% of undevelopable land for development purposes.

Ms. Cook stated that it is not truly a bonus; it is that you get some incremental allotment back – for the purpose of calculating allowed density - from what you are restricted from developing.

Mr. Spencer asked if there were definitions for workforce housing and affordable housing.

Ms. Rosario stated that there is currently a definition for affordable housing but not workforce housing.

Mr. Peters asked if staff had applied the nondevelopable land formula to existing properties to better forecast the outcome of using the proposed residential cluster development density calculations.

Ms. Cook stated that staff did look at a number of master plans to consider the outcome. She stated that the outcome was more stringent but still aimed to be fair.

Mr. Peters asked for clarity on required design elements, specifically how to handle a mixture of housing models on small sites.

Ms. Rosario stated that she understands that Mr. Peters is concerned with varying the unit types on a small site. She asked if it would be difficult to vary the lots sizes on a smaller parcel.

Mr. Peters stated potentially. Mr. Peters referenced the items seen on page 18 and asked if this was an attempt to tie in the goals of the Comprehensive Plan.

Mr. Fraley stated yes. He stated that this covers workforce housing, special environmental design, open space design principles and other elements.

Mr. Peters stated that the development should be designed to complement existing topography and minimize the need for alteration of the landscape. He stated that if you want the open space design on a small site there is a greater likelihood that you will have to alter the topography.

Mr. Fraley stated that it is beneficial to avoid altering the topography to the best degree possible. He stated that you ideally want to fit the development to the land. He stated that the conceptual plan review will enhance the ability to achieve the elements listed here.

#### **4) Adjournment**

Mr. Woods moved to adjourn. The meeting was adjourned at 6:25 p.m.

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Jack Fraley, Chair of the Policy Committee

**POLICY COMMITTEE MEETING – UNAPPROVED MINUTES**

September 1, 2011

4:00 p.m.

County Complex, Building A

**1) Roll Call**

**Present**

Mr. Jack Fraley  
Mr. Tim O'Connor

**Absent**

Mr. Al Woods  
Mr. Rich Krapf

**Staff Present**

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

Mr. Jack Fraley called the meeting to order at 4:05 p.m.

**2) Minutes – June 16, 2011 & July 13, 2011**

Mr. Fraley stated there was not a quorum present to approve the minutes. He stated the minutes would be reviewed at the next meeting.

**3) New Business**

**A) Residential Districts**

Ms. Ellen Cook stated staff proposed changing ordinance language for R-1, R-2, and R-5 residential districts.

Mr. Fraley stated the new table format for listing permitted and special uses is easier to follow.

Mr. Fraley asked why Section 24-242(a) of the ordinance requires conservation easements in areas that are already undevelopable. He asked if the costs were worth the benefits of having easements.

Ms. Tammy Rosario stated conservation easements provide an additional layer of protection for removing trees from steep slopes. She stated the easements cover steep slopes not already within Resource Protection Areas.

Mr. Allen Murphy stated the conservation easements would apply to individual lots. He stated the ordinance would benefit the County while also allowing developers to count the easement area when calculating density.

Mr. Fraley moved on to the section of the ordinance discussing open space and asked if it could be written more simply.

Ms. Cook stated the language describes what developers can and cannot count towards their open space. She stated the clarifications of what can count for open space cause the language to be longer than the current ordinances.

Mr. Fraley asked if it was possible to simplify the open space language in Section 24-242(b).

Mr. Murphy stated staff could attempt to simplify the language.

Mr. Fraley stated the ordinance references the County's Natural Resource Policy. He stated the ordinance should direct readers where to find the policy.

Mr. Murphy stated the administrative policies were organized online and that a reference could be added.

Mr. Fraley stated he was pleased with staff's R-1 revisions.

Mr. Fraley questioned whether government offices should be allowed in R-2 districts. He stated the statement of intent states, "...certain additional community oriented additional uses that serve the residents of the district." A government office would not meet that definition. He questioned whether a market would meet that definition.

Mr. Murphy stated the commercial uses listed are low impact, and require a special use permit (SUP). The Comprehensive Plan calls for certain commercial uses in residential districts, given the typical nature of a neighborhood. Staff developed a fairly conservative commercial list, all of which fall under SUP protection. In a rare instance, the County could potentially set up an office in a residential area.

Mr. Fraley stated he was looking for commercial uses that serve the residents.

Mr. Murphy stated staff could add a sentence to the statement of intent better clarifying commercial uses the community finds acceptable. He stated staff can also remove any specific use the Committee finds unacceptable. These uses are intended to have low impacts and blend into the surrounding neighborhood.

Mr. Fraley stated commercial uses should serve the local community. He stated uses serving the community are different from those with a very low impact. Either change the statement of intent or limit uses to those serving the community.

Mr. Murphy stated limiting uses would require staff re-examination of all of the commercial uses.

Mr. Tim O'Connor stated sometimes there are businesses, such as photography studios and sculptors, in and around residential communities.

Mr. Murphy stated those uses are typically innocuous. He stated the market store may not be.

Ms. Rosario stated the limited commercial uses also benefit the larger community by reducing traffic trips to and from neighborhoods if residents could work close by.

Mr. Fraley asked staff to clarify the statement of intent and re-examine allowing government offices in R-2 districts.

Mr. Fraley stated he liked including the density bonuses using the same language as cluster overlay districts. He asked if the open space language could match R-1 and R-2 districts.

Mr. Murphy stated staff would try to condense the open space language.

#### **B) Multiple-Use Districts**

Mr. Jason Purse stated proposed changes to industrial uses in multiple-use districts would not have to meet DRC or commercial SUP thresholds. He stated staff proposed increasing two by-right manufacturing uses, manufacturing and processing of textiles and textile products and manufacturing and processing of products made from previously prepared products, from 2,000 to 5,000 square feet.

Mr. Murphy stated the increased thresholds were largely based on the recommendation of the Director of Economic Development. He stated Mr. Russ Seymour felt no manufacturer could attempt such a small operation. Mr. Seymour reviewed the remaining industrial uses in the multiple-use districts.

Mr. Fraley asked if the height waiver language for residential districts was clear to everyone. He asked if building heights may be 45 feet tall if both side yard setbacks were increased to 25 feet.

Mr. Murphy stated that was correct.

Mr. Purse stated that language is not in multiple-use districts, and Ms. Cook discussed the language from the other residential districts.

Mr. Fraley stated he liked the density bonus table. He stated the list of 15 density bonus methods was too long. Applicants would be able to "phone in" some of their six allowed bonus methods.

Mr. Purse stated staff proposed halving MU standard density. He stated applicants would have to use six bonus methods to attain current density levels.

Mr. Fraley stated if the County implements a Transfer of Development Rights (TDR) program, density would have to be redone.

Mr. Murphy stated staff would adjust it under that scenario.

Mr. Fraley stated he had no comments for R-4 or PUD districts.

#### **4) Adjournment**

Mr. O'Connor moved to adjourn. The meeting was adjourned at 4:50 p.m.

Jack Fraley, Chair of the Policy Committee

**POLICY COMMITTEE MEETING – UNAPPROVED MINUTES**

September 6, 2011

4:30 p.m.

County Complex, Building A

**1) Roll Call**

**Present**

Mr. Jack Fraley

Mr. Al Woods

Mr. Tim O'Connor

**Absent**

Mr. Rich Krapf

**Staff Present**

Mr. Allen Murphy

Ms. Tammy Rosario

Ms. Jennifer VanDyke

Ms. Kate Sipes

Ms. Melissa Brown

Mr. Jack Fraley called the meeting to order at 4:30 p.m.

**2) Minutes**

a) June 16, 2011

Mr. Tim O'Connor made a motion to approve the minutes. The minutes were approved in a unanimous voice vote.

b) July 13, 2011

Mr. O'Connor made a motion to approve the minutes. The minutes were approved in a unanimous voice vote.

c) July 18, 2011

Mr. O'Connor made a motion to approve the minutes. The minutes were approved in a unanimous voice vote.

**3) Old Business**

Mr. Fraley clarified the date and time for the next meeting to be September 15 at 1:30 p.m.

**4) New Business**

a) Nonconformities

Ms. Melissa Brown presented the staff report.

Mr. Fraley stated that he would like to see a definition for structures.

Ms. Brown stated that this will be included in the definitions section of the ordinance.

b) R-3, Residential Redevelopment Districts

Mr. Fraley asked staff if there will be a commercial redevelopment district.

Ms. Kate Sipes stated that discussions surrounding this subject surfaced concerns regarding practicality. Staff decided that there were appropriate tools already available for commercial redevelopment.

Ms. Tammy Rosario stated that staff had made the determination that the existing ordinance provisions, along with recent changes, provide the flexibility necessary for commercial redevelopment projects. She stated that there are mechanisms outside of the ordinance that could be further explored.

Mr. Fraley stated that he would like to see more incentives provided for commercial redevelopment.

Ms. Sipes stated that the discussion with residential redevelopment began with the acknowledgement that the Zoning Ordinance did not provide a great deal of flexibility for residential redevelopment projects. She stated that other than the Mixed Use district (which excludes those projects that are exclusively residential) and the Cluster Overlay district, there are no tools available for residential redevelopment projects involving existing parcels with boundary lines and structures. She stated that commercial districts already have many tools and provisions offering flexibility.

Mr. Murphy stated that there is nothing that would prevent interested parties from redeveloping commercial property. He stated that the proposed residential redevelopment district is tailored for Office of Housing and Community Development and the type of projects they lead. He stated that the Forest Heights rezoning case is an example of an attempt to best use the existing tools for a complex residential redevelopment project. He stated that if the proposed district was already made available they could have used it for the Forest Heights project. He stated that for commercial redevelopment projects there are a variety of options to choose from.

Mr. Fraley stated that he still would like to see incentives available for those shopping centers that have several vacant storefronts.

Mr. Murphy stated that the proposed residential district does not provide incentives; it provides flexibility for redevelopment projects.

Mr. Fraley stated that he sees incentives with the proposed residential district.

Mr. Murphy stated that there are incentives to go above a certain density. He stated that there is considerably more flexibility available for residential redevelopment projects with this district. He stated that with this district there is an expectation that the majority of the housing made available will be affordable or workforce housing. He stated that the flexibility granted will be dependent upon the percentage of affordable housing.

Mr. Woods asked Mr. Fraley what sort of incentives he was considering.

Mr. Fraley stated that the permitted uses could be broadened. He stated that greater leniency with setbacks could be considered.

Mr. Murphy stated that there is a zoning category available that offers this flexibility, the Mixed Use district.

Mr. Woods asked if there is a risk involved in providing this flexibility with strategic locations within the community when the leading cause for these commercial vacancies is a downturn in the economic cycle (seen well-beyond James City County [JCC]). He stated that this scenario, if it short-circuited the normal lifecycle process, could change the character of the community significantly.

Mr. Fraley stated that the community will still need to abide by the Comprehensive Plan Land Use Map designation which would prevent a significant change in character. He stated that he does not believe that we are in a short downturn. He stated that measures need to be taken to reinvigorate business within JCC; otherwise the tax burden on residential home owners will become too great.

Mr. Woods asked Mr. Murphy what other communities are doing in response to the depressed economy.

Mr. Murphy stated that everyone is facing the same dilemma. He stated that banks are not offering up money for redevelopment projects. He stated that incentives can be offered. He stated that this body could consult the Office of Economic Development to hear suggestions from a County policy standpoint. He stated that it may or may not translate to suitable changes to zoning districts. He stated that our immediate need is for the residential redevelopment district.

Mr. Woods asked Ms. Sipes to walk through the proposed changes to previous drafts.

Ms. Sipes stated that staff realized the need for a new residential zoning district that was intended for those projects requiring significant reconfiguration. She stated that staff was looking to accommodate those areas where investments have been or were planned to be made in existing neighborhoods. She stated that those investments would include significant improvements to roads, upgrades to water and sewer services, stormwater improvements and bringing parcels into greater conformance. She stated that staff did not want to write the new district as a tool that would exclusively serve the County's Office of Housing and Community Development, but projects of this nature are often undertaken by that office. She stated that the new district could prove to be useful to private developers as well, depending on the market. She stated that in exchange for the increased flexibility, the County would benefit from measurable public benefits. She stated that most of the older existing neighborhoods have houses that are built closer together than newer neighborhoods. She stated that due to this trend, it seems appropriate to have a slightly higher density than other residential districts.

Ms. Sipes stated that the base density starts at one unit per acre in R-1 and R-2. She stated that this district's base density would be 2.5 units per acre. She stated that there is a point system that allows for greater density, up to 4 units per acre. She stated that the permitted uses are very comparable to other residential zones. She stated that areas to be considered for this district would need to be in the Primary Service Area (PSA). Ms. Sipes stated that the open space requirements for the new district are the same as R-1, ten percent. She stated that there is a slight nuance with the ownership of open space; this has been problematic in the past. She stated that existing property owners cannot be forced into a Home Owners Association (HOA), yet open space is being added into the

neighborhood. She stated that the solution could include a volunteer HOA, or the property owners would need to demonstrate how maintenance would be continued on the common property.

Mr. Woods asked if issues have come up in the past with this arrangement.

Ms. Sipes stated that in the past there have been difficulties regarding maintenance agreements. She stated that staff is considering different creative solutions. She stated that the County Attorney's office has also been working on finding new solutions.

Mr. Woods asked if staff had considered levying a tax to cover the cost of maintenance.

Mr. Fraley stated that this had been tried in the past. He stated that the recipients resisted.

Mr. O'Connor stated that he has difficulty accepting the proposal due to this unresolved issue. He stated that the intent is to provide more affordable housing, yet you defeat this purpose when property owners are charged HOA dues. He stated that it seems unfair to ask the existing property owner to pay dues when they originally purchased the property unencumbered.

Ms. Sipes stated that the existing property owner can voluntarily participate but, it cannot be required. She stated that for a project of this nature to move forward the existing property owners would have to agree upon their property being rezoned and any changes to the property lines and/or structures. Agreeing to participate in a new HOA would ideally be brought up at the front end of the process, when interest in the proposal from property owners is being evaluated.

Mr. Woods asked if there is an enforcement mechanism.

Mr. Fraley stated that when Ironbound Square was going through a similar process there was some animosity that surfaced with the existing property owners, but in the end it did work out. He asked if this experience can be used as a model.

Ms. Sipes stated yes, but one should not anticipate a repeat of that occurrence. She stated that staff wanted to build upon that experience without the anticipation that the same problem would crop up or that the solution with one could be universally applied. She stated that from this experience staff learned that there needs to be flexibility. She stated that a formal HOA will be used for new neighborhoods, but not necessarily for neighborhoods with existing homes. She stated that a mechanism needs to be put in place to maintain any new public improvements.

Mr. Woods asked if the County can assume responsibility for the maintenance.

Ms. Tammy Rosario stated that it could.

Mr. Murphy stated that staff wants to achieve some flexibility written into the ordinance that allows new property owners to participate in an association that maintains new public improvements along with voluntary arrangements for existing property owners.

Mr. Woods asked if staff is comfortable with a voluntary agreement knowing that it may be reversed at a later date.

Mr. Murphy stated that if the voluntary arrangement is not fulfilled the County will likely assume the responsibility.

Ms. Rosario stated that the alternative would have to be approved ahead of time.

Mr. Murphy stated that thus far the County has taken responsibility for regional facilities but not for isolated private facilities.

Mr. Woods asked if in the case that the property owners volunteer to cover the costs and then back out, could the County perform the maintenance and charge the property owner once completed. He stated that the County would be billing the property owner subject to an agreement that was made.

Mr. Murphy stated that that is possible.

Mr. O'Connor stated that he struggles with the idea of the whole benefitting and a percentage paying for it.

Mr. Woods asked if this problem will consistently crop up with this type of residential redevelopment.

Mr. Murphy stated perhaps. He stated that you do get into rules for redevelopment according to the Chesapeake Bay Preservation Ordinance.

Ms. Rosario stated that it also depends upon the nature of the redevelopment project and if the new infrastructure would purely benefit the new property owners or the neighborhood as a whole. She stated that the first scenario would likely happen less frequently than the second.

Mr. Murphy stated that the proposed text provides a framework, yet each case would be treated individually.

Mr. Woods asked what arrangement was made for Ironbound Square.

Ms. Sipes stated that the maintenance of the regional stormwater facility was assumed by the County, but this facility benefitted more than Ironbound Square residents.

Mr. Fraley stated that if the County is going to reap the benefit than the County should assume the responsibility and costs. He stated that this may mean that additional fees/taxes need to be required to cover the cost.

Mr. Murphy stated that this scenario may be the end result but one would want to weigh out other options first.

Ms. Rosario stated that the current language does not restrict the option.

Mr. O'Connor stated that affordable and workforce housing is a benefit to the community. He stated to this point, exceptions need to be made to achieve the goal. He asked if the developer can proffer money for future maintenance costs.

Mr. Murphy stated that they could.

Mr. Woods stated that by proffering money the incentives are lost.

Mr. Fraley pointed out that the developer is typically putting in money to cover the start-up costs for the HOA.

Mr. Woods stated that the described method for handling maintenance costs has the potential of becoming a system where people are treated inequitably.

Mr. Murphy stated that we are going to make every effort to have all property owners participate. He stated that everyone will experience benefit from these improvements, providing further inducement.

Ms. Sipes stated that community conversations before commencing such projects will include weighing the benefits of common space versus the cost/efforts of maintaining the space.

Ms. Sipes continued reviewing the proposed changes.

Mr. Fraley offered alternatives to the language, "Projects seeking rezoning to the R-3, Residential Redevelopment District, should meet or exceed the following expectations."

Mr. Fraley stated that this designation is intended for low density residential on the 2009 Comprehensive Plan Land Use Map. He asked if staff had considered using it in other areas.

Ms. Sipes stated that staff had at one time considered it for moderate density residential. She stated staff eventually decided that R-5 would be a more suitable alternative.

Mr. Murphy stated that a recent example of this is the apartment complex known as Longhill Grove. He stated that the owner tore down the apartment complex to rebuild them. He stated that the R-5 zoning suited the County's and the owner's needs.

Mr. Fraley asked staff to look back over the language on Sec. 24-G and consider including a reference to steep slopes.

Mr. O'Connor asked to replace the word "structure" in Sec. 24-H.

A discussion ensued regarding the first two sentences of Sec. 24-H.

Mr. Woods asked his fellow commissioners if they would like a statement in the cover memo to accompany the materials going to the Board of Supervisors (BOS) regarding those issues that were left unresolved.

Mr. Fraley stated that he would. He stated that a memo describing the debate would be useful. The memo should address applying different standards to common property maintenance.

## **5) Adjournment**

Mr. Woods moved to adjourn. The meeting was adjourned at 5:32 p.m.

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Jack Fraley, Chair of the Policy Committee

**POLICY COMMITTEE MEETING – UNAPPROVED MINUTES**

September 15, 2011

1:30 p.m.

County Complex, Building A

**1) Roll Call**

**Present**

Mr. Jack Fraley  
Mr. Al Woods  
Mr. Rich Krapf  
Mr. Mike Maddocks

**Absent**

Mr. Tim O'Connor

**Staff Present**

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

Mr. Vaughn Poller  
Ms. Marion Paine  
Mr. Brian Elmore  
Ms. Ellen Cook  
Mr. Jose Ribeiro  
Ms. Melissa Brown

Mr. Jack Fraley called the meeting to order at 1:30 p.m.

**2) Old Business**

**3) New Business**

a) Wireless Communications Facilities

Mr. Luke Vinciguerra reviewed the changes made to the draft Ordinance.

Mr. Al Woods asked what changes had been made since the last Policy Committee meeting.

Mr. Vinciguerra stated that at the last meeting there had been a discussion on the consultant's proposed additional setbacks and Mr. Fraley's tiered approach. He stated that several of Mr. Fraley's recommendations have been applied. Mr. Fraley had recommended an administrative application for low-visibility towers, a process to review Portable Cellular Transmission Facilities and a Special Use Permit (SUP) provision for high visibility towers. He stated that the consultant had made setback recommendations that were not included.

Mr. Fraley asked if it was appropriate to say that most of the recommendations made by the consultant were rejected.

Mr. Vinciguerra stated that it was not the majority.

Mr. Fraley asked staff to point out in the text the requirements for camouflaged towers.

Mr. Fraley stated that the language in Sec. 24-122 (3)(b)(4) is too vague. He stated that he would prefer to see pictures offering a visual aide to accompany the text. He stated that his research into cell towers has informed him on the qualities exhibited by the more visibly appealing towers. He stated that he had spoken with an individual working in the industry and that there should be more descriptors in the Ordinance that speak to the specific qualities desired for camouflage towers.

Mr. Allen Murphy stated that staff will endeavor to provide objective descriptors within the text to achieve low profile towers. He stated that ultimately the goal is to have a tower that blends in harmoniously with the natural landscape.

Mr. Woods asked Mr. Fraley if there was specific language that he could recommend.

Mr. Fraley stated that adding definitions for “preserve” and “replica products” would be useful. He stated that both definitions discuss materials of construction and would provide a better understanding of how best to replicate vegetation.

Mr. Woods asked if this terminology is common to the industry.

Mr. Fraley stated that it is.

Mr. Christopher Johnson asked Mr. Fraley if the individual he had spoken with would be willing to submit descriptions of building materials that are common or more visibly appealing towers.

Mr. Fraley stated, yes.

Mr. Murphy stated that staff has looked at samples in past applications.

Mr. Fraley stated that by adding more to the text the County can ask for a better quality product. He stated that he does not want to continue with assigning to the Planning Director the authority and responsibility to make the highly-charged decision that elected officials should be making. He stated that it should be up to the Board of Supervisors (BOS) to determine if a tower is camouflaged. He stated that the Policy Committee and the consultant both felt that this requirement should change. He stated that the consultant had stated that there is no jurisdiction anywhere that permits 120 foot towers by-right within a residential area.

Mr. Woods questioned Mr. Fraley’s assertion.

Mr. Johnson stated that if it has been determined that the tower is not camouflaged then it would require an SUP.

Mr. Fraley stated that towers need to go into legislative review for residential districts.

Mr. Rich Krapf asked Mr. Fraley to point out where in the text it discusses camouflage.

Mr. Fraley pointed out the three categories of camouflaged towers in Sec. 24-122.

Mr. Woods stated that the chart and text in Sec. 24-122 does not clearly convey the information. He stated that the chart should cover the requirements for all towers, camouflaged included.

Mr. Murphy stated that he, as the Planning Director, has turned down more towers than the County has ever approved.

Mr. Fraley stated that the previous Planning Director did approve the proposed Kingsmill towers. He stated that this is not a decision that should be put in the hands of the Planning Director. He stated that this is the only jurisdiction that places this responsibility on the Planning Director.

Mr. Krapf asked staff to explain their position.

Mr. Johnson stated that knowing that a camouflaged tower is permitted by-right up to 120 feet in staff's mind, there was no need for a chart. He stated that staff can change the text and the chart to achieve greater clarity. He stated that the charts were intended to speak to anything above 35 feet in any district where it needed to be specially permitted or permitted by-right. He stated that staff tried to categorize the information to add additional clarity and definition to the different types of towers. He stated that staff determined that there were certain towers that should not be required to go through a legislative review, exhausting several months prior to approval. He stated, for those towers that are more highly visible proposals should go before the BOS for approval. He stated that his experience with balloon tests illustrate that the Planning Director's standard for camouflage is very high. He stated that he can only think of one tower where Mr. Murphy, Planning Director, determined it was camouflaged. He stated that this location was zoned R-8. He stated that you would be hard pressed to find any property in R-1 and R-2 where one could meet the 400 foot buffer requirements. He stated that this standard has proven to be affective by the fact that a relatively low number of applications that have been submitted.

Mr. Fraley stated that he spoke with Adam Kinsman, the Deputy County Attorney, regarding the language. Mr. Kinsman stated that the text is open to interpretation, leaving the Planning Director vulnerable to being sued.

Mr. Murphy stated that if the Policy Committee and Planning Commission want to change the Planning Director's authority to determine camouflaged towers, then staff will forward their request accordingly. He stated that if the change is made cell tower companies will be subjected to a lengthy process for a greater number of applications. The buffer requirements in R-1, R-2 and R-4 limit the applicable properties within the districts. He stated with this arrangement there is a great deal of authority that rests on the shoulders of the Planning Director. He stated that he is comfortable with the current process. He stated that staff had previously been asked by the BOS and Business Climate Taskforce to generally avoid the SUP process. He stated that with one exception the Ordinance has proven to be useful and judicial in permitting towers. He stated that the Kingsmill towers were the only controversial applications.

Mr. Fraley asked staff why this locality is the only one that grants the Planning Director the authority.

Mr. Woods asked if staff had been working in this mode for a great length of time.

Mr. Murphy stated that this has been in place with the R-4 district for six years.

Mr. Woods stated that within the six year time frame only one controversial case has developed.

Mr. Krapf stated that Mr. Fraley's recommendation is to require an SUP for R-1 through R-6 residential districts.

Mr. Fraley stated that within residential districts, towers of a certain height need to go to the BOS.

Mr. Murphy stated that towers that are attached to a camouflaged part of a building would not require an SUP.

Mr. Krapf stated that it is the free standing towers that Mr. Fraley is referring to.

Mr. Fraley stated that he has heard from many people in the community that they would prefer a slick stick over a tower constructed to look like a tree.

Mr. Murphy stated that slick sticks can be considered camouflaged if it is buffered to the point that they are virtually unnoticeable, which is difficult to achieve.

Mr. Fraley stated that he would like to hear from some of the industry representatives present today.

Ms. Lisa Murphy of LeClairRyan stated that there does seem to be a preference for slick sticks yet, the requirements for slick sticks are greater than other types of towers.

Mr. Fraley stated that his preference would be to have an 80 foot slick stick at the resort center in Kingsmill. He asked how tall the portable cellular transmission facilities are.

Mr. Stephen Romine of LeClairRyan stated that the facilities are 60-80 feet.

Mr. Fraley stated that he does not have a problem with an 80 foot slick stick in a residential area.

Mr. Romine stated that if you compare administrative approval and lengthy litigation to going through the legislative process it may be preferred to go through the legislative process. He stated that whatever the community accepts and feels most comfortable with is most suitable.

Mr. David Neiman of 105 Broomfield Circle stated that the community wants to have camouflaged towers within residential areas go through the legislative process. He stated that by having the towers reviewed legislatively the community will have the benefit of having public hearings. He stated that elected officials that feel responsible to their constituents should make those decisions. He stated that camouflaged towers in residential areas could be given an expedited review status.

Mr. Fraley stated that if the Kingsmill towers were brought forward legislatively then they may have opted to apply for slick sticks or a regular tower.

Ms. Murphy stated that the majority of the towers in James City County (JCC) have been camouflaged because the Ordinance has encouraged it. She stated that if you eliminate the administrative review of camouflage towers than the benefit to the industry would be lost. She stated that the community benefits from this arrangement from a planning standpoint. She stated that from a technology standpoint, camouflaged towers do not accommodate the most useful technology.

Mr. Fraley stated that the proposals he has reviewed going through the legislative process have included camouflaged elements.

Mr. Romine stated that slick sticks do not propagate as well because the antennas used are not the most powerful. He stated that this may be an unintended consequence of such a modification.

Ms. Murphy stated that at this time the industry is going back and upgrading the technology by adding more antennas to existing towers. She stated that the increased demand for data usage capacity is placing a heavy burden on existing infrastructure.

Mr. Fraley stated that he is fine with the Ordinance but, he would like staff to go back and add more descriptors to the text in an attempt to improve the quality of the product. He stated that cell towers should require an SUP in residential districts, unless the industry would find it useful to make a lower threshold for administrative review.

Mr. Romine stated that it would be useful to hold onto some flexibility for administrative reviews for residential areas.

Mr. Fraley stated that he is aware of two or three jurisdictions that do allow by-right towers in residential districts at lower heights. He stated that 80 feet seems to be a minimum height for towers before you eliminate the utility of the tower.

Mr. Krapf stated that he would like to recommend requiring an SUP for freestanding wireless communication facilities in residential districts that exceed 80 feet in height.

Mr. Murphy stated that if that is the Policy Committee's wish staff can forward the recommendation.

Mr. Romine asked if this would include changes to the definitions for camouflage and buffers requirements. He asked, if not when would you apply those definitions.

Mr. Johnson stated that they would still be used for nonresidential districts.

Ms. Murphy asked if the buffering and camouflage requirements would still be applied to those towers 80 feet or less in height.

Mr. Murphy stated that they would still apply.

Ms. Murphy stated that that would make it less useful.

Mr. Fraley stated that he would feel comfortable with relaxing the requirements for those towers 80 feet or less in height.

Mr. Murphy suggested that the Policy Committee think further on this point before making any decisions.

b) Affordable Housing Policy

Mr. Jose Ribeiro presented the materials.

Mr. Fraley asked if the funds contributed in lieu of building will be identified separately so that there is certainty that the funds would be used to build affordable housing.

Mr. Vaughn Poller stated that it will only be used towards the construction of affordable housing.

Mr. Fraley stated that he would like to have a more concrete understanding of what those funds would be used for.

Mr. Krapf asked about the cash proffer reduction at the 30% to 60% Area Median Income (AMI). He asked why staff elected to apply a 100% reduction in cash proffers to this category.

Mr. Ribeiro stated that staff wanted to provide the maximum incentive to developers, to build the most affordable housing.

Mr. Woods asked if staff is aware of any evidence that this type of incentive would achieve the intended goal.

Mr. Poller stated that he cannot provide specific examples of success. He stated that staff recognizes that attempting to serve the population at the 30% to 60% AMI represents the biggest challenge. He stated that when staff has spoken to builders they have been told that providing units at that level eliminates any room for profitability. He stated that he does not have any examples of this within the Commonwealth. He stated that he would look into Fairfax and Alexandria to find examples.

Mr. Murphy stated that proffers have been waived with the BOS's discretion by practice. He stated that with this policy staff wanted to write down what has been commonly practiced by the BOS. He stated that there may not be other examples out there. He stated that the County has a lack of affordable housing.

Mr. Woods asked what is the cost associated with proffers.

Mr. Ribeiro stated that a single, detached unit would be \$17,015. He stated that the proffer for a multifamily unit would be \$15,000 and \$4,807 for a single family attached unit.

Mr. Woods asked if those proffers can be adjusted or waived legislatively. He asked if the County waives or adjusts frequently, and if so, what the average proffer received was.

Ms. Tammy Rosario stated that staff does not have that data.

Mr. Johnson stated that it varies by product.

Mr. Murphy stated that \$17,015 represents the maximum fee, but it is typically waived or adjusted for affordable units.

Mr. Fraley asked how many residents are living in Ironbound Square that work in JCC.

Ms. Ellen Cook stated that staff has data, but it is not specific to Ironbound Square.

Mr. Fraley stated that this is a nice project that seems all around successful.

Ms. Marion Paine stated that she was looking at these numbers recently. She recalls that each inhabitant either lived in JCC when they purchased, or lived or worked in the City of Williamsburg.

Mr. Poller stated that you need to also include in that catchment basin those persons who work here.

Mr. Fraley stated that his overriding concern is that it attracts people that do not live or work in JCC.

Mr. Poller stated that he would be surprised if residents currently living in Newport News could not find affordable housing in Newport News. He stated that most of the people that would have interest in living here are attempting to cut down their living costs by not having to commute to work. He stated that our marketing has always been to those persons who either live or work in JCC.

Mr. Woods asked for clarification on 5(b) of the draft policy. He asked how the "soft second" mortgage works.

Mr. Poller stated that the soft second represents the effort to maintain the public's money so that people do not purchase these houses with the idea of flipping them. He stated that when you compare the houses at a market rate there tends to be a difference of \$50,000. He stated that the intention is to eliminate the possibility of someone buying the property, live in it for some short period time and then sell it and for profit. He stated that the money (that was the public's) used to purchase the property will return to JCC.

Mr. Woods asked for clarification on the Housing Fund.

Mr. Poller stated that the money is for the particular purpose of affordable housing and the development of affordable housing in JCC. He stated the money cannot be used for administrative costs. He stated that the money will be used as down payment in closing costs. He stated that when you look at the median cost for rental properties, for those affording houses in this price range they are paying \$950-\$1,100/per month. He stated what they cannot afford is the down payment and the closing costs. He stated that these monies are loaned out to individuals who are credit worthy and who either live or work in JCC. The Office of Community Housing and Development then secures the individual with an FHA or VHDA mortgage. If the individual later elects to move, the money will go back into the fund for the next applicant.

Mr. Woods asked if there is a policy document that describes the housing fund and its fullest uses.

Ms. Paine stated that a document could be created for this purpose.

Mr. Woods stated that this would help protect the County's interests.

Mr. Fraley stated that the proposed policy is not in Ordinance therefore, there is no requirement to do it.

Ms. Rosario stated that there are references to the policy in the Ordinance in the form density bonuses.

Mr. Fraley stated that he thought this would be more inclusionary zoning and incentives.

Ms. Rosario stated that this is a baseline expectation in the form of a policy which establishes 20% figure, but then there are density bonuses in cluster and mixed use that encourage developments to go higher than that. She stated that they get greater density by exceeding the figure.

Mr. Fraley stated that there are incentives in the Ordinance to do build affordable housing, but there is no requirement to do it under this policy.

Ms. Rosario stated that in order to meet the density bonus you do at minimum have to meet the baseline. She stated that one would have to exceed the baseline to realize the maximum benefit of the density bonus.

Mr. Woods stated that if one were to aggregate all the different incentives it could become significant.

Ms. Susan Gaston, representing the Association of Realtors, asked what the timeline is on this policy.

Ms. Rosario stated that it will go to BOS for preliminary feedback at the end of September. She stated that it will then go into a period of refinement and then to the Planning Commission in December and the BOS in January.

Ms. Gaston stated that she is pleased to hear that the policy is incentive driven. She stated that from a realtor's perspective, the real gap in the market is not low income housing but workforce. She stated that honing in on that sector would be most helpful.

Ms. Kate Sipes stated that the difference in language between workforce housing and affordable housing was introduced as a part of a Comprehensive Plan conversation. She stated that in recent conversations there has been discussion of whether or not that distinction is necessary. She stated there may be a stigma associated with affordable housing. She stated that she would be interested in hearing whether or not the Policy Committee would prefer to call all of this workforce housing but keep the stratification within the policy.

Mr. Woods stated that he appreciates this sensitivity.

c) Sign Ordinance

Ms. Melissa Brown explained the changes made to the draft ordinance.

Mr. Krapf asked a question regarding Sec. 24-80. He stated that the text now indicates that only the property owner would receive written notification of violation. He stated that it may be in the County's best interest to still notify the tenant or lessee as well as the owner.

Ms. Brown stated that the County has been making a move to more penalties and fines because there has been a real problem. She stated that if the fines are not paid they want to be able to attach the fine to the property. She stated that in practice you get a quicker response when a letter is sent to the property owner rather than notifying the tenant or lessee.

Ms. Rosario suggested that the lessee or tenant could still be copied for any written notification.

Mr. Krapf stated that he would prefer an arrangement that includes the lessee or tenant be copied.

Mr. Fraley asked what provisions are in place for those businesses that have road construction/repairs in progress in front of their store. He asked can they put up directional signs during this occasion.

Ms. Brown stated that Virginia Department of Transportation (VDOT) has provisions for directional signage. She stated that if VDOT is working in the right-of-way then the signage needs to be placed in the right-of-way. The County does not have the authority to permit signs in the right-of-way.

Mr. Fraley stated that the County should be able to help the local businesses in this situation.

Mr. Rich Costello of AES asked for clarification on signage within those shopping centers with multiple outparcels.

Ms. Brown stated that if there are two entrances then they can have a freestanding sign on each side.

Mr. Costello stated that the way he reads the text the outparcels that before could put a freestanding sign along the exterior of the shopping center can now only place that sign on the interior of the shopping center.

Ms. Brown stated that they are allowed freestanding signs. She stated that if they have access to the main road then they can place a sign along the exterior. She stated that the intent of the Ordinance is to use the sign to indicate an entrance.

Mr. Costello pointed out that most of the free standing signs for those outparcels will not be visible from the right-of-way.

Ms. Brown stated that it is not just visible from the right-of-way it is also visible from adjacent properties.

Mr. Costello stated that future businesses will have less ability to put up signage visible from the right-of way.

Ms. Brown stated that in practice this is what they have guided people to do, which is why staff elected to make the change. She stated that we could have further discussions regarding this point.

Mr. Fraley stated that this should be discussed further.

Mr. Murphy agreed that signage for the outparcels can be discussed further.

d) Procedural Descriptions, Submittal Requirements, and Administrative Items

Mr. Ribeiro reviewed some of the changes to the ordinance text.

Mr. Fraley asked of Sec. 24-8; who is the building official?

Mr. Johnson stated that the building official is appointed by the BOS and is a title called out in the state code. He stated that Mr. Tom Coghill, Building Safety and Permits Director is the County's building official.

Mr. Ribeiro pointed out the text in Sec. 24-144 (b) that reduces the number of days from 21 calendar to 10 working days in which the planning division will transmit comments to applicants for conceptual plans.

Mr. Mike Maddocks responded positively.

i) Environmental Impact Constraints Analysis

Mr. Ribeiro reviewed changes made to the environmental checklist.

ii) Fiscal Impact Study Guidelines

Mr. Ribeiro reviewed the Fiscal Impact Study Guidelines.

Mr. Fraley asked if applicants will be required to use this template for their fiscal impact studies. He stated that it is frustrating to get multiple estimates from different groups regarding impacts.

Mr. Ribeiro stated that applicants will be required to submit the outlined information at minimum. The applicant may choose to submit additional materials.

Mr. Brian Elmore stated that for residential developments applicants will provide four or five modifiers. Mr. Elmore stated that for new businesses coming in the process is more complex.

iii) Traffic Impact Analysis Guidelines

Mr. Fraley asked how this traffic impact analysis would compare to the VDOT 527 review.

Mr. Vinciguerra stated that this is very similar to the VDOT 527 review. He stated that applicants would be required to indicate how to mitigate the impacts of traffic to a service level of “C” rather than a “D”.

Mr. Murphy stated that the County would continue to have greater discretion than VDOT. He stated that one hundred peak hour trips would be the threshold; VDOT’s is higher for commercial areas.

Mr. Johnson stated that many County roads have a unique character and citizens have the expectation to maintain that character.

Mr. Costello stated that VDOT is now moving to multiple access points. He stated that Sec. 24-23 speaks of “no more than one access point on each abutting public street shall be permitted unless”.

Mr. Murphy stated that staff will adjust it dependent upon what VDOT requires.

Mr. Costello made a recommendation to change the text in Sec. 24-145 (7). He recommended changing five foot contours to two foot contours. He stated that this level information is more beneficial for site plans.

Mr. Costello asked if it was necessary to submit a new site plan amendment for decreased parking.

Mr. Johnson stated that there are valid reasons to require a site plan amendment for increased or decreased parking.

Mr. Costello stated that there are no licensed traffic engineers in the state of Virginia, just licensed engineers or certified land planners. Mr. Costello asked if it necessary to have plans including ten (or greater) multi-family units go to the Development Review Committee (DRC) for review.

Mr. Johnson stated that there will be a trend for more in-fill development on challenging topography. He stated that there will be a greater demand to maximize a limited amount of developable area. Staff and the Planning Commission determined that those cases should be reviewed by the DRC.

Mr. Costello stated that this would mean that all R-5 developments will be seen by the DRC.

## **2) Adjournment**

Mr. Maddocks moved to adjourn. The meeting was adjourned at 3:32 p.m.

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Jack Fraley, Chair of the Policy Committee

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
 DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

**Sec. 24-231. Statement of intent.**

The Limited Residential District, R-1, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to ~~prohibit all~~ *limit* activities of a commercial nature and to implement the policies and designations of the Comprehensive Plan applicable to low-density residential areas. To these ends, development is limited to low-density residential and generally permitted uses are limited to single-family dwellings, plus certain additional community-oriented uses that serve the residents of this district.

**Sec. 24-232. Permitted uses.**

In the Limited Residential District, R-1, 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 buildings or structures as defined	P	
	Accessory apartments in accordance with Section 24-32		SUP
	Home care facilities		SUP
	<del>Residential cluster development</del> <i>Single-family detached dwellings</i> in accordance with article VI, division 1 of this chapter		SUP
	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with Section 24-234(a)	P	
	Single-family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-234(c)		SUP
Commercial Uses	Accessory buildings or structures as defined	P	
	Adult day care centers		SUP
	Child day care centers		SUP
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Golf courses, country clubs		SUP
	Home occupations as defined	P	
	Off-street parking as required by section 24-53	P	
	Rental of rooms to a maximum of three rooms		SUP
	Retail shops and food service establishments <i>accessory to</i> <del>associated with</del> community recreation facilities		SUP
Civic	Cemeteries and memorial gardens		SUP
	<del>Places of public assembly</del> <i>Houses of worship</i>		SUP
	Libraries		SUP
	Neighborhood resource centers		SUP

	Publicly owned solid waste container sites		SUP
	Schools		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
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
	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
	Telephone exchanges and telephone switching stations		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 (b) Distribution lines and local facilities within a development, including pump stations		SUP

Open	Timbering in accordance with section 24-43	P	
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~~Accessory buildings or structures as defined.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.~~

~~Home occupations as defined.~~

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

~~Single family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-234(a).~~

~~Timbering in accordance with section 24-43.~~

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

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

**~~Sec. 24-233. Uses permitted by special use permit only.~~**

~~In the Limited Residential District, R-1, buildings, to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:~~

~~Accessory apartments in accordance with section 24-32.~~

~~Adult day care centers.~~

~~Cemeteries and memorial gardens.~~

~~Child day care centers.~~

~~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.  
Fire stations.~~

~~Golf courses, country clubs.~~

~~Home care facilities.~~

~~Houses of worship.~~

~~Libraries.~~

~~Neighborhood resource centers.~~

~~Publicly owned solid waste container sites.~~

~~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.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Residential cluster development in accordance with article VI, division 1 of this chapter.~~

~~Retail shops and food service establishments associated with community recreation facilities.~~

~~Schools.~~

~~Single family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-234(c).~~

~~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 or 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.~~

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

#### **Sec. 24-234. Overall density within subdivisions.**

(a) All subdivisions shall have a maximum gross density of one unit per acre, except for minor subdivisions ~~as defined below~~. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-235.

~~(b) For the purposes of this section, the term minor subdivisions shall be defined as a division of a tract of land into not more than five lots abutting an existing public road within the transportation department road system and which does not create a new street or extend an existing street. Any contiguous property owned by the same subdivider, or deemed by the development review committee as a logical part of a contiguous subdivision cannot be subdivided into greater than five lots without meeting the density requirements.\*~~

~~(\*Note: Moved to the definitions section.)~~

~~(be) Upon application, the board of supervisors may grant a special use permit for subdivisions to have a maximum gross density of more than one unit per acre, but of no more than two units per acre upon finding the developer has made assurances in a master plan or otherwise for *at least two points as specified in the density bonus item options table in Section 24-549 of this chapter.*~~  
the following:

- ~~(1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~

~~(2) Implementation of the countys Archaeological Policy.~~

~~(3) Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist and are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.~~

~~(4) Provision of recreation facilities as recommended in the countys Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~(5) Implementation of the countys Natural Resources Policy.~~

**Sec. 24-235. Area requirements.**

(a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 15,000 square feet.

(b) *Public sewage disposal only.* Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 17,500 square feet.

(c) *Public water distribution only.* Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.

(d) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal systems shall have a minimum area of 30,000 square feet.

(e) *Applicability to certain lots.* These minimum sizes shall not apply to lots of less than 15,000 square feet recorded or legally in existence prior to April 8, 1985.

**Sec. 24-236. Setback requirements.**

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line"; all subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.

**Sec. 24-237. Minimum lot width.**

(a) Lots of up to and including 43,560 square feet shall have a minimum width at the setback line of 100 feet.

(b) Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-238. Yard ~~requirements~~ regulations.**

(a) *Side.* The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.

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

**Sec. 24-239. Special provisions for corner lots.**

(a) The front of the lot shall be deemed to be the shorter of the two sides fronting on streets.

(b) No structure shall be located closer than 35 feet to the side street.

(c) Each corner lot shall have a minimum width at the setback line of 125 feet.

**Sec. 24-240. Height limits.**

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

(1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennae and home radio aerials 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:

a. Such structure will not obstruct light to adjacent property;

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

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

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

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

**Sec. 24-241. Sign regulations.**

To assure an appearance and condition which is consistent with the purposes of the Limited Residential District, R-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.

**Sec. 24-242. Open space within major subdivisions.**

*Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.*

*(a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, except that areas with slopes of 25 percent or more contiguous to the non-developable area may be incorporated into individual lots provided the sloped areas are placed in conservation easements dedicated to the county and approved by the county attorney.*

*(b) In addition, ten percent of the developable area of the site shall also be set aside as open space.*

*1. The developable area open space may include, but is not limited to:*

*a. Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;*

- b. Area(s) for which a density bonus is also being proposed, as listed in Section X (i.e. wildlife habitat corridors, watershed management plan conservation areas, etc.);
- c. The following areas, up to the percent specified
  - i. Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required
  - ii. Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)

(c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

1. Area on any individual private lots or yards, with the exception of easements for streetscapes
2. Land within public road rights-of-way and utility or drainage easements

(d) In meeting the developable area open space requirements specified in (b), open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development. At a minimum, the open space shall adhere to the following standards:

Item	Numerical Standard	Design Standard
Neighborhood Park	50 – 77 Units: Provide 1 park (minimum of 0.3 acres)  78+ Units: Provide 0.0039 acres per unit	Parkland should be centrally located, with no less than 0.25 acres in a single piece and with a minimum width of 60 ft. The parkland should be relatively level non-floodplain land outside the RPA, minimum 70% groomed space and the balance may be in natural tree cover.
Playground	Provide 1 playground	The playground should have a minimum area of 2,500 square feet and have a minimum of five activities.

~~(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation or conservation and recreation purposes. The amount of such open space shall not be less than ten percent of the net developable area of the site. The developable area of right of way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.~~

~~(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding under the 100-year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.~~

~~(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the planning commission shall find that:~~

- ~~(1) No land lying within a proposed or existing road right of way, utility easement or drainage facility is counted toward the minimum open space requirement; and~~

- ~~(2) The land is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development and served with adequate facilities for such purpose; and~~
- ~~(3) No part of a private yard or area determined by the planning director to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and~~
- ~~(4) No more than 50 percent of the required open space shall be used for active recreational uses.~~

~~(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual preservation of designated open space areas to relieve the county of any obligation to maintain.~~

#### **Sec. 24-243. Ownership of open space. Establishment of homeowners association**

*A homeowners association shall be established in accordance with Section 19-68 of the Subdivision Ordinance.*

~~Within any residential development approved under this article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold or used within the development until a declaration of covenants and restrictions or other document necessary to establishing a mandatory permanent home owners organization has been approved by the county attorney and has been executed. Such documents shall set forth the following:~~

~~(1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and~~

~~(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.~~

*The homeowner's association documents shall set forth the nature (recreation or conservation) and location of the open space(s) in the manner described on the master plan, either through illustration or through incorporation by reference of the development's master plan and/or plan of development. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan and/or plan of development.*

#### **Sec. 24-244. BMP requirements.**

To assure an appearance and condition which is consistent with the purpose of the Limited Residential District, R-1, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

#### **Sec. 24-245. Buffer requirements.**

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- ~~(3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented~~

~~with additional plantings to achieve the planting ratio stated above. The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.~~

(b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a)XX of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning ~~director~~ ~~commission~~ may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than ~~five~~ ~~ten~~ acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

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

(d) *Modifications to the landscape requirements.* The planning ~~director~~ ~~commission~~ may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~director~~ ~~commission~~ under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~ Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~director~~ ~~commission~~ may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~director~~ **commission**. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon ~~the recommendation of the environmental director and the~~ approval of the planning ~~director~~ **commission**.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning ~~director~~ **commission**.

*(i) Appeals. In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in the planning division's fee schedule.*

**Sec. 24-246. Pedestrian Accommodation.**

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

**Secs. 24-246~~8~~ - 24-250. Reserved.**

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
 DIVISION 4. GENERAL RESIDENTIAL DISTRICT, R-2

**Sec. 24-251. Statement of intent.**

The General Residential District, R-2, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development is likely to occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage the clustering of residential developments to maximize shared and purposeful open space, to protect the natural environment and to promote a sense of community, to ~~limit prohibit all~~ activities of a commercial nature and to implement the policies and designations of the Comprehensive Plan applicable to low-density residential areas. To these ends, development is limited to low-density residential and permitted uses are limited to dwellings designed to be occupied by one family or more than one family under certain conditions plus certain additional community-oriented uses that serve the residents of the district.

**Sec. 24-252. Permitted uses.**

In the General Residential District, R-2, 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 buildings or structures as defined	P	
	Accessory apartments in accordance with Section 24-32	P	
	<del>Five to eight family dwellings</del> <i>Multifamily dwellings of between five and eight units</i> , contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter <del>provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan</del>		SUP
	<del>Four family dwellings</del> <i>Multifamily dwellings, up to and including four units</i> , contained within residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	<del>Four family dwellings</del> <i>Multifamily dwellings, up to and including four units</i> , contained within residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Home care facilities		SUP
	<del>Residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter</del>	P	

	Residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, <i>either</i> <ul style="list-style-type: none"> <li>• in accordance with Section 24-254(a), or</li> <li>• <i>in accordance with article VI, division 1 of this chapter</i></li> </ul>	P	
	Single-family detached dwellings with a maximum gross density of more than one unit per acre, <i>either</i> <ul style="list-style-type: none"> <li>• in accordance with section 24-254(c) or</li> <li>• <i>in accordance with article VI, division 1 of this chapter</i></li> </ul>		SUP
	Three family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	Three family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Multifamily <i>dwellings</i> up to two units, in accordance with section 24-254 <b>60</b>		SUP
	Two family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	P	
	Two family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
Commercial Uses	Accessory buildings or structures as defined	P	
	Adult day care centers		SUP
	<i>Barber and beauty shops</i>		SUP
	<i>Business, governmental and professional offices</i>		SUP
	Child day care centers		SUP
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Golf courses, country clubs		SUP
	Home occupations as defined	P	
	Off-street parking as required by section 24-53	P	
	<i>Photography studios and sales, artist and sculptor studios</i>		SUP
	Rental of rooms to a maximum of three rooms		SUP
	Retail shops <i>accessory to</i> associated with community recreation facilities		SUP
	<i>Tourist home</i>		SUP
Civic	Cemeteries and memorial gardens		SUP

	<del>Places of public assembly</del> Houses of worship		SUP
	Libraries		SUP
	Neighborhood resource centers		SUP
	Publically owned solid waste container sites		SUP
	Schools		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
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
	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
	Telephone exchanges and telephone switching stations		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		SUP

	connections to be made to the line; and (b) Distribution lines and local facilities within a development, including pump stations		
Open	Timbering in accordance with section 24-43	P	

~~Accessory apartments in accordance with section 24-32.~~

~~Accessory buildings or structures as defined.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.~~

~~Four family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Home occupations, as defined.~~

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

~~Residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Retail shops associated with community recreation facilities.~~

~~Single-family detached dwellings with a maximum gross density of one unit per acre in accordance with section 24-254(a).~~

~~Three-family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Timbering in accordance with section 24-43.~~

~~Two-family dwellings contained within a residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter.~~

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

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

**Sec. 24-253. Uses permitted by special use permit only.**

In the General Residential District, R-2, buildings to be erected or land to be used for the following or similar uses shall be permitted only after issuance of a special use permit by the board of supervisors:

~~Adult day care centers.~~

~~Cemeteries and memorial gardens.~~

~~Child day care centers.~~

~~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.~~

~~Fire stations.~~

~~Five to eight family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan.~~

~~Four family dwellings contained within a residential cluster development with a gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Golf courses, country clubs.~~

~~Home care facilities.~~

~~Houses of worship.~~

~~Libraries.~~

~~Neighborhood resource centers.~~

~~Publicly owned solid waste container sites.~~

~~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.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Schools.~~

~~Single family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-254(e).~~

~~Telephone exchanges and telephone switching stations.~~

~~Three family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

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

~~Two family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.~~

~~Two family dwellings in accordance with section 24-254.~~

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

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

Water impoundments, new or expansion of, 50 acres or more and a dam height of 25 feet or more.

#### **Sec. 24-254. Overall density within subdivisions.**

(a) All subdivisions shall have a maximum gross density of one unit per acre, except for minor subdivision as defined below. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-255.

~~(b) For the purposes of this section, the term minor subdivisions shall be defined as a division of a tract of land into not more than five lots abutting an existing public road within the transportation department road system and which does not create a new street or extend an existing street. Any contiguous property owned by the same subdivider, or deemed by the development review committee as a logical part of a contiguous subdivision cannot be subdivided into greater than five lots without meeting the density requirements of a major subdivision.\*~~

(\*Note: Moved to the definitions section.)

~~(b)e) Upon application, the board of supervisors may grant a special use permit for subdivisions to have a maximum gross density of more than one unit per acre, but of no more than two units per acre upon finding the developer has made assurances in a master plan or otherwise for *at least two points as specified in the density bonus item options table in Section 24-549 of this chapter.*~~  
the following:

- ~~(1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~
- ~~(2) Implementation of the countys Archaeological Policy.~~
- ~~(3) Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist and are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.~~

~~(4) Provision of recreation facilities as recommended in the countys Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~(5) Implementation of the countys Natural Resources Policy.~~

#### **Sec. 24-255. Area requirements.**

(a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 10,000 square feet.

(b) *Public sewage disposal only.* Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 12,000 square feet.

- (c) *Public water distribution only.* Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.
- (d) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet.
- (e) *Applicability to certain lots.* These minimum sizes shall not apply to lots of less than 12,000 square feet recorded or legally in existence prior to April 8, 1985.

**Sec. 24-256. Setback requirements.**

Structures shall be located a minimum of 25 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 50 feet from the centerline of the street. This shall be known as the "setback line"; all subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

**Sec. 24-257. Minimum lot width.**

- (a) Lots of less than 20,000 square feet shall have a minimum width at the setback line of 75 feet.
- (b) Lots of 20,000 square feet to 43,560 square feet shall have a minimum width at the setback line of 100 feet.
- (c) Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-258. Yard ~~requirements~~ regulations.**

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

**Sec. 24-259. Special provisions for corner lots.**

- (a) The front of the lot shall be the shorter of the two sides fronting on streets.
- (b) No structures shall be located closer than 25 feet to the side street.
- (c) Each corner lot shall have a minimum width at the setback line of 100 feet.

**Sec. 24-260. Special provisions for multifamily up to two units.**

- (a) Lots intended for multifamily up to two units shall be:
  - (1) Served by a public water system;
  - (2) Served by a public sewer system;
  - (3) Required to have a minimum lot size of 15,000 square feet.
  - (4) Required to meet all other requirements of this district.
- (b) In addition to the above requirements, when each dwelling unit is on an individual lot, each individual lot shall:
  - (1) Have a minimum lot size of 7,500 square feet;
  - (2) Have a minimum lot width of 40 feet; and
  - (3) Have no minimum side yard requirement on the common side lot line.
- (c) Upon application, the board of supervisors may grant a waiver from the public sewer connection requirement referenced above upon finding:
  - (1) The development site is a single lot recorded or legally in existence prior to the date of adoption of this section; and

- (2) The State Health Department has approved the location and adequacy of the proposed septic drainfields; and
- (3) The proposed multifamily units are located in the Primary Service Area and is in accord with the James City Service Authority Regulations Governing Utility Service.

**Sec. 24-261. Height limits.**

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

(1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas and home radio aerials 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:

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

(4) No accessory building which is within ten feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height.

**Sec. 24-262. Sign regulations.**

To assure an appearance and condition which is consistent with the purpose of the General Residential District, R-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.

**Sec. 24-263. Open space within major subdivisions.**

*Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.*

(a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, except that areas with slopes of 25 percent or more contiguous to the non-developable areas may be incorporated into individual lots provided the sloped areas are placed in conservation easements approved by the county attorney.

(b) In addition, fifteen percent of the developable area of the site shall also be set aside as open space.

1. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Area(s) for which a density bonus is also being proposed, as listed in Section 24-254 (i.e. wildlife habitat corridors, watershed management plan conservation areas, etc.);
- c. The following areas, up to the percent specified
  - i. Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required
  - ii. Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)

(c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

- 1. Area on any individual private lots or yards, with the exception of easements for streetscapes
- 2. Land within public road rights-of-way and utility or drainage easements

(d) In meeting the developable area open space requirements specified in (b), open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development. At a minimum, the open space shall adhere to the following standards:

Item	Numerical Standard	Design Standard
Neighborhood Park	50 – 77 Units: Provide 1 park (minimum of 0.3 acres)  78+ Units: Provide 0.0039 acres per unit	Parkland should be centrally located, with no less than 0.25 acres in a single piece and with a minimum width of 60 ft. The parkland should be relatively level non-floodplain land outside the RPA, minimum 70% groomed space and the balance may be in natural tree cover.
Playground	Provide 1 playground	The playground should have a minimum area of 2,500 square feet and have a minimum of five activities.

(a) Within every subdivision consisting of 50 or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation or conservation and recreation purposes. The amount of such open space shall not be less than fifteen percent of the net developable area of the site. The developable area of right of way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.

~~(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding under the 100-year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.~~

~~(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the planning commission shall find that:~~

~~(1) No land lying within a proposed or existing road right-of-way, utility easement or drainage facility is counted toward the minimum open space requirement; and~~

~~(2) The land is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development and served with adequate facilities for such purpose; and~~

~~(3) No part of a private yard or area determined by the planning director to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and~~

~~(4) No more than 50 percent of the required open space shall be used for active recreational uses.~~

~~(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual preservation of designated open space areas to relieve the county of any obligation to maintain.~~

#### **Sec. 24-264. Ownership of open space.**

*A homeowners association shall be established in accordance with Section 19-68 of the Subdivision Ordinance.*

~~Within any residential development approved under this article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold or used within the development until a declaration of covenants and restrictions or other document necessary to establishing a mandatory permanent home owners organization has been approved by the county attorney and has been executed. Such documents shall set forth the following:~~

~~(1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and~~

~~(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.~~

*The homeowner's association documents shall set forth the nature (recreation or conservation) and location of the open space(s) in the manner described on the master plan, either through illustration or through incorporation by reference of the development's master plan and/or plan of development. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan and/or plan of development.*

#### **Sec. 24-265. BMP requirements.**

To assure an appearance and condition which is consistent with the purpose of the General Residential District, R-2, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

#### **Sec. 24-266. Buffer requirements.**

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) ~~If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.~~ *The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.*

(b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a)XX of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning ~~director~~ *commission* may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than ~~five~~ *ten* acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

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

(d) *Modifications to the landscape requirements.* The planning ~~director~~ *commission* may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~director~~ *commission* under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.

(5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.

(6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~director~~commission may approve them under the following circumstances:

(1) The need is necessitated by site conditions rather than economic factors; and

(2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~director~~commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon ~~the recommendation of the environmental director and the~~ approval of the planning ~~director~~commission.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning ~~director~~commission.

(i) *Appeals.* *In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in the planning division's fee schedule.*

**Sec. 24-267. Pedestrian Accommodation.**

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

**Secs. 24-267 - 24-273. Reserved.**

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
**DIVISION 6. MULTIFAMILY RESIDENTIAL DISTRICT, R-5**

**Sec. 24-304. Statement of intent.**

The Multifamily Residential District, R-5, is composed of moderate to high-density residential areas and other such areas where similar development is likely to occur. It is the purpose of this district to provide for a harmonious and orderly relationship between multifamily residential uses and lower-density residential uses or nonresidential uses. A further purpose is to require that development within this district be adequately served by public facilities, that adequate open space and recreational areas be provided for the use of residents and for buffering of adjoining property and to implement the policies and designations of the Comprehensive Plan.

**Sec. 24-305. Permitted uses.**

In the Multifamily Residential District, R-5, structures to be erected or land to be used shall be for the following uses held for rent, for sale by individual unit or for sale in condominium:

Use Category	Use List	Permitted Uses	Special Permit Uses	
Residential Uses	Accessory buildings or structures as defined	P		
	Accessory apartments in accordance with Section 24-32	P		
	Apartments	P		
	<del>Five to eight family dwellings contained within a residential cluster development provided that the overall density does not exceed the permitted density in the previously approved master plan or the James City County Comprehensive Plan</del>			SUP
	Home care facilities			SUP
	<del>Multifamily dwellings containing more than four dwelling units</del>	P		
	Nursing homes and facilities for the residence and/or care of the aged			SUP
	<del>Residential cluster developments in accordance with article VI, division 1 of this chapter</del>	P		
	<del>Single family dwellings contained within a cluster development in accordance with article VI, division 1 of this chapter</del>	P		
	<del>Single family dwellings</del>			SUP
	Three family and four family dwellings	P		
	Townhouses	P		
	Two family dwellings	P		
Commercial Uses	Accessory buildings or structures as defined	P		
	Adult day care centers	P		
	<del>Barber and beauty shops</del>			SUP
	Child day care centers	P		
	Coin laundries which are accessory to other residential uses and for the primary use of its residents	P		
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P		
	Golf courses, country clubs			SUP

	<i>Business, Professional, and</i> Governmental offices		SUP
	<i>Home occupations, as defined</i>	P	
	Hospitals and rest homes		SUP
	Lodges, civic clubs, fraternal organizations, service clubs		SUP
	Marina, boat dock or waterfront recreation facilities	P	
	Off-street parking as required by section 24-53	P	
	<i>Photography studios and sales, artist and sculptor studios</i>	P	
	Professional and business offices located in the same structure as and <i>accessory to</i> in conjunction with multifamily uses.		SUP
	Rental of one room	P	
	Rental of two or three rooms to a maximum of three rooms		SUP
	Restaurants which are accessory to permitted private clubs or marinas	P	
	Retail shops <i>accessory to</i> associated with community recreation facilities	P	
	Temporary offices in accordance with section 24-111		SUP
	<i>Tourist home</i>	P	
Civic	Cemeteries and memorial gardens		SUP
	<del>Houses of worship</del> <i>Places of public assembly</i>	P	
	Schools, libraries and fire stations	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
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
	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
	Telephone exchanges and telephone switching stations		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		SUP

	<p>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:</p> <p>(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</p> <p>(b) Distribution lines and local facilities within a development, including pump stations</p>		
Open	Timbering in accordance with section 24-43	P	

~~Accessory apartments in accord with section 24-32.~~

~~Accessory buildings or structures as defined.~~

~~Adult day care centers.~~

~~Apartments.~~

~~Coin laundries which are accessory to other residential uses and for the primary use of its residents.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ballfields, tennis courts and other similar recreation facilities.~~

~~Day care and child care centers.~~

~~Houses of worship.~~

~~Marina, boat dock or waterfront recreational facilities.~~

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

~~Rental of one room.~~

~~Residential cluster developments in accordance with article VI, division 1 of this chapter.~~

~~Restaurants which are accessory to permitted private clubs or marinas.~~

~~Retail shops associated with community recreation facilities.~~

~~Schools, libraries and fire stations.~~

~~Signs, as permitted by article II, division 3 of this chapter.~~

~~Single family dwellings contained within a cluster development in accordance with article VI, division 1 of this chapter.~~

~~Townhouses.~~

~~Three family and four family dwellings.~~

~~Timbering in accordance with section 24-43.~~

~~Two family dwellings.~~

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

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

**Sec. 24-306. Uses permitted by special use permit only.**

~~In the Multifamily Residential District, R-5, buildings to be erected or land to be used for the following or similar uses shall be permitted only after issuance of a special use permit by the board of supervisors:~~

~~Cemeteries and memorial gardens.~~

~~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.~~

~~Five to eight family dwellings contained within a residential cluster development provided that the overall density does not exceed the permitted density in the previously approved master plan or the James~~

~~City County Comprehensive Plan.~~

~~Golf courses, country clubs.~~

~~Governmental offices.~~

~~Home care facilities.~~

~~Hospitals and rest homes.~~

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

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

~~Professional and business offices located in the same structure as and in conjunction with multifamily uses.~~

~~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 improvement in existing railroad right-of-ways are permitted generally and shall not require a special use permit.~~

~~Rental of two or three rooms to a maximum of three rooms.~~

~~Single family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

~~Temporary offices in accordance with section 24-111.~~

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

~~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 equipments such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines, and local facilities within a subdivision or development, including pump stations, are permitted generally and shall not require a special use permit.~~

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

**Sec. 24-3067. Minimum site size.**

The minimum site size for a multifamily district shall be three acres.

**Sec. 24-308. Area requirements.**

~~The minimum lot size for a single family dwelling shall be 10,000 square feet. The minimum lot size for a two family dwelling on one lot shall be 12,000 square feet, for a three family dwelling on one lot shall be 18,000 square feet and for a four family dwelling on one lot shall be 22,000 square feet. Each lot shall meet the requirements of this district, except the side yard at the common wall may be reduced to zero for dwelling units sharing a common wall or walls and located on separate lots. The minimum lot size for two, three, and four family dwellings where each dwelling unit is on an individual lot shall be as follows:~~

~~(1) The minimum lot area for each unit of a two family dwelling shall be 6,000 square feet.~~

~~(2) The minimum lot area for each unit of a three family or four family dwelling where the units are constructed in a row shall be as follows: The minimum lot area for exterior units shall be 6,000 square feet. The minimum lot area for interior units shall be 3,000 square feet.~~

~~(3) The minimum lot area for each unit of a three family, or four family dwelling where the units are not constructed in a row shall be 5,000 square feet.~~

~~(4) The lot area for a three family dwelling shall total a minimum of 18,000 square feet and the lot area for a four family dwelling shall total a minimum of 22,000 square feet. For all other principal and accessory uses there shall be no minimum lot size in the Multifamily Residential District, R-5, unless otherwise required by this chapter.~~

**Sec. 24-307. Buffers and setback requirements**

*(a) Peripheral setbacks. Any development approved under this article shall adhere to the following setback requirements. Where these requirements are more stringent than those found in Article II, Division 4 of this Chapter, these requirements shall supersede them.*

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

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

- (b) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (c) The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.

(2) Perimeter buffers. Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be as specified in the following table:

	Developments of 200 or less units	Developments of more than 200 units
Adjacent to property in a multifamily district, business district, industrial district, or an agricultural district designated for such uses on the Comprehensive Plan Land Use Map, or public property	35'	50'
Adjacent to property in a residential district other than R-5 or in an agricultural district designated for low-density residential or rural residential on the Comprehensive Plan	50', which shall be increased to 75' for any structures which exceed one story	75', which shall be increased to 100' for any structures which exceed one story

Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-XX of this chapter.

(3) Waiver provisions. In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements specified in (a)(1) and (a)(2) of this section for residential developments when:

- (a) The development is less than ten acres and a majority of the development's units are dedicated to affordable housing; or
- (b) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (c) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

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

(4) Modifications to the landscape requirements. The planning director may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(5) Requirements for buffers. All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any

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

- (a) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (b) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (c) Stockpiles shall not exceed 35 feet in height.
- (d) Stockpiles shall be temporary, with a time limit of six months.
- (e) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (f) Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.

(6) Limitations on buffers. Structural BMPs such as wet and dry ponds shall not generally be permitted in the buffers, except that the planning director may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(7) Improvements allowable within buffers. An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning director. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon approval of the planning director.

(8) Roads within buffers. Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning director.

(b) Yard regulations. Except for setbacks specified in (a)(1) and (a)(2) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a R-5 district other than as specified in the approval final plans.

(c) Appeals. In the event the planning director disapproves of the items specified in subsections (a)(3), (a)(5), (a)(6), (a)(7), and (a)(8) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.

#### **Sec. 24-309. Setback requirements.**

(a) All single family dwellings and their accessory structures shall be located at least 35 feet from the right of way of any peripheral street which abuts or borders the site and which has a right of way 50 feet or greater in width. If the street right of way is less than 50 feet wide, such buildings and structures shall be located a minimum of 60 feet from the centerline of the street.

(b) All other structures shall be located a minimum of 50 feet from the right of way of any peripheral street which abuts or borders the site and has a right of way width of 50 feet or more. In the event such street has a right of way width which is less than 50 feet, such structures shall be located a minimum of

75 feet from the centerline of the street. An additional 25-foot setback from peripheral roads identified on a functional classification shall be required for any structure which exceeds one story.

(c) All structures shall be located a minimum of 25 feet from any street which is internal to the project. Exceptions may be given for service drives, driveways, parking areas, alleys and cul-de-sac roads.

(d) Off-street parking shall not be permitted within required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

#### **Sec. 24-310. Minimum lot width.**

The minimum lot width measured at the setback line shall be 80 feet for single-family dwellings; 100 feet for a two-family dwelling on one lot; and 50 feet for each unit of a two-family, three-family or four-family dwelling where each dwelling unit is located on a separate lot; provided, however, the minimum lot width may be reduced to 20 feet for interior unit lots where the units are constructed in a row. For all other principal uses there shall be no minimum lot width in the R-5 District.

#### **Sec. 24-311. Yard regulations.**

(a) For developments containing 200 or less dwelling units, all structures shall be located a minimum of 35 feet from any property line which adjoins property in a multifamily residential district, a business district, an industrial district, an agricultural district which is designated for multifamily, commercial or industrial use on the Comprehensive Plan or public property. For developments containing more than 200 dwelling units, all structures shall be located a minimum of 50 feet from any property line which adjoins property in a multifamily residential district, a business district, an industrial district, an agricultural district which is designated for multifamily, commercial or industrial use on the Comprehensive Plan or public property.

(b) For developments containing 200 or less dwelling units, all structures shall be located a minimum of 50 feet from any property line which adjoins property which is in a residential district other than the R-5 or in an agricultural district designated for low-density residential or rural residential on the Comprehensive Plan. For developments containing more than 200 dwelling units, all structures shall be located a minimum of 75 feet from any property line which adjoins property which is in a residential district other than the R-5 or in an agricultural district designated for low-density residential or rural residential on the Comprehensive Plan. The minimum yard requirement shall be increased by 25 feet for any structures which exceed one story.

(c) Off-street parking shall be excluded from the first 40 feet of yard nearest the property line.

(d) Single-family and two-family dwellings. The minimum side yard for each single-family dwelling or two-family dwelling shall be five feet. The minimum rear yard shall be 20 feet. The minimum side and rear yards for structures accessory to single-family or two-family dwellings shall be five feet for structures one story or less and ten feet for structures exceeding one story. The side and rear yards for any structure in excess of 35 feet shall be increased by one foot for each one foot in height in excess of 35 feet.

#### **Sec. 24-30912. Density requirements for townhouses, multifamily and apartments and condominiums.**

(a) *Gross density limitation.* No project shall have a gross density (including bonuses) of more than 12 units per acre.

(b) *Calculating gross density.* For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.

**Illustration of Gross Density Calculation.**

(a) If a fifty acre parcel has 7 acres of non-developable land, then the non-developable area of the site is 14%. Since 14% is less than 25%, the total area of the parcel is used to calculate allowed density.

(b) If the fifty acre parcel instead had 14 acres of non-developable land, then the non-developable area of the site is 28%. Since 28 is greater than 25%, the total developable area of the parcel (36 acres) and 25% of the total parcel acreage (12.5 acres) are added together to obtain the gross acreage used to calculate allowed density (48.5 acres).

In this example, if an applicant sought a density of 2 dwelling units per acre, they would yield 100 units in (a) and 97 units in (b).

~~(c) Determination of developable area. Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient.~~

~~(c) Determination of number of dwelling units. The number of dwelling units which may be constructed shall be determined by the number of net developable gross acres at the site and the use proposed. The number of units which may be constructed shall be determined by the gross acreage at the site and the use proposed, as follows:~~

<b>BASE DENSITY DWELLING UNITS PER ACRE</b>		
Number of Units	Multifamily and Apartments under three stories	Multifamily and Apartments three stories or more
1-100	8	10
101-200	7	9
Over 200	6	8

~~(d) In order to encourage attractive architectural and site designs which are harmonious with adjoining property, to encourage the preservation of open space within and around higher density development, to encourage preservation and restoration of historic sites and to encourage developers to go beyond the minimum standards of the Zoning Ordinance, the planning commission may approve the following **density bonuses**. percentage increases of dwelling units where superior design offsets the problems which would otherwise be created. Density bonuses shall not exceed a maximum of an additional 20 percent above the maximum dwelling units per acre that would otherwise be permitted as listed in the table above.~~

~~(1) **Setback bonus.** For every 25 feet of setback, in addition to the minimum required from the right of way of each peripheral road or adjoining property line which borders the site, one and one half percent additional dwelling units may be added. Maximum additional setback on each side for which a bonus may be given shall be 100 feet or a maximum six percent bonus for each side of the site. The total setback shall be calculated from the right of way or property line to the nearest building on the site. For the purposes of calculation, the site is considered to have four sides. For irregularly shaped parcels, a flexible method of calculation may be used by the planning director so the total bonus shall not exceed 20 percent for this section.~~

~~(2) **Recreation** If the applicant designates, improves and fully develops recreational facilities in excess of the playgrounds required in section 24-314(c) above, the planning director may recommend a bonus of nine percent additional dwelling units be granted. Such areas shall be conveniently located and consist of some combination of facilities such as tennis courts, large playgrounds, ball fields, swimming pools, tot lots, bike trails or other like items. Recreation facilities for which a density bonus is granted shall be fully completed before any certificate of occupancy may be issued.~~

(3) *Landscape design.* If the applicant presents an unusually attractive and harmonious site plan and building design which retains, relates to and enhances the natural vegetation and terrain of the site or which proposes unusually extensive landscaping and planting of borders, entrances, recreation areas, street frontage, areas surrounding buildings or common open space, the planning director may recommend a bonus of 12 percent additional dwelling units be granted. In order to promote superior design, the award of this bonus shall be made only in cases where the design of the project is clearly superior to the design of typical projects of its type in the community and where the applicant goes beyond the minimum standards required by this chapter.

(4) *Public facilities.* In the event a school, fire station, library, park or other public facility shown in the public facilities plan is proposed in or near the parcel, if the developer is willing to reserve a site suitable for the purpose intended and if the governing body is willing to acquire this site within 24 months of the approval of the final site plan, the planning director may recommend a bonus of nine percent additional dwelling units be granted to the number of units allowable on the remainder of the parcel.

<i>Bonus Increase from Base Density</i>	<i>Required Density Bonus Items from List Below</i>
<i>Up to the base density</i>	<i>0</i>
<i>10% above the base density</i>	<i>1</i>
<i>20% above the base density</i>	<i>2</i>

<i>Density Bonus Item Options</i>	
<i>A.</i>	<p><i>Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site.</i></p> <ul style="list-style-type: none"> <li>• <i><u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</i></li> <li>• <i>Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils)</i></li> <li>• <i>Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u></i></li> <li>• <i>Preservation of <u>wildlife habitat corridors</u> that:</i> <ul style="list-style-type: none"> <li><i>Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area</i></li> <li><i>Consist of mature forestland</i></li> </ul> </li> </ul>
<i>B.</i>	<p><i>Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division</i></p>

C.	<i>Design of a stormwater management plan that uses Better Site Design/Low Impact Development Techniques to meet the majority of applicable Chesapeake Bay Preservation Ordinance standards and requirements, as approved by the Engineering and Resource Protection Division</i>
D.	<i>100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site)</i>
E.	<i>Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy</i>
F.	<i>For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy), a density bonus of 1 shall be applied.</i>
G.	<i>Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee</i>
H.	<i>Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as is approved by the Director of Parks and Recreation or designee</i>
I.	<i>Development of binding design guidelines for Planning Director approval that include architectural and design standards above and beyond standard practice. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and unit design accessible to the disabled.</i>
J.	<i>Use of an infill site (80% of the property's boundaries abut previously developed land)</i>
K.	<i>Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>
L.	<i>Preservation of at least two contiguous acres of healthy, mature, native forestland</i>
M.	<i>Retention of at least five contiguous acres of agricultural land of prime or statewide importance</i>
N.	<i>Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location</i>
O.	<i>Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus)</i>

(e) *Subdivision in order to circumvent provisions prohibited.* Property shall not be subdivided to circumvent this section and project phases shall be considered one development.

~~(f) Condominiums and application of density to two-, three-, and four-family dwellings. Units for sale in condominium may be in townhouse or apartment-like structures and the number of dwelling units per acre shall be permitted accordingly. The densities specified above in this section shall not apply to two-, three and four-family dwellings.~~

(Condominium statement is DELETED since allowing condominium ownership is discussed in Section 24-33 of the ordinance already)

**Sec. 24-3103. Subdivision regulations.**

Any subdivision of land within Multifamily District R-5 shall comply with the subdivision ordinance of the County.

**Sec. 24-3114. Requirements for improvements and design.**

(a) *Sewer and water.* All dwelling units within the Multifamily Residential District, R-5, shall be served by publicly owned and operated sewer and water systems.

~~(b) *Open space.* At least 35 percent of the gross area of the site shall be retained in open space as defined in section 24-2. There shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.~~

~~(a) *Non-developable areas shall be maintained as open space. These areas shall not be included on any private lot, and should be protected through a dedicated conservation easement.*~~

~~(b) *In addition, ten percent of the developable area of the site shall also be set aside as open space.*~~

~~1. *The developable area open space may include, but is not limited to:*~~

~~a. *Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;*~~

~~b. *Area(s) for which a density bonus is also being proposed, as listed in Section 24-309;*~~

~~c. *The following areas, up to the percent specified*~~

~~i. *Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required*~~

~~ii. *Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)*~~

~~(c) *For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:*~~

~~1. *Area on any individual private lots, with the exception of easements for streetscapes*~~

~~2. *Land within public road rights-of-way and utility or drainage easements*~~

~~(d) *Open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development and served with adequate facilities for such purpose.* Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.~~

(c) *Recreation.* A playground area or areas with playground equipment shall be provided by the developer. Such areas shall be centrally located and total at least one-half acre for every 50 dwelling units; provided, that the total shall not exceed ten percent of the gross area of the site. For multifamily projects with less than 50 dwelling units, the recreation areas shall total ten percent of the gross acreage of the site. The developer shall provide and install playground equipment specified on the site plan prior to

the issuance of any Certificates of Occupancy. Recreation areas and facilities may be deeded to a residents' association.

(d) *Utility lines.* All utility lines, including electrical, telephone and cable television, shall be placed below ground.

(e) *Parking.* Off-street parking facilities shall be provided in accordance with Article II, Division 2 ~~section 24-53~~ of this chapter.

(f) *Streets.* All streets shall meet the design and construction requirements of the Virginia Department of Transportation or the requirements of the county subdivision regulations, whichever is greater. All streets shall be consistent with the major thoroughfare plan of the county Comprehensive Plan. The traffic generated by a Multifamily Residential District, R-5, shall not exceed the capacity of adjoining thoroughfares. The daily traffic shall be determined by multiplying the number of proposed dwelling units by the appropriate trip generation rate as listed in the latest edition of a book entitled *Trip Generation* published by the Institute of Transportation Engineers and compared to the existing traffic and road capacity as determined by the highway engineer. The construction of private streets shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of code compliance.\*

\*(Note: this section will be amended as part of the Development Standards private streets memo.)

(g) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the director of *building safety and permits* code compliance and county fire chief. ~~No structure within the project shall be further than 400 feet from a hydrant.~~

(h) *Trash collection.* If containers are provided, they shall be conveniently located to serve all dwelling units. The sites for such containers shall be attractively screened by natural vegetation, landscaping or fences.

(i) *Streetlights and Parking Lot Lighting.* Streetlights and *parking lot lighting* shall be provided as required by section ~~XX-XXX 24-53(e)(3)~~ of this chapter and the county subdivision ordinance. ~~All streetlights shall be specified on the site plan, generally at intersections and in parking lots and other public areas. The light shall be directed so as not to produce objectionable glare on adjacent property or into residences within the development. No lighting fixture on pedestrian or bicycle paths or parking lots shall exceed a height of 15 feet.~~

(j) *Structure height.* Structures may be erected up to 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, 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. A structure in excess of 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, water tank, radio, television and microwave antennas and towers or other accessory functions, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 35 feet in height but not to exceed 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:

- (1) Such structure will not obstruct light from 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 stand point of safety and the county fire chief certifies 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 would not be contrary to the public health, safety and general welfare.

(k) *Maximum number of units and facade variety.* A maximum of ten ~~townhouse~~ multifamily dwellings units shall be included in one structure. The facade of ~~townhouses~~ multifamily dwellings within a group shall be changed by variation in the depth of front yards, building materials and/or design so that no more than two abutting units shall be of like appearance.

~~(l) Private yards. Each two family dwelling unit and each townhouse unit shall open directly into a private yard of a minimum of 200 square feet.~~  
(DELETED)

m) *Minimum distances.* The distance between two main structures on a single lot shall be a minimum of the height of the taller structure. Accessory structures shall be a minimum of ten feet from any other structure.

~~(n) Drainage facilities. Adequate facilities for the control of stormwater, erosion and sedimentation shall be provided in accordance with the Virginia Erosion and Sediment Control Handbook and the Virginia Department of Transportation's Drainage Manual.~~  
(DELETED)

~~(o) Natural features and amenities. Existing features which would enhance the residential environment or the county as a whole such as trees, watercourses, historic spots and similar features shall be preserved to the maximum extent possible.~~  
(Retained – moved to open space section above)

(p) *Guarantee for improvements.* ~~The zoning administrator shall not issue any~~ **No** certificate of occupancy shall be issued until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, shown on the approved site plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the county attorney.

(q) *Maintenance of common open space, recreation facilities, etc.* The maintenance of common open space, recreation facilities, sidewalks, parking, private streets and other privately owned but common facilities serving the project shall be guaranteed by the developer, project owner or a properly established homeowners' association.

#### **Sec. 24-316. Relation to public utilities.**

(a) ~~Multifamily Residential District, R-5, shall be so located in relation to sanitary sewers, water lines, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement shall be required which results in higher net public cost or earlier incursion of public cost than would development in forms generally permitted under existing zoning for the area.~~

~~(b) Extensions and expansions of public utilities to serve the project shall be governed by the regulations and policies governing service of the appropriate public agency.~~

(DELETED)

**Sec. 24-312 . Pedestrian Accommodation.**

*Pedestrian accommodation shall be provided in accordance with Section 24-35.*

**Secs. 24-314~~7~~ - 24-326. Reserved.**

## RESIDENTIAL REDEVELOPMENT, R-3

### **Sec. 24-A. Statement of intent.**

The purpose of the residential redevelopment district is to encourage the replacement or reuse of existing buildings or previously developed sites to accommodate new residential development that provides benefits to the county, but would be difficult to achieve with other zoning districts. The principal uses and development form should preserve or improve the desirable and viable characteristics of the previous use and the adjacent parcels. The desired result is improved function and appearance of the same use or introduction of a use or uses compatible and/or complementary to the surrounding developed areas.

All parcels to be zoned residential redevelopment should conform to the residential redevelopment policy.

### **Sec. 24-B. Where permitted, minimum site size**

A residential redevelopment is permitted in areas designated Low Density Residential by the Comprehensive Plan. The minimum site size is five acres.

### **Sec. 24-C. Documents required for submission.**

(a) *Required documents.* The applicant shall satisfy the submittal requirements set forth in section 24-23 of the zoning ordinance.

### **Section 24-D. Density.**

(a) The permitted density is 2.5 dwelling units per acre for all residential dwelling unit types, up to a maximum of 4 dwelling units per acre for all residential dwelling unit types.

(b) For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.

(c) To achieve a density greater than 2.5 dwelling units per acre, but not exceeding 3 dwelling units per acre, the project should conform to the residential redevelopment policy and shall achieve three points from the list of lettered items below (A through Q).

(d) To achieve a density greater than 3 dwelling units per acre, but not exceeding 3.5 dwelling units per acre, the project should conform to the residential redevelopment policy and shall achieve four points from the list of lettered items below (A through Q).

(e) To achieve a density greater than 3.5 dwelling units per acre, but not exceeding 4 dwelling units per acre, the project should conform to the residential redevelopment policy and shall achieve five points from the list of lettered items below (A through Q).

(f) Under no circumstances can the density exceed four dwelling units per acre in the residential redevelopment district.

(g) Except as specified below, each of the lettered items shall result in a density bonus of 1 point.

Density Bonus Item Options	
A.	For every 15% of the total units that meet the definition of affordable/workforce housing (exceeding the expectations set forth in the residential redevelopment policy), a density bonus of 1 point shall be applied, up to a maximum of 2 points.
B.	Provision of at least 25% market rate units in the project. Such units shall be fully integrated into the development with regard to location, exterior materials, appearance from the street, and other attributes as determined by the Planning Director.
C.	Incorporation of two or more types of residential dwelling unit into the project (such as single family detached, multi-family with up to four units, multi-family with more than four units, or apartments).
D.	Development of binding design guidelines, subject to the approval of the Planning Director, that include superior architectural and design standards. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and use of Universal Design concepts.
E.	Provision of pedestrian links to surrounding destinations, such as public facilities or employment centers, which exceed requirements in section 24-35.
F.	Provision of one playground with a minimum area of 2,500 square feet and a minimum of five activities.
G.	For projects with fewer than 50 residential units, provision of a neighborhood park of .25 acres, with a minimum width of 60 ft. The parkland should be centrally located, relatively level, non-floodplain land outside the RPA, minimum 70% groomed space and the balance may be in natural tree cover.
H.	Preservation, enhancement, or restoration of natural resources (including trees, slopes, viewsheds, non-regulated wetland areas).
I.	Design of a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the Engineering and Resource Protection Division.
J.	Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division.
K.	Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy.

L.	Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee.
M.	Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the Director of Parks and Recreation or designee.
N.	Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed development is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.
O.	Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location.
P.	Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus).
Q.	Landscaping that meets 150% of plant size requirements per article II, division 4.

**Sec. 24-E. Permitted uses.**

In the residential redevelopment district 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 buildings or structures as defined	P	
	Accessory apartments in accordance with Section 24-32	P	
	Apartments	P	
	Home care facilities		SUP
	Multifamily dwellings up to and including four units	P	
	Multifamily dwellings greater than four units	P	
	Nursing homes and facilities for the residence and/or care of the aged		SUP
	Single-family dwellings	P	
Commercial Uses	Accessory buildings or structures as defined	P	
	Adult day care centers	P	
	Barber and beauty shops		SUP
	Business, professional and governmental offices		SUP
	Child day care centers	P	
	Coin laundries which are accessory to other residential uses and for the primary use of its residents	P	
	Community recreation facilities, including parks,	P	

	playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities		
	Hospitals		SUP
	Off-street parking as required by section 24-53	P	
	Photography studios and sales, artist and sculptor studios		SUP
	Professional and business offices located in the same structure as and in conjunction with multifamily uses.		SUP
	Rental of one room	P	
	Rental of two or three rooms to a maximum of three rooms		SUP
	Retail shops accessory to community recreation facilities	P	
	Temporary offices in accordance with section 24-111		SUP
	Tourist home		SUP
	Places of public assembly, such as meeting halls and houses of worship	P	
	Schools, libraries and fire stations	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
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
	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
	Telephone exchanges and telephone switching stations		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		SUP

	(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		
Open	Timbering in accordance with section 24-43	P	

**Sec. 24-F. Requirements for improvements and design.**

(a) *Water and sewer.* All structures and uses within a residential redevelopment district shall be served by publicly owned and operated water and sewer systems.

(b) *Parking.* Off-street parking facilities shall be provided in accordance with the off-street parking requirements of section 24-53.

(c) *Signage and entry points.* All signs within a residential redevelopment district shall comply with article II, division 3 of this chapter.

(d) *Streets.* All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation’s standards or the requirements of the county subdivision ordinance, regulations, whichever is greater. Such public streets shall be coordinated consistent with the major transportation network thoroughfare plan shown in the county Comprehensive Plan. Private streets may be permitted in accordance with the provisions of Sec. 24-62.

(e) *Pedestrian accommodation.* Pedestrian accommodation shall be provided in accordance with Section 24-35.

**Sec. 24-G. Open space.**

Within every residential redevelopment project consisting of 50 or more lots, there shall be planned and set aside permanently open space to be maintained exclusively for conservation and recreation purposes.

(a) Non-developable areas shall be maintained as open space. These areas shall not be included on any private lot, and should be protected through a dedicated conservation easement.

- (b) In addition, ten percent of the developable area of the site shall also be set aside as open space. The developable area open space may include, but is not limited to:
  - 1. Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;
  - 2. Area(s) for which a density bonus is also being proposed.
- (c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:
  - 1. Area on any individual private lots, or in the case of condominiums, within fifteen feet of the units, with the exception of easements for streetscapes.
  - 2. Land within public road rights-of-way and utility or drainage easements
- (d) In meeting the developable area open space requirements specified in (b), open space shall be arranged on the site in a manner that is suitable in its size, shape, and location for the conservation and recreational uses intended, with adequate access for the entire development. At a minimum, the open space shall adhere to the following standards:

Item	Numerical Standard	Design Standard
Neighborhood Park	50 – 77 Units: Provide 1 park (minimum of 0.3 acres) 78+ Units: Provide 0.0039 acres per unit	Parkland should be centrally located, with no less than 0.25 acres in a single piece and with a minimum width of 60 ft. The parkland should be relatively level non-floodplain land outside the RPA, minimum 70% groomed space and the balance may be in natural tree cover.

**Sec. 24-H. Ownership and maintenance of open space.**

Residential redevelopments shall have a homeowners association established in accordance with Section 19-68 of the Subdivision Ordinance. An alternative structure may be established, so long as said alternative is acceptable to the Zoning Administrator and County Attorney; demonstrates appropriate ownership of open space identified on the approved master plan; and demonstrates appropriate maintenance or preservation of said open space, consistent with the approved master plan.

**Section 24-I. Minimum lot width and area requirements.**

There are no minimum lot width or area requirements.

**Section 24-J. Yard regulations.**

- (a) *Front.* There is no front setback requirement.
- (b) *Side.* The minimum side yard shall be 5 feet.
- (c) *Rear.* The minimum rear yard shall be 20 feet.
- (d) The rear and side yards may be reduced to zero with approval of the Planning Director, provided that easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner’s building for purposes of essential maintenance and service. The minimum

distance between any two buildings within residential redevelopment shall be governed by the Virginia Uniform Statewide Building Code.

**Sec. 24-K. Height of structures.**

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

(1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that there are two side yards for each permitted use each of which is a minimum of 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.

(2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.

(3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas and home radio aerials 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:

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

(4) No accessory building which is within ten feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height.

**Sec. 24-L. Buffer requirements.**

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.

(b) *Perimeter buffers.* Within any residential redevelopment district approved under this article, there shall be a perimeter buffer along the perimeter property lines of the development except for areas adjacent to road rights-of way. Existing buffers up to 75 feet shall be preserved in their entirety. In those instances where the existing buffer is greater than 75 feet, the minimum buffer shall be 75 feet. In all other circumstances the minimum buffer shall be 20 feet. 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, consistent with article II, division 4 (Landscaping).

(c) *Buffer modifications; criteria for determination.* Reduction of the width or waiver of the buffers specified in subsections (a) and (b) above may be approved for a residential redevelopment district. Reductions may be approved upon demonstration that the proposed buffer, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the buffer requirement of this section and the intent of article II, division 4 (Landscaping); 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. Where circumstances warrant a waiver of the buffer, such waiver may be approved upon demonstration that it 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 buffer reduction or waiver must meet one or more of the following criteria:

- (1) The request is for the purpose of integrating proposed residential redevelopment with adjacent development;

(2) The requested buffer width substantially preserves, enhances, integrates and complements existing trees and topography;

(3) The request is due to unusual size, topography, shape or location of the property, location of existing structures, 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.

(e) *Uses prohibited.* Buffers shall not be used for streets or for parking except for entrances and driveways which may penetrate the buffer.

(f) Appeals. In the event the planning director disapproves of the items specified in (c) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the Planning Commission.

## **JAMES CITY COUNTY RESIDENTIAL REDEVELOPMENT POLICY**

Projects seeking rezoning to the R-3, Residential Redevelopment District, should meet or exceed the following expectations:

1. Be located in the Primary Service Area;
2. Bring non-conforming parcels into greater conformance;
3. Provide or improve public infrastructure (including but not necessarily limited to public streets, water and/or sewer service, and stormwater facilities);
4. Provide affordable and/or workforce housing units, where at least 50% of all proposed housing units shall meet the definition of workforce housing, with a minimum of 25% of all proposed housing units meeting the definition of affordable housing.

**Chapter 24**  
**Article I. In General**

**Sec. 24-2. Definitions**

*Developable Area. Developable area shall consist of the total land area of the site minus Resource Protection Area as defined in the Chesapeake Bay Preservation Ordinance, areas subject to flooding under the 100-year storm event (FEMA zones A and AE), and areas of 1,000 square feet or greater containing slopes exceeding 25 percent gradient.*

*Non-developable Area. Non-developable areas consist of all Resource Protection Area as defined in the Chesapeake Bay Preservation Ordinance, areas subject to flooding under the 100-year storm event (FEMA zones A and AE), and areas of 1,000 square feet or greater containing slopes exceeding 25 percent gradient*

**Chapter 24**  
**ARTICLE VI. OVERLAY DISTRICTS**  
**DIVISION 1. RESIDENTIAL CLUSTER DEVELOPMENT**

**Sec. 24-538. Statement of intent.**

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

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

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

**Sec. 24-540. Where permitted.**

A residential cluster development is permitted in the R-1, R-2, and R-5 zoning districts *inside the Primary Service Area*. The requirements of this article shall govern where there is a conflict with the requirements of the underlying district.

**Sec. 24-541. Minimum site size.**

The minimum site size for a residential cluster development is five acres, except that extensions to an existing cluster development may be less than five acres. The planning director may waive the minimum site size requirements for residential cluster developments which provide affordable housing set forth in section 24-549 below. However, in no case shall such development be less than two acres. Such a waiver

may be considered upon the applicant providing a written request to the planning director to waive the minimum acreage requirement demonstrating to the satisfaction of the planning director that:

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

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

#### **Sec. 24-542. Permitted uses.**

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

#### **Sec. 24-543. Utilities.**

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

#### **Sec. 24-544. Buffer requirements.**

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) ~~If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above. The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.~~

(b) *Perimeter buffers.* Within any ~~major subdivision~~ *residential cluster* approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-XX of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning

~~director~~commission may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

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

(d) *Modifications to the landscape requirements.* The planning ~~director~~commission may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~director~~commission under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~director~~commission may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~director~~commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to

natural drainage channels may be permitted at different angle to the property line upon ~~the recommendation of the environmental director and the approval of the planning director~~ **commission**.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning **director** **commission**.

*(i) Appeals.* *In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the Planning Commission.*

#### **Sec. 24-545. Setback requirements.**

The minimum setback from the right-of-way shall be shown on the plan of development and on the recorded subdivision plat. The minimum setback from external streets shall be the same as that required by the zoning district in which the lot is located, except as superceded by section 24-544. The minimum setback from internal streets may be reduced to zero provided that no building in a residential cluster shall be closer than 3525\* feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

(\*Note: This amendment is to provide some additional design flexibility and meet sustainability goals, while still largely maintaining buffer and external setback consistency with conventional subdivisions so as to not adversely affect existing adjacent developments.)

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

There are no lot width or area requirements.

#### **Sec. 24-547. Yard regulations.**

The rear and side yards may be reduced to zero, ~~provided that easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Reductions of rear or side yards made under this provision shall also be subject to the following conditions:~~

- (a) The minimum distance between any two buildings within the residential cluster development shall be governed by the State of Virginia Building Code.
- (b) No building in a residential cluster development shall be closer than 3525\* feet to the internal edge of perimeter buffers.

*(b) That easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Documents establishing such easements or covenants shall be satisfactory to the county attorney and submitted prior to approval of the development plan.*

(\*Note: This amendment is to provide some additional design flexibility and meet sustainability goals, while still largely maintaining buffer and external setback consistency with conventional subdivisions so as to not adversely affect existing adjacent developments.)

**Sec. 24-548. Density.**

In a residential cluster development, the minimum and maximum number of dwelling units per acre of gross acreage as calculated below shall be as follows:

<i>Comprehensive Plan Designation</i>	<i>Minimum</i>	<i>Maximum</i>
Low-Density Residential	0	4.0
Moderate-Density Residential	4.0	12.0

*For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.*

For the purpose of calculating gross density, gross acreage shall be calculated as shown below:

<i>Gross Acreage</i>	
<i>Percentage of Nondevelopable Area</i>	<i>Gross Acreage Shall Equal:</i>
Less than 35	Total area of parcel
35 or more	Developable land plus 35% of the parcel=s land

Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding under the 100 year storm event, wetlands and areas with slopes exceeding 25 percent gradient. If the cluster development lies in more than one Comprehensive Plan Land Use Designation, the number of dwelling units shall be calculated separately for each designation.

**Sec. 24-549. Density Standards.**

~~(a) Low density residential cluster development. Within any low density residential cluster development, the following standards shall apply:~~

- ~~(1) Residential cluster developments of one unit per acre or less may be permitted in areas designated low density residential on the comprehensive plan land use map upon the approval of a master plan by the planning commission in accordance with section 24-553.~~
- ~~(2) Residential cluster developments of more than one unit per acre, but of no more than two units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit from the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24-553. In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:
 
  - ~~a. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~
  - ~~b. Implementation of the county's Archaeological Policy.~~
  - ~~c. Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.~~
  - ~~d. Provision of recreation facilities as recommended in the county=s Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of~~~~

~~Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~e. Implementation of the county's Natural Resources Policy.~~

~~(3) Residential cluster developments of more than two units per acre, but of no more than three units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit by the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24-553. In addition to items (2)(a) through (e) above, the developer shall make assurances in a master plan or otherwise for the following:~~

~~a. Provision of pedestrian and/or bicycle trails, where topographically feasible, which connect cul de sacs throughout the development to each other and to the recreation area; or provision of sidewalks on both sides of all internal streets in the development, including the entrance road; or a combination of trails and sidewalks as stated above. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property.~~

~~b. Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:~~

~~1. The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or~~

~~2. Along those segments of road, including the entrance road, where structures are not planned.~~

~~(4) At its discretion, the board of supervisors may award density bonuses to a gross allowable base density of two dwelling units per acre for the following items, provided that no total density exceeds four dwelling units per acre in areas designated low density residential on the comprehensive plan land use map. In addition, the board of supervisors may waive one or more of the requirements for standards (3)(a) and (b) above in approving these density bonuses; however, standards (2)(a) through (e) shall remain as requirements of the developments.~~

~~a. An additional 0.5 dwelling unit per acre may be awarded for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.~~

~~b. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, protection of wildlife habitat corridors, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program, or the *Sustainable Building Technical Manual* by the United States Department of Energy.~~

~~c. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and~~

~~group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.~~

~~No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.~~

~~(b) Moderate density residential cluster development. Within any moderate density residential cluster development, the following standards shall apply:~~

~~(1) Residential cluster developments of four units per acre but less than nine units per acre may be permitted in areas designated moderate density residential on the comprehensive plan land use map and zoned R-5 upon the approval of a master plan by the planning commission in accordance with section 24-553. In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:~~

~~a. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~

~~b. Implementation of the county's Archaeological Policy.~~

~~c. Provision of sidewalks on both sides of all internal streets and drive aisles in the development, including the entrance road. This requirement may be waived or modified by the planning commission under the following circumstances:~~

~~1. The development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property, or~~

~~2. The planning director agrees with the applicant that there will be no practical destination ——— point or route connected to the segment of sidewalk now or in the future.~~

~~d. Provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the board of supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~e. Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:~~

~~1. The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or~~

~~2. Along those segments of road, including the entrance road, where structures are not planned.~~

~~f. Implementation of the county's Natural Resources Policy.~~

~~(2) At its discretion, the planning commission may award density bonuses to a gross allowable base density of nine dwelling units per acre for the following items, provided that no total density exceeds 12 dwelling units per acre in areas designated moderate density residential on the comprehensive plan land use map. Standards (1)(a) through (f) shall remain as requirements of the developments:~~

~~a. An additional 0.5 dwelling unit per acre for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such~~

~~units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.~~

- ~~b. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program, or *The Sustainable Building Technical Manual* by the United States Department of Energy.~~
- ~~c. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.~~
- ~~d. An additional one dwelling unit per acre for land dedicated and accepted by the county for a public use site. The site shall be suitable for the proposed use, and shall be a minimum of five acres.~~

~~No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.~~

*The density standards applicable in areas designated Low Density Residential and Moderate Density Residential by the Comprehensive Plan are as listed in the table below. The approval process for cluster development shall be as stated in Section 24-553. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.*

<i>Density Designation on the Comprehensive Plan</i>	<i>Moderate Density Residential Designation on the Comprehensive Plan</i>	<i>Percent of Developable Acreage as Open Space</i>	<i>Required Density Bonus Items from List Below</i>
<i>Up to 1</i>	<i>4</i>	<i>25%</i>	<i>None</i>
<i>More than 1, but no more than 2</i>	<i>More than 4, but no more than 6</i>	<i>25%</i>	<i>2</i>
<i>More than 2, but no more than 3</i>	<i>More than 6, but no more than 9</i>	<i>30%</i>	<i>4</i>
<i>More than 3, but no more than 4</i>	<i>More than 9, but no more than 12</i>	<i>35%</i>	<i>6</i>

*Except as specified below, each of the lettered items shall result in a density bonus of 1 point.*

<i>Density Bonus Item Options</i>	
<i>A.</i>	<i>For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy*), a density bonus of 1.5 shall be applied. (*Note: This item may need to be adjusted based on development of a Policy)</i>
<i>B.</i>	<i>Design of a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the Engineering and Resource Protection Division, shall result in a density bonus of 1.5.</i>

C.	Development of binding design guidelines for Planning Director approval that include superior architectural and design standards shall result in a density bonus of 1.5. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and use of Universal Design concepts.
D.	Meeting a majority of items (a) – (d) listed in Section 24-551, Open Space Development Design, as determined by the planning director, shall result in a density bonus of 1.5.
E.	Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site. <ul style="list-style-type: none"> <li>• <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</li> <li>• Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils)</li> <li>• Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u></li> <li>• Preservation of <u>wildlife habitat corridors</u> that: <ul style="list-style-type: none"> <li>○ Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and</li> <li>○ Consist of mature forestland</li> </ul> </li> </ul>
F.	Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division.
G.	100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site).
H.	Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy.
I.	Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee.
J.	Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the Director of Parks and Recreation or designee.
K.	Use of an infill site (80% of the property's boundaries abut previously developed land).
L.	Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.
M.	Preservation of a single area of healthy, mature, native forestland at least two acres in size.
N.	Retention of a single area of agricultural land of prime or statewide importance at least five acres in size.
O.	Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location.
P.	Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus).

**Sec. 24-5502. Amount of open space required. Open Space**

~~(a) Within every residential cluster development approved under this article, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes. It is recommended that the open space be protected by establishing a permanent conservation easement. The amount of such open space shall include not less than 40 percent of the net developable area of the site in low density residential areas and 35 percent of the net developable area in moderate density residential areas. These amounts may be reduced to the following percentages at the discretion of the planning commission if the proposed development dedicates the following percentage of its total units to affordable housing:~~

<del>Percentage of Total Units Dedicated to Affordable Housing</del>	<del>Percentage of Open Space Required in Low Density Residential</del>	<del>Percentage of Open Space Required in Moderate Density Residential</del>
<del>10 to 55</del>	<del>30</del>	<del>25</del>
<del>More than 55 to 100</del>	<del>25</del>	<del>20</del>

~~Golf courses may be counted as open space for the purpose of meeting this requirement to a maximum of 30 percent of the required open space. The developable area of right of way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.~~

~~(b) In addition, all nondevelopable areas consisting of all stream beds, areas subject to flooding under the 100 year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.~~

~~(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the planning commission shall find that:~~

- ~~(1) No land lying within a proposed or existing road right of way, utility easement or drainage facility is counted toward the minimum open space requirement; and~~
- ~~(2) The land is suitable in its size, shape and location for the conservation and recreational purposes for which it is intended, with adequate access for the entire development and served with adequate facilities for such purpose; and~~
- ~~(3) No part of a private yard or area determined by the planning commission to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and~~

~~(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual maintenance of designated open space areas to relieve the county of future maintenance.~~

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

*(a) Non-developable areas shall be maintained as open space. These areas shall not be included on any private lot, and should be protected through a dedicated conservation easement.*

(b) A percentage of the developable area of the site shall also be set aside as open space, as specified in Section 24-549.

1. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Area(s) for which a density bonus is also being proposed, as listed in Section X (i.e. wildlife habitat corridors, watershed management plan conservation areas, etc.);
- c. The following areas, up to the percent specified
  - i. Golf courses – cannot exceed 30% of the developable open space required
  - ii. Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required
  - iii. Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)

(c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

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

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

<b>Open Space</b>	
<b>Nondevelopable Open Space, as defined</b>	<b>Acreage</b>
<b>Developable Open Space Required</b>	<b>Acreage</b>
<b>Developable Open Space Provided</b>	<b>Acreage</b>
<ul style="list-style-type: none"> <li>• Area(s) used to meet County policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable)</li> </ul>	
<ul style="list-style-type: none"> <li>• Area(s) for which a density bonus is also being proposed (provide subtotals if applicable)</li> </ul>	
<ul style="list-style-type: none"> <li>• Area of golf courses</li> </ul>	
<ul style="list-style-type: none"> <li>• Area in required right-of-way and perimeter buffers</li> </ul>	
<ul style="list-style-type: none"> <li>• Area in stormwater management facilities</li> </ul>	
<ul style="list-style-type: none"> <li>• Other qualifying open space area</li> </ul>	
<b>Total</b>	

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

*(a) Conservation/general open space:*

- 1. Located to preserve existing significant natural and historic features and scenic viewsheds such as ponds and views to open water, particularly those that can be seen from public roads (See Attached Graphic A – to be inserted as is, if copyright permission is obtained, or with a similar depiction)*
- 2. Located to adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future protected open space (See Attached Graphic B – to be inserted as is, if copyright permission is obtained, or with a similar depiction)*
- 3. Located so as to be interconnected and contiguous to the extent possible, and located so as to benefit and be accessible to the maximum number of units*
- 4. Prominently located within the development (for example, at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within the residential area).*

*(b) Recreation*

- 1. Cluster developments shall adhere to the Parks and Recreation Master Plan Proffer Guidelines. Any additional land intended for recreation shall be useable for the purpose intended, and also follow the design specifications in the Parks and Recreation Master Plan Proffer Guidelines.*

**Section 24-551. Open Space Development Design**

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

- a. The design should take advantage of the compact design by clustering development into a walkable scale neighborhood and preserving significant open space and natural features;*
- b. The development should be designed to complement existing topography and minimize the need for alteration of the landscape;*
- c. The development should use a mixture of diverse unit types, lot sizes, and/or unit prices\*;*
- d. The design should use a creative layout. Examples could include:*
  - 1. Fronting on open space*
  - 2. Constructed with one side exterior wall along the side property line to allow side or rear yard garages*
  - 3. Detached or attached homes on loop lanes, such as in Figure 1.*

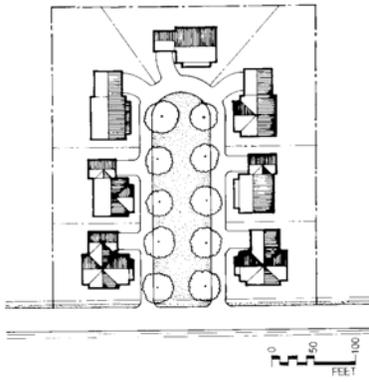


Figure 1. Example of homes on loop lanes.

4. The development should use Better Site Design Techniques such as group or shared parking, and shared driveways
5. The development design should have clear access from the units to the open space by abutting it, or via sidewalks or trails

\*(This item may need to be adjusted based on the content of a possible Affordable Housing Policy)

**Sec. 24-5523. Ownership of open space. Establishment of homeowners association**

A homeowners association shall be established in accordance with Section 19-68 of the Subdivision Ordinance.

~~Within any residential cluster development approved under this article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold or used within the development until a declaration of covenants and restrictions or other documents necessary to establishing a permanent homeowners organization has been approved by the county attorney and has been executed. Such documents shall set forth the following:~~

- ~~(1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property.~~
- ~~(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.~~

*The homeowner's association documents shall set forth the nature (recreation or conservation) and location of the open space(s) either through illustration or through incorporation by reference of the development's master plan. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan.*

**Sec. 24-5530. BMP requirements.**

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

**Sec. 24-5541. Performance assurance.**

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

**Sec. 555. Pedestrian Accommodation.**

*Pedestrian accommodation shall be provided in accordance with Section 24-35.*

**Sec. 24-5564. Review and approval process.**

(a) *Conceptual Plan and Master Plan. Any conceptual or master plan for a residential cluster development proposed under this article shall include the elements listed below. For master plans, these elements shall be in addition to meeting the requirements of Section 24-23.*

- (1) *Where a bonus density above the base density is sought, depiction and/or documentation of the items that the applicant plans to pursue;*
- (2) *Conceptual development design, including required setbacks and buffers, and illustration of the features listed above in the open space and open space development design sections;*
- (3) *Marginal data and depiction which shows the gross acreage of the site, the nondevelopable area, the total number of dwelling units and/or lots, and, in the table format specified above, the amount of open space required by section, and the amount of open space provided; and*
- (4) *Conceptual stormwater design, illustrating use of better site design and low impact development techniques, where possible.*

**(b) Approval Process.**

- (1) *In instances where a special use permit is not required by the residential district, a master plan shall be filed with the planning director who shall recommend action on the plan to the development review committee. The development review committee shall approve the master plan upon finding that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable Residential Designation Description of the Comprehensive Plan of James City County.*
- (2) *In instances where a special use permit is required by the residential district:*
  - i. *Prior to submission of a master plan for legislative action, the applicant is strongly encouraged to file a conceptual plan for review by the development review committee. The development review committee shall provide a recommendation on the conceptual plan based upon their findings regarding the extent that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable Residential Designation Description of the Comprehensive Plan of James City County.*
  - ii. *A master plan in accordance with Section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the Planning Commission.*

~~A master plan for a residential cluster development proposed under this article shall be filed with the planning director, who shall submit it to the planning commission and board of supervisors in instances where a special use permit is required or to the development review committee in cases where a special use permit is not required. The planning director shall recommend action on the plan to the planning commission, and to the board of supervisors in instances where a special use permit is required. The planning commission and board of supervisors, where applicable, shall approve the master plan upon finding that:~~

- ~~(1) Such cluster development will preserve the environmental integrity of the site by protecting features such as wetlands, steep slopes, stream valleys, or natural vegetation; and~~
- ~~(2) The cluster development will not impair the character of the area or create unacceptable adverse off-site infrastructure impacts; and~~
- ~~(3) The proposed project is in accordance with the Comprehensive Plan of James City County; and~~

~~(4) The structures within the residential cluster development are sited in a way that preserves prominent open space features which are within or adjoin the site, such as open fields or farmland, scenic vistas, sight lines to historic areas or structures, and archaeological sites.~~

~~(b) Master plan. The master plan shall identify proposed areas and uses of open space including the nondevelopable areas. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or a planner. A scale shall be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. It shall include:~~

- ~~(1) An inset map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or landmarks.~~
- ~~(2) A north arrow.~~
- ~~(3) The location of existing property lines, existing above and below ground utility easements, scenic easements, watercourses or lakes, wooded areas and existing woods which are within or adjoin the property.~~
- ~~(4) The boundaries of each section, topography and approximate location of proposed streets, proposed areas and uses of open space, proposed parking areas, proposed recreation areas, proposed lots and/or buildings, and phasing of development.~~
- ~~(5) Marginal data which shows the gross acreage of the site, the net developable area, the proposed facilities qualifying for density bonuses or required per the density standards, the total number of dwelling units and/or lots, the number of bonus units and/or lots, the minimum amount of open space required by section 24-551(a) and the total amount of open space.~~
- ~~(6) Master water, sewer and drainage plans and schematic plans.~~
- ~~(7) All required setbacks, right of way buffers and perimeter buffers; all preserved tree areas, preserved slopes, open space areas and proposed bicycle/pedestrian access thereto; and proposed storm water management facilities.~~

~~(c) Status of master plan. The approval of the master plan under this section shall not be considered an approved preliminary plat as defined in the subdivision ordinance.~~

~~(d) Administrative consistency review. The planning director may determine certain minor changes to a development plan are consistent with the master plan. A conceptual plan may be submitted to the planning director for this purpose in a form sufficient to illustrate the proposed deviations. For the purpose of this section, minor determinations of consistency include changes that meet all of the following:~~

- ~~(1) Do not significantly affect the general location or classification of housing units or buildings as shown on the master plan.~~
- ~~(2) Do not significantly alter the distribution of recreation or open space areas on the master plan.~~
- ~~(3) Do not significantly affect the road layout as shown on the master plan.~~
- ~~(4) Do not significantly alter the character of land uses or other features or conflict with any binding conditions placed on the corresponding legislatively approved case associated with the master plan.~~

~~The planning director shall notify the chair of the development review committee when minor determinations of consistency are approved. Determinations of consistency that do not meet the criteria listed above shall follow the procedures for development plan review as outlined in section 24-554 (e) of the zoning ordinance.~~

~~(e) *Development plan review.* Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any binding conditions placed on the approval of rezoning. A conceptual plan may be submitted to the planning commission for this purpose in a form sufficient to illustrate the proposed deviations. If the planning commission determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.~~

~~(f) *Master plan review fees.* Submittal of a master plan shall be accompanied by the fee charged for master plan review in accordance with the current fee schedule section 24-7 of this chapter.~~

~~(g) *Master plan Agreement.* Prior to final approval of the first sectional plan, an agreement shall be executed between the developer and the county which shall be binding upon the developer, his successors, assigns or heirs to the effect that the approved master plan shall govern the development of the total residential cluster development. This provision does not preclude the adjustment of the plan in accordance with section 24-553(d).~~

~~(h) *Sectional plans Action.* Sectional plans submitted in accordance with subsection (d) shall be reviewed in accordance with and shall meet the requirements of, article III of this chapter or the county's subdivision ordinance, whichever is appropriate. However, all sectional plans submitted for moderate density cluster development shall be reviewed in accordance with and meet the requirements of article III of this chapter.~~

**Secs. 24-557~~5~~ - 24-563. Reserved.**

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## Policy Committee Specific Input & Staff Responses

At the February 2011 Policy Committee meeting, a specific list of items to consider was provided to staff. Please find below the items on the list and staff information on how these items were addressed in the draft ordinance process.

### **1. Make Cluster Overlay by-right.**

The current ordinance already allows for by-right Low Density Residential-designated clusters in R-2 at the base density (1 unit per acre or less), and for Moderate Density Residential-designated clusters in R-5 between 4 and 12 units per acre, with DRC/PC approval of a master plan. In practice, there is very little pre-zoned R-1, R-2 or R-5 land, so a legislative action (rezoning to the base district) is typically necessary in any case. Due to this circumstance, staff has not proposed changing the cluster approval process.

### **2. Require a conceptual plan.**

The draft ordinance includes language to strongly encourage submission of a conceptual plan prior to the legislative process.

### **3. A primary objective is to provide a diversity of housing types.**

This idea is included in the development design section as an item that the applicant should demonstrate they considered at the conceptual and/or master plan stage.

### **4. Establish percentage guidelines for types of dwellings (i.e. semi-detached, multi-family, single family).**

The JCC ordinance uses cluster as an overlay within the PSA. The overlay applies to R-1, R-2 and R-5, which are districts oriented to different types of residential development. In R-1, no multifamily/attached units are permitted. Conversely, in R-5, multifamily is the focus and single family dwellings are typically permitted only with a SUP. Given the differences in focus of these underlying districts, specific dwelling type requirements for the overlay would be difficult to develop in a manner that preserved the intended character of the district. Staff has included this idea in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage. Separate from the ordinance language itself, this issue could also be a consideration of the PC or BOS during rezoning of any particular development project.

### **5. Establish a range of permitted lot sizes and an overall average for the development.**

The cluster overlay currently allows for complete flexibility in lot sizes, since there is no minimum lot size as is common in the base (R-1, R-2, R-5) districts. To balance the benefits of this flexibility with the goal of encouraging variety within cluster communities, staff has included the idea of a range of lot sizes in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage.

### **6. Establish a base open space percentage requirement.**

The open space percentage requirements are listed in the density standards section.

**7. Provide a definition of open space following open space design principles.**

Staff has included a revised section on open space that lists what can be counted toward the required developable open space. It also has information on what considerations should be made in designing the open space layout.

**8. Include illustrated open space design principles.**

Staff has included some graphics in the open space and open space development design sections.

**9. Include some commercial uses**

- **Consider by-right neighborhood commercial uses.**
- **Consider other commercial uses requiring a special use permit.**
- **Establish a maximum percent of acreage permitted for commercial uses.**

Since the cluster is an overlay district, staff has been looking at this in relation to the base districts (R-1, R-2 and R-5) and will offer ideas for the Committee's consideration with the other residential housekeeping items in August.

**10. Provide a density bonus on a sliding scale of open space provided based on design principles.**

This idea has been addressed in the density standards section.

**11. Provide a density bonus for putting open space into a permanent conservation easement.**

The current cluster ordinance states that open space should be put in conservation easements, and additionally, applicants get credit through the stormwater management point system for putting land in easements. For these reasons, staff has not proposed to include this as a density bonus item. A number of other environmental measures are included in the density standards bonus items list.

**12. Provide a density bonus for providing affordable housing.**

This idea is addressed in the density standards section.

**13. Structure density bonuses to allow for a combination of approaches.**

This idea is addressed in the density standards section.



# *James City County Comprehensive Parks and Recreation Master Plan* *Proffer Guidelines*

## Introduction

Mini parks/neighborhood parks and recreational amenities provide opportunities for physical activity, improved health, improved community interactions, and personal enjoyment to residents. Neighborhoods are residential subdivisions with or without other associated land uses in the subdivision. The number of housing units and their type are used to evaluate how the proffer guidelines apply and standards are based on the 2008 Parks and Recreation Master Plan or other appropriate and professionally recognized guidelines or standards. The requirements for parks will be reviewed and applied for all phases of a development together or to the total of contiguous parcels subdivided by the same developer. These guidelines are divided into three sections: I. recommended proffer elements, II. design specifications, and III. cash contribution indexing. All three sections should be referenced in development of any master plan and proffer set.

### I. Recommended Proffer Elements

Recreational programming for neighborhood recreation area shall include facilities in each of the following major categories:

- Playground with 5 activities minimum or, in age-restricted communities, an age-appropriate alternative facility (for example: lawn bowling, community gardening, bocce area, picnic shelters and grills, horseshoe pit, or wildlife observation platform)
- Sport court or competitive pool
- Graded athletic field
- Paved multiuse trails located either within the recreation area or providing connections from residences to recreation areas or adjacent trails and developments

The Director of Planning or his designee can modify pool design standards if necessary, provided that the overall design gives equivalent benefit to the desired population as a 25 meter competitive pool. Any major category of recreational amenity not provided is to be met by providing cash in lieu in accordance with the amounts recommended in section II of this document. See Exhibit 1 at the end of this document for an example arrangement to meet these Guidelines.

Other types of activities may be included in addition to but not in lieu of the above listed major category activities. Activities selected for a neighborhood park should be appropriate to the anticipated resident population with age appropriate activity programming for the space. For more information, see design specifications in section III of this document.

### II. Cash Contributions

Costs listed in the following recommended proffers shall be updated annually on January 1 by applying the Marshall-Swift Index for that year. James City County reserves the right to adjust the costs listed between anniversaries should a construction material, such as asphalt, undergo a significant price increase in excess of 8% per annum.

## A. Recommended Proffers for Single Family Detached Developments (2.58 persons/unit)<sup>1</sup>

Single family detached units average 2.58 persons per unit and therefore 388 units would house approximately 1000 persons.

### Park land

Pocket Parks / Neighborhood Parks = 1.5 acres/1000 population. Pocket Parks / Neighborhood Parks are required for all developments; cash in lieu is not acceptable.

Analysis:	1.5 acres/1000 pop. = 1.5 acres/388 units = 0.0039 acres per unit
Recommended Proffer:	1-77 units                      1 park (minimum 0.3 acres)
	78 or more units                0.0039 acres/unit

### Biking/Jogging Trails

Analysis:	Hard surface multiuse	0.4 miles/1000 pop. = 0.4 miles/388 units = 0.001 miles/unit
	Soft surface gravel	0.4 miles/1000 pop. = 0.4 miles/388 units = 0.001 miles/unit
		0.001 miles/unit x 5280 FT/mile = 5.28 LF/unit
	Gravel trail	\$28/LF x 5.28LF/unit = \$147.84
	Paved trail	\$105/LF x 5.28LF/unit = \$554.40
	Average cost	\$67/LF x 5.28LF/unit = \$353.76

Recommended Proffer:

If a trail is not provided, the average cost to construct a trail shall be used to calculate the appropriate cash in lieu.

### Playgrounds

Analysis:	1 playground/2500 pop. = 1 playground/969 units = 0.001 playground/unit	
	Approximate cost per neighborhood playground is \$29,000.	
Recommended Proffer:	1-74 units                      0.001 x \$29,000/playground = \$29.00/unit	
		OR 1 playground
		OR alternative age-appropriate activity
	75-969 units                    1 playground	
	970 or more units            1 playground plus \$29.00/unit for each unit above 970 or the equivalent in playgrounds.	

### Courts or Pool

Analysis:	Basketball 1 court/2500 pop. = 0.40 court/1000 = 1 court/969 units = 0.001 court/unit
	Tennis 1 court/5000 pop. = 0.20 court/1000 = 1 court/1938 units = 0.0005 court/unit
	Approximate cost per basketball court is \$33,350.

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<sup>1</sup> Methodology for determination of average household size located in Appendix A

Approximate cost per tennis court is \$54,500.

Recommended Proffer:	Basketball- 1-969 units	$0.001 \times \$33,350 = \$33.35/\text{unit}$ OR 1 court
	970 or more units	1 basketball court plus \$33.35/unit above 970 units or the equivalent in courts.
	Tennis- 1-1938 units	$0.0005 \text{ court/unit} = \$27.25/\text{unit}$ OR 1 court
	1939 or more units	1 tennis court plus \$27.25/ unit above 1939 units or the equivalent in courts.
	Average Cost:	\$30.30/per unit

If a hard surface sport court or pool is not provided, the average cost to construct a sport court shall be used to calculate the appropriate cash in lieu.

Fields, Multiuse rectangular/soccer

Analysis:	$1 \text{ field}/4000 = 0.25 \text{ field}/1000 = 1 \text{ field}/1550 \text{ units} = 0.00065 \text{ fields/unit}$	
	Approximate cost per field is \$100,000.	
Recommended Proffer:	1-1549 units	$0.00065 \times \$100,000 = \$64.52/\text{unit}$ OR 1 field
	1550 or more units	1 field plus \$64.52/unit above 1550 units or the equivalent in fields.

**B. Recommended Proffers for Single Family Attached and Multifamily Developments (1.52 persons/unit)<sup>2</sup>**

Townhouse and multi-family units average 1.52 persons per unit and therefore 658 units would house approximately 1000 persons.

Park land

Pocket Parks / Neighborhood Parks = 1.5 acres/1000 population. Pocket Parks / Neighborhood Parks are required for all developments; cash in lieu is not acceptable. Due to the higher density of townhouses and multi-family developments there is a greater need for pocket parks / neighborhood parks as shared open space.

Analysis:	$1.5 \text{ acres}/1000 \text{ pop.} = 1.5 \text{ acres}/658 \text{ units} = 0.0023 \text{ acres per unit}$	
Recommended Proffer:	1-130 units	1 park (minimum 0.3 acres)
	131 or more units	0.0023 acres/unit

Biking/Jogging Trails

Analysis:	Hard surface multiuse	$0.4 \text{ miles}/1000 \text{ pop.} = 0.4 \text{ miles}/658 \text{ units} = 0.00061 \text{ miles/unit}$
	Soft surface gravel	$0.4 \text{ miles}/1000 \text{ pop.} = 0.4 \text{ miles}/658 \text{ units} = 0.00061 \text{ miles/unit}$

<sup>2</sup> Methodology for determination of average household size located in Appendix A

0.00061 miles/unit x 5280 FT/mile = 3.21 LF/unit

Gravel trail \$28/LF x 3.21 LF/unit = \$89.87

Paved trail \$105/LF x 3.21 LF/unit = \$337.05

Average cost \$67/LF x 3.21 LF/unit = \$215.07

Recommended Proffer: If a trail is not provided, the average cost to construct a trail shall be used to calculate the appropriate cash in lieu.

### Playgrounds

Analysis: 1 playground/2500 pop. = 1 playground/1645 units = 0.00061 playground/unit

Approximate cost per neighborhood playground is \$29,000.

Recommended Proffer: 1-50 units 0.00061 x \$29,000/playground = \$17.63/unit

OR 1 playground

OR alternative age-appropriate activity

51-1645 units 1 playground

1645 or more units 1 playground plus \$17.63/unit for each unit above 1645 or the equivalent in playgrounds.

### Courts or Pool

Analysis: Basketball 1 court/2500 pop. = 0.40 court/1000 = 1 court/1645 units = 0.00061 court/unit

Tennis 1 court/5000 pop. = 0.20 court/1000 = 1 court/3290 units = 0.00030 court/unit

Approximate cost per basketball court is \$33,350.

Approximate cost per tennis court is \$54,500.

Recommended Proffer: Basketball-1-1645 units 0.00061 x \$33,350 = \$20.27/unit OR 1 court

1646 or more units 1 basketball court plus \$20.27/unit above 1645 units or the equivalent in courts.

Tennis- 1-3289 units 0.00030 x \$54,500 = \$16.35/unit OR 1 court

3290 or more units 1 tennis court plus \$16.35/ unit above 3290 units or the equivalent in courts.

Average Cost: \$18.31/per unit

If a hard surface sport court or pool is not provided, the average cost to construct a sport court shall be used to calculate the appropriate cash in lieu.

### Multi-use Fields (rectangular/soccer)

Analysis: 1 field/4000 = 0.25 field/1000 = 1 field/2632 units = 0.00038 fields/unit

Approximate cost per field is \$100,000.

Recommended Proffer: 1-2631 units 0.00038 x \$100,000 = \$38.00/unit OR 1 field

2632 or more units 1 field plus \$38.00/unit above 2632 units or the equivalent in fields.

### III. Design Specifications

In general, facilities should be built according to James City County standards as set forth in the 2002 JCC Greenways Master Plan, or other appropriate and professionally recognized standards or guidelines for technical information on size, details, and orientation, and in compliance with all applicable local, state, and national codes and regulations. Minimum size of fields/courts is to be high school level of play to be suitable for the widest range of users.

#### Mini Park / Neighborhood Park

Minimum mini park / neighborhood park size is 13,068 SF or 0.3 acres of relatively level, non-flood plain land outside the RPA, minimum 70% groomed space and the balance may be in existing natural tree cover. Goals for retaining existing trees are to reduce wind speeds in recreational space, provide shade and shelter for visitors and especially parents supervising children, reduce local air temperature, provide space for unprogrammed play, and improve environmental stewardship. The land should be centrally located within the neighborhood or development with no less than 0.25 acres in a single contiguous piece of land not less than 60 feet in width. In larger developments, dispersion of neighborhood park areas and amenities should be considered to ensure adequate access to all residents. Section 4.1.1.1 suggests neighborhood parks should be within a half mile of the residents they are intended to serve.

Groomed space is to have the majority of the ground cover in grass cover appropriate to this region and may include trees, shrubs, or perennial planting beds with mulch cover. Neighborhood parks are to be maintained and owned by the developer or by the Homeowner's Association and should be open to all residents of the development or to the public. The area included as recreational space may not include streets, medians or parking islands, landscape buffers (exception may be granted by the Director of Planning or his designee for location of trails only), or built improvements such as pools or pool houses.

#### Water Access

Blueways are an important recreational goal for James City County. Whenever a development site or parcel has frontage on a river or creek capable of floating a canoe or larger craft year round, then the recreational space offered should provide community access to that water with parking where practical as determined by the Director of the Environmental Division.

#### Playgrounds

Playgrounds should include a minimum of 2,500 SF including the fall zone and safety space as required by all applicable local, state, and national regulations and codes. Possible activities include swings, slides, climbing nets, climbers (rock, balance step, etc.), overhead events (monkey bars, rings, zip, etc.), suspension bridges, ramps, and others. Activities to be age appropriate for the neighborhood population.

#### Sport Courts and Pools

Sport courts should be tennis, basketball, or paved multi-purpose courts with court markings painted in compliance with the Virginia High School League dimensions or other appropriate and professionally recognized standards or guidelines as well as the goals or other court equipment necessary for play. Pools should be a minimum length of 25 meters, or an alternative design appropriate for the neighborhood population as approved by the Director of Planning or his designee.

### Multi-Use Fields

Multi-use fields with dimensions compatible with middle school soccer should be grass, and they would include a backstop for softball/baseball use, goals for soccer, lacrosse to facilitate use by the widest range of sport players. Refer to Virginia High School League design standards for technical information on size, details, equipment such as goals, and orientation. Fields are to be maintained by the developer or HOA in safe playable condition with grass cover for safe play and for resistance to erosion. Any fencing, goals, or other equipment shall also be kept in safe playable condition.

### Trails

Trails will be considered to meet the recommended proffer where:

- 1) The trail is a planned route or provides connections with a planned route in the 2002 JCC Greenway Master Plan, or
- 2) Connectivity to existing trails, sidewalk systems, or adjacent neighborhoods is made with a length of new hard surface trail or internally looped hard-surface trail not less than 0.3 miles which is located outside of sensitive environmental areas, as determined by the Director of the Environmental Division, or
- 3) If neither of the above can be met, the recommended cash-in-lieu should be contributed.

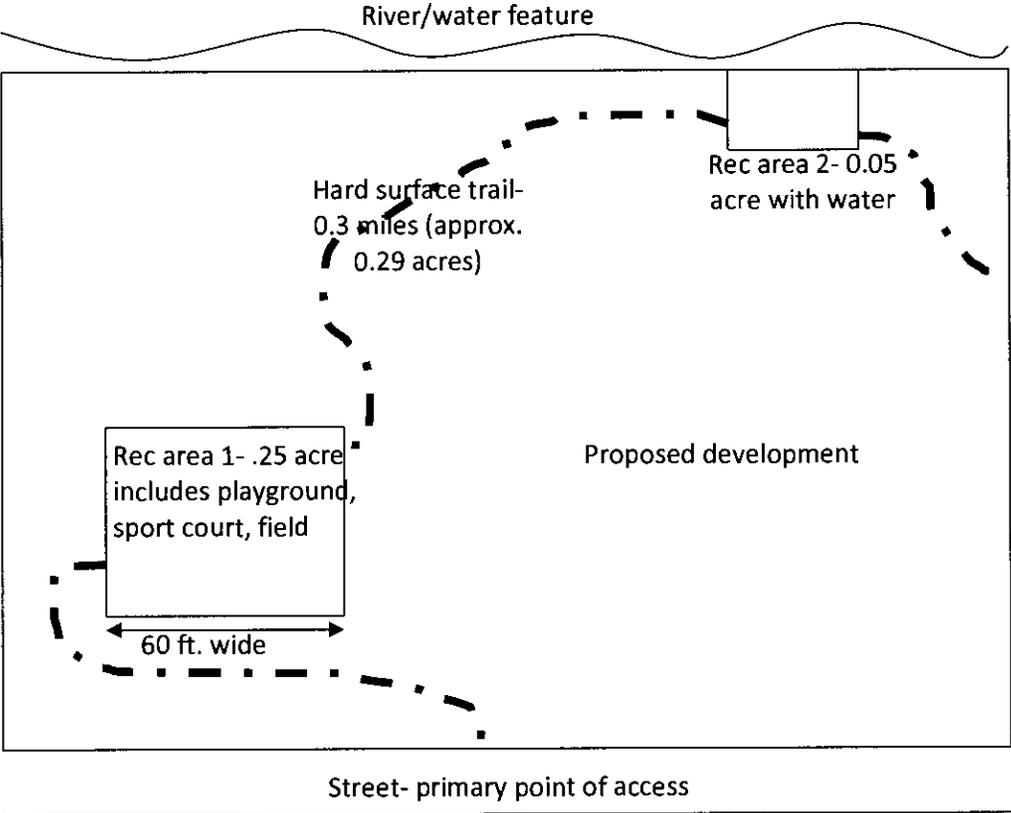
#### *Greenway Master Plan Trails:*

Provision of trails that complete or connect to trails included in the Greenway Master Plan shall be the priority. Primary trails with the potential to connect to schools and/or parks in the 2002 JCC Greenway Master Plan are to be 10 feet wide and paved. Easements for trails should be a minimum of 20 feet wide to allow for designing alignments with minimal environmental impacts, optimal slopes for accessibility, and vegetated shoulders. Trails should be located outside the RPA and RPA buffers wherever possible or use perpendicular crossings when necessary. Any trails within the RPA should have a minimum 20 foot easement proffered outside delineated wetlands, wherever possible, to allow for the greater environmental restrictions in the design and final alignment is subject to approval by the Director of the Environmental Division. Refer to 2002 Greenway Master Plan for surface standards consistent with the level of traffic and modes of travel. Trail easements shall be clearly labeled on plans stating width and indicated with dashed lines at the limits of easement. Trail easements are to be dedicated and recorded to James City County.

#### *Private Trails:*

Biking or multi-use trails within a development are to be asphalt (preferred) or concrete of a minimum of 8 feet width or wider. Mulch trails are not acceptable due to short maintenance life cycle and erosion risk. Trails that are internal to a neighborhood or subdivision are to be maintained by the developer or HOA. Trails to be constructed shall be clearly labeled on the master plan and development plans with a cross section of the construction specifications (including surface material) and indicated with solid lines at edges. Trails should be located outside the RPA and RPA buffers wherever possible or use perpendicular crossings when necessary. Final alignment and design is subject to the approval of the Director of the Environmental Division.

Exhibit 1: Example arrangement to meet Guidelines



Appendix A: Methodology for determining household size for the purposes of the Parks and Recreation Proffer Guidelines<sup>3</sup>

1. Determining the number of certain types of housing units:

**H30. UNITS IN STRUCTURE [11] - Universe: Housing units**

Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data

NOTE: Data based on a sample except in P3, P4, H3, and H4. For information on confidentiality protection, sampling error, nonsampling error, definitions, and count corrections see <http://factfinder.census.gov/home/en/datanotes/expsf3.htm>.

	<b>James City County, Virginia</b>
Total:	20,772
1, detached	13,899
1, attached	2,536
2	238
3 or 4	520
5 to 9	784
10 to 19	694
20 to 49	166
50 or more	512
Mobile home	1,413
Boat, RV, van, etc.	10

U.S. Census  
Bureau  
Census 2000

- **15,322 single family detached housing units** (includes 1, detached, mobile home, and boat, RV, van, etc... categories<sup>4</sup>)
- **5,450 single family attached/multifamily units.**

2. Determining the number of people in each type of housing unit:

**H33. TOTAL POPULATION IN OCCUPIED HOUSING UNITS BY TENURE BY UNITS IN STRUCTURE [23] - Universe: Population in occupied housing units**

Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data

NOTE: Data based on a sample except in P3, P4, H3, and H4. For information on confidentiality protection, sampling error, nonsampling error, definitions, and count corrections see <http://factfinder.census.gov/home/en/datanotes/expsf3.htm>.

	<b>James City County, Virginia</b>
Total population in occupied housing units:	46,857
Owner occupied:	38,201
1, detached	32,899
1, attached	2,384
2	100
3 or 4	111

<sup>3</sup> All data taken from the 2000 Decennial Census, American FactFinder, Summary File 3 (SF 3)- Sample Data <http://factfinder.census.gov/home/saff/main.html?lang=en>

<sup>4</sup> Unit types were assigned to categories based on James City County Real Estate Assessment classifications.

	James City County, Virginia
5 to 9	87
10 to 19	107
20 to 49	16
50 or more	37
Mobile home	2,460
Boat, RV, van, etc.	0
Renter occupied:	8,656
1, detached	2,637
1, attached	1,020
2	300
3 or 4	752
5 to 9	1,240
10 to 19	1,236
20 to 49	303
50 or more	590
Mobile home	543
Boat, RV, van, etc.	35

U.S. Census  
Bureau  
Census 2000

### Total population in housing units...

- Single family detached (includes 1, detached, mobile home, and boat, RV, van, etc categories):  
35,359 owners in SFD + 3,215 renters in SFD = **38,574 people**
- Single family attached/multi-family (includes all other categories):  
2,842 owners in SFA/MF + 5,441 renters in SFA/MF = **8,283 people**

### 3. Adjusting the numbers based on revision of overall population data provided in the 2000 Census...

- James City County challenged the overall population figure provided by the Census and had it changed from 46,857 to 48,102 people, but the breakdowns of the data do not reflect the change.
- Based on percentages, 76.28% of County residents live in single family detached homes, so:

48,102 (revised Census population) – 46,857 (original Census population) = 1,245 people

1,245 x 0.7628 = 949.68 (so 950 additional residents live in single family detached for a total of **39,524 people**)

1,245 – 950 = 295 additional residents live in single family attached/multi-family for a total of **8,578 people**

**Average SFD household size** = 39,524 (# people in SFD) / 15,322 (# SFD) = **2.58** people/unit

**Average SFA/MF household size** = 8,283 (# people in SFA/MF) / 5,450 (# SFA/MF) = **1.52** people/unit

## DRAFT James City County Affordable and Workforce Housing Opportunities Policy

### Purpose

The Housing Section of the 2009 Comprehensive Plan sets the following goal for the provision of housing in the county: *“Achieve high quality in design and construction of all residential development and neighborhood design, and provide a wide range of choices in housing type, density, price range, and accessibility.”* In order to address the objectives of this goal, this policy is designed to increase the range of housing choices in the County through the provision of affordable and workforce housing in all rezoning that include a residential component.

In summary, this policy identifies criteria whereby the provision of affordable (rental and ownership) and workforce housing in residential rezoning cases is consistent, coherent and flexible. Provision of housing at different price ranges is a strategy to achieve the greater housing diversity described in the 2009 Comprehensive Plan.

### 1. Definitions

- a. Affordable Housing: Housing targeted at households earning 30 – 80% of Area Median Income (AMI)
- b. Workforce Housing: Housing targeted at households earning 81 – 120% of AMI

### 2. Provision and Integration of Housing Opportunity units

- a. At least 20% of a development’s proposed dwelling units should be offered for sale or made available for rent at prices that are targeted at households earning 30-120% of Area Median Income (AMI). Of that 20%, the units should be targeted at the AMI ranges specified below:

Units targeted at:	Percent of the development’s proposed dwelling units expected
30% - 80% of AMI	10%
81% – 120% of AMI	10%

- b. These units should be fully integrated in the development with regard to location, architectural detailing, quality of exterior materials, and general appearance.

### 3. Applicability of Cash Proffers for Affordable and Workforce Housing Units

- a. Units targeted at household meeting 30 – 120% of AMI would have reduced expectations for proffers in accordance with the amounts set forth in the Cash Proffer Policy for Schools, other typical cash proffers related to water and sewer improvements (typically proffered to the James City Service Authority), and other public facility and infrastructure capital improvement program items. The reductions in the expected proffer amounts would be as follows:

Units targeted to:	% Cash proffer reduction:
30% - 60% of AMI	100%
61% - 80% of AMI	60%
81% – 120% of AMI	30%

5. Retention of Housing Opportunity Units over time

- a. For rental units, units must be made available at rents that are targeted at households earning 30% - 60% of AMI for a period of at least thirty years.
  
- b. For for-sale units, sales of all targeted units as specified in #2 shall include a soft second mortgage payable to the benefit of James City County. The term of the soft second mortgage shall be at least fifty years. In addition, a provision shall be included in the deed that establishes a County right-of-first refusal in the event that the owner desires to sell the unit.

6. In-lieu Contribution to the Housing Fund

Applicants may choose to offer cash contributions in-lieu of the affordable and workforce housing units specified above. Such cash contributions shall be paid to the James City County Housing Fund. The Housing Fund will be used to increase the supply and availability of units targeted at households earning 30-120% of AMI in the County. If applicants choose to offer a cash contribution in-lieu of construction of the units, the guideline minimum amount shall be:

Units targeted at:	Cash in-lieu amount
30% - 80% of AMI	The cost to construct a 1200 square foot dwelling as determined below
81% - 120%	The cost to construct a 1400 square foot dwelling as determined below

Every February the Director of Housing and Community Development shall establish the average square foot cost to construct an affordable dwelling unit. The cost shall be determined based on the cost information provided by at least three builders of affordable dwellings in James City County. If no affordable housing costs are available from James City County builders, the Director at his sole discretion may consult builders from nearby localities.

7. Procedures

- a. For rental units, the developer shall make assurances acceptable to the County Attorney that the development will provide a statement of rental prices for the proffered affordable and workforce units for each year of the thirty year term.
  
- b. For for-sale units, the developer shall offer units at prices that fit within the affordable or workforce housing price range as stated in the definitions<sup>1</sup>, which shall be calculated and made available on an annual basis by the County.
  - i. In terms of the soft-second mortgages, James City County Office of Housing and Community Development (OHCD) shall be assigned a second deed of trust for the difference of the market rate sales price and the sales price of the proffered unit, which shall be prepared for review prior to closing and assigned at the time of closing, utilizing appropriate approved procedures and identifying the net sales price paid by the purchaser of the unit. The second deed of trust will be prepared by the Owner as a forgivable loan, for the term specified in Section 5 above, in a form approved by OHCD, the County Attorney, and Virginia Housing Development Authority.

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<sup>1</sup> The prices shall be established based on payment of 30% of household income toward housing cost.

- ii. Owner shall consult with and accept referrals of, and sell to, potential qualified buyers from the James City County OHCD on a noncommission basis.
- iii. Prior to closing, OHCD shall be provided with copies of the HUD deed and the original deed of trust and note for the soft second.

DRAFT

**Board of Supervisors Work Session in April 2011  
Questions from Board Members**

The following information requests were discussed at the Board of Supervisors work session in April, 2011.

**1. BOS Question: What are vacancy rates in the County's rental apartments?**

In May 2011, *Inside Business* (a journal covering Hampton Roads) cited a CB Richard Ellis report that the apartment vacancy rate in James City County was 6.8%, as compared to Newport News at 8.4%; Hampton at 6.9%; York County at 6.8%; and Williamsburg at 4.4%. (<http://www.insidebiz.com/news/apartment-market-stays-strong-landlords-dream>)

As additional background information, the Housing Needs Assessment for James City County and Williamsburg, Virginia (Housing Needs Assessment), prepared in December 2007 by the Virginia Tech Center for Housing Research, concluded the housing gap for affordable rental housing was approximately 1,485 units for the population earning 80% or less of AMI.

**2. BOS Question: For the affordable housing units that have been proffered and built in the last five or so years, who is living in those units – where are they from, where do they work?**

Not all proffered affordable/workforce units are sold with involvement of the County's Office of Housing and Community (OHCD) development, so staff does not have complete data. However, OHCD was able to share that of the 261 proffered units for which they were involved and have data, all but 15 were sold to people who resided in James City County or who worked in the County or the City of Williamsburg.

**3. BOS Question: Can we produce an update to the housing inventory by price increment that the assessor's office put together a few years ago?**

Table 1 below was provided by staff during the 2009 Comprehensive Plan update. The ranges shown correspond to prices affordable to households earning 30, 50, 80, 95, 100, 120, and greater than 120 percent of Area Median Income (AMI) respectively. Table 2 below shows an update of Table 1 with updated dollar ranges based on 2011 AMI figures and a re-inventory of the County's housing stock by the Real Estate Assessments Division. The updated data shows nearly 59% of all residential properties in the County were assessed at a value of \$245,520 and above, outside the affordable range for those families earning 120% AMI. This number has declined slightly from 2009, when that percentage was approximately 62%<sup>1</sup>.

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<sup>1</sup> Staff notes this table includes all residential properties. The Dollar Range in this table represents total value, including land and improvements. Some of these properties may have no structures or non-residential structures only (such as garages or other typical out-buildings). Additionally, the structures on the property could be in any physical condition, including uninhabitable. Mobile homes may also be included in this list, although sometimes they are taxed as personal property depending upon the structure's specifics.

It is also important to note the table includes properties that are not for sale, and even those that may be for sale may sell for prices above or below the assessed value, depending upon market conditions. If a property is not on the market it is not available to families seeking affordable or workforce housing. For these reasons the JCC Office of Housing and Community Development relies upon sales price data as a more relevant factor in determining the quantity of affordable housing needed in the community, (which is estimated at 1,950 units for owner occupation and 1,485 rental units, according to the *Housing Needs Assessment*).

**Table 1. Housing Inventory by Price Increment - 2009**

AMI	Dollar Range	Number of Properties (Jan 2009)	Percent of Total
30	\$0-\$58,650	1,906	6.56%
50	\$58,651-\$97,650	1,698	5.84%
80	\$97,651-\$156,300	2,595	8.93%
95	\$156,301-\$185,550	2,057	7.08%
100	\$185,551-\$195,300	659	2.27%
120	\$195,301-\$234,300	2,225	7.66%
Greater than 120%	\$234,301 and above	17,913	61.66%
	TOTAL	29,053	100.00%

**Table 2. Housing Inventory by Price Increment - 2011**

AMI	Dollar Range	Number of Properties (Aug 2011)	Percent of Total
30	0 - \$61,400	2,055	6.95%
50	\$61,401 - \$102,300	1,475	4.99%
80	\$102,301 - \$122,760	968	3.28%
95	\$122,761 - \$163,650	2,115	7.16%
100	\$163,651 - \$204,600	2,763	9.35%
120	\$204,601 - \$245,520	2,762	9.35%
Greater than 120%	\$245,521 and above:	17,417	58.93%
	TOTAL	29,555	100.00%

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#### **4. BOS Question: Where in the County are the opportunities for apartments?**

Apartments are a use permitted in the existing R-4, Residential Planned Community, R-5, Multi-family residential, PUD, Planned Unit Development, and MU, Mixed Use districts, as well as the new EO, Economic Opportunity and R-3, Residential Redevelopment, districts. In terms of Comprehensive Plan designations this would also correspond to Low Density Residential (typically apartments would occur within a master planned community with a lower overall density), Moderate Density Residential, Mixed Use, and Economic Opportunity. There is currently one Economic Opportunity-designated area (roughly 900 overall acres) and thirteen areas designated Mixed Use (roughly 500 undeveloped acres, as estimated in the 2009 Comprehensive Plan). Areas designated Moderate Density Residential occur at various locations throughout the County, and Low Density Residential is the second-most prevalent designation in the County. Many of the County's recent affordable and workforce units have been proffered in connection with developments proposing mixed use zoning.

## Explanation of Area Medium Income (AMI) for James City County

According to the Federal Housing Finance Agency (FHFA) the 2011 Area Median Income (AMI) for family of four in James City County is \$69,900. Affordable housing, as defined by the U.S. Department of Housing and Urban Development (HUD), are targeted for households earning 30% to 120% of the AMI. In James City County, these percentages are equivalent to incomes ranging from \$20,970 to \$83,880. Table No. 1 provides further information regarding the AMI percentages and their respective incomes.

**Table 1**

Percentage	Income
<b>120%</b>	<b>\$83,880</b>
110%	\$76,890
<b>100%</b>	<b>\$69,900</b>
90%	\$62,910
80%	\$55,920
70%	\$48,930
60%	\$41,940
50%	\$34,950
40%	\$27,960
<b>30%</b>	<b>\$20,970</b>
20%	\$13,980
10%	\$6,990

*Source: James City County Planning Division and Federal Housing Finance Agency*

Based on the most recent demographic information available for James City County there are a total of 25,749 households in the county. Table 2 provides information regarding household numbers and income ranges.

**Table 2**

No. of Households	Income Range
717	Less than \$10,000
671	\$10,000-\$14,999
1,726	\$15,000-\$24,999
<b>1,804</b>	<b>\$25,000-\$34,999</b>
<b>3,154</b>	<b>\$35,000-\$49,999</b>
<b>5,298</b>	<b>\$50,000-\$74,999</b>
3,630	\$75,000-\$99,999
5,055	\$100,000-\$149,999
1,887	\$150,000-\$199,999
1,807	Above > \$200,000

*Source: 2007-2009 American Community Survey*

Although the information provided on Table no. 2 is not the most current (data from the 2010 Census is not available), it is the most recent. By comparing information found on both tables, it is possible to estimate the number of households with incomes ranging from 30% to 120% of the AMI (i.e. \$20,970-\$83,880) as approximately 10,256 households.

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
**DIVISION 15. MIXED USE, MU**

**Sec. 24-514. Statement of intent.**

(a) The purpose of the mixed use district is to promote a broad spectrum of land uses in more intensive developments on lands designated mixed use by the Comprehensive Plan. The mixed use district is designed to:

(1) Promote a multiuse master-planned community which may include residential, commercial, industrial (with a ~~predominant~~ focus on light industrial), office and other nonresidential uses;

(2) Provide flexibility, unity and diversity in land planning and development resulting in convenient and harmonious groupings of uses, structures and common facilities; varied type, design and layout of residential, employment and social centers; and appropriate relationships of open spaces to intended uses and structures which include attractive and usable open space linked by pedestrian walkways and/or bicycle paths;

(3) Reduce commuter ~~driving~~ ~~driver~~ demands on highways and roads by concentrating employment, housing and recreation opportunities in locations served by, or convenient to, public transportation; and

(4) Permit densities and intensities of development in excess of those normally permitted in customary residential and commercial zoning districts.

(b) This shall be accomplished by providing for the development and ~~or~~ redevelopment of a variety of land uses ~~and structures~~ within the mixed use district ~~and in structures within the Mixed Use District~~ in accordance with the uses generally described in the Comprehensive Plan for areas designated mixed use. The mixed use district is the preferred ~~Zoning District~~ for development within those areas designated Mixed Use in the Comprehensive Plan.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98)

**Sec. 24-515. Documents required for submission.**

(a) *Required documents.* The applicant shall submit ~~documents in accordance with section 24-23 the following documents~~ to the planning director ~~for submission to the planning commission prior to any rezoning or special use permit application consideration by the planning commission.~~

~~(1) Application for rezoning.~~

~~(2) Traffic impact study for any development containing a use or combination of uses which generates, or would be expected to generate, 150 or more additional trips per day to and from the site during peak hour of operation based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of their book entitled Trip Generation. The traffic impact study shall address projected traffic generation, internal and external traffic, turning movements and distribution at each access point, traffic distribution, capacity of surrounding roads, and roads and access improvements. The traffic impact study shall conform to the standards of the Virginia Department of Transportation and be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director.~~

~~(3) Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review. Master plans shall not be required as part of an application for rezoning a parcel when the proposed use for the parcel is a structure or combination of structures whose total floor area is less than 20,000 square feet.~~

The planning director may waive the master plan submittal requirement for a proposed development consisting of a single use structure if the applicant can demonstrate that a master plan would not be beneficial to a review of the impacts associated with the proposed development.

~~(4) Community impact statement, for any Mixed Use development containing 50 or more acres or comprising 200 or more dwelling units, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.~~

~~(b) Master plan. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. The master plan shall include:~~

~~(1) An inset map at a scale of not less than one inch to one mile (1" = 1 mile), showing the property in relation to surrounding roads, subdivisions or major landmarks.~~

~~(2) A north arrow.~~

~~(3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within, adjoin or provide access to the property.~~

~~(4) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and right of ways with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication to public use within the project.~~

Each section or area of the master plan shall be designated as follows:

<u>Area</u>	<u>Type of Development</u>
A	Single family dwelling units
B	Attached structures containing two to four dwelling units
C	Attached structures less than three stories and containing more than four dwelling units
D	Attached structures of three or more stories and containing more than four dwelling units
E	Commercial uses
F	Wholesale and warehouse uses
G	Office Uses

<del>H</del>	<del>Industrial uses</del>
<del>I</del>	<del>Institutional or public uses</del>
<del>J</del>	<del>Areas of common open space, with recreation areas noted</del>
<del>M*</del>	<del>Structures containing a mixture of uses</del>
<del>X</del>	<del>Other structures, facilities or amenities</del>

~~\*Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.~~

~~(15)~~ Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:

- a. The use ~~(s)~~;
- b. Construction ~~Approximate development~~ phasing;
- c. Maximum number of dwelling units and density for residential areas;
- d. Maximum square feet of floor space for commercial, office or industrial areas;
- e. Maximum square feet of floor space and percentage mix of floor space of each use for those structures containing a mixture of uses; and
- f. Maximum acreage of each use.

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, number of dwelling units and densities, roads, right-of-ways, accesses, open spaces, public uses and other features located or to be located on the site. ~~The master plan shall be reviewed and approved~~ Upon approval by the board of supervisors, ~~the master plan~~ shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-518, shall supersede the master plan and conceptual or schematic plans.

~~(2) Construction phasing. A project build-out schedule shall be submitted for review by the planning director, 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.~~

~~(c) Community impact statement. The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:~~

~~(1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;~~

~~(2) Additional on-site and off-site public facilities or services which would be required as a result of the development;~~

~~(3) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and~~

~~(4) Employment opportunities to be generated by the development.~~

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-516. Master plan-Administrative review fees.~~**

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

~~(Ord. No. 31A-141, 5-4-92)~~

**Sec. 24-5167. Procedures.**

(a) *Report of the planning director.* The planning director may refer copies of the master plan and community impact statement to other local public officials for their comments and the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. When all materials necessary for application are complete and the application is deemed ready for planning commission review, the application, master plan, community impact statement, *fiscal impact statement and traffic study* and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.

The report of the planning director shall include, but not necessarily be limited to, the following;

- (1) Evaluation of the proposed density and uses at the site in relation to the county's Comprehensive Plan;
- (2) Evaluation and recommended changes in the design of land use, circulation and densities shown on the master plan of the property;
- (3) Impact of the proposal on surrounding property and the environment; and
- (4) Evaluation of the traffic impact study and community impact statement.

(b) *Consideration by the planning commission and board of supervisors.* The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.

(c) *Guarantees.* The director of code compliance shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, and public water and public sewer facilities, shown on the approved development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98)

**Sec. 24-5178. Development plans.**

(a) Development plans shall be submitted and reviewed in accordance with ~~Article~~ **Article** III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted

for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission **director** concludes, ~~after reviewing written comments from the planning director,~~ that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted ~~to the planning commission~~ for this purpose in a form sufficient to illustrate the proposed deviations. If the planning commission **director** determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.

*(b) Appeals. In the event the planning director disapproves of the items specified in section 24-517 (a) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.*

~~(c)~~ Documentation satisfactory to the county attorney for the maintenance of common open space, recreation areas, sidewalks, parking, private streets and other privately owned but common facilities serving the project shall be submitted as part of any application for development plan review.

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-5189. Addition of land to an existing mixed use development.~~**

~~Additional land area zoned for mixed use may be added to an existing mixed use district if it is adjacent to (except parcels separated by a public or private right of way) and forms a logical addition to the original parcel. Up to three additions of land zoned Mixed Use to an existing mixed use district shall be permitted on approval of the development review committee, provided that the acreage of a single addition or sum of additions equal an amount less than or equal to 25 percent of the original development. In no case shall an addition or sum of additions be greater than 25 acres. Applications for more than three additions or an addition greater than 25 acres shall be considered as new applications and comply with the requirements of section 24-13.~~

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-51920. Minimum area of districts.~~**

Mixed use districts shall be located on a single parcel of land, or separate but ~~adjacent-contiguous~~ parcels, which shall total not less than five acres. Mixed use districts may be located on a parcel of less than five acres provided that the purpose of the district is to provide for the development of a mixed use structure or mixed use structures within an area designated Mixed Use in the Comprehensive Plan.

(Ord. No. 31A-141, 5-4-92)

**~~Sec. 24-5204. Permitted uses.~~**

In the mixed use 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	
	<del>Accessory apartments</del>	<del>P</del>	
	Apartments	P	
	Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled or other developmentally disabled persons for more than five persons	P	
	<del>Group quarters for agricultural workers</del>	<del>P</del>	
	Home care facilities	P	
	<del>Home occupations, as defined</del>	<del>P</del>	
	<del>Multiple-family dwellings up to and including four dwelling units</del>	<del>P</del>	
	<del>Multi-family more than four dwelling units</del>	<del>P</del>	
	Single-family dwellings	P	
	Nursing homes	P	
	<del>Townhouses</del>	<del>P</del>	
	<del>Two-family dwellings</del>	<del>P</del>	
Commercial Uses	Accessory structures, as defined in section 24-2	P	
	Adult day care centers	P	
	Antique shops	P	
	Arts and crafts shops	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	
	Campgrounds		SUP
	Child day care centers	P	
	<del>Clubs, public or private, civic or service clubs, county clubs, lodges and fraternal organizations</del>	<del>P</del>	
	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 screened with landscaping and fencing from adjacent property	P	
	Convenience stores; if fuel is sold, then in accordance with section 24-38	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	
Fish farming	P	
Flea markets		SUP
Funeral homes, cemeteries and memorial gardens	P	
Gift stores	P	
Golf courses		SUP
Greenhouses and nurseries	P	
Handicraft stores	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
Museums	P	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 amusement	P	

	Rental of more than three rooms in a single-family dwelling unit		SUP
	Rental of rooms to a maximum of three rooms	P	
	Rest homes	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	
Agricultural	Wineries		SUP
Civic	Fire stations	P	
	<del>Houses of worship and cemeteries accessory hereto</del>	<del>P</del>	
	Libraries	P	
	Nonemergency medical transport	P	
	<i>Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations</i>	<del>P</del>	
	<del>Public meeting halls</del>	<del>P</del>	
	Post offices	P	
	Schools	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		SUP

	Communication Facilities		
	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:  <ul style="list-style-type: none"> <li>(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</li> <li>(a) Distribution lines and local facilities within a development, including pump stations</li> </ul>		SUP
	Water impoundments, new or expansion of	P	
Open	Timbering in accordance with section 24-43	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	P	
	Heliports, helistops		SUP
	Hospitals	P	
	Industrial and technical training schools	P	
	Laser technology production	P	
	Machinery sales and service with major repair under cover	P	
	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 52,000 square feet	P		

Manufacture and processing of textiles and textile products in structures more than 52,000 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 in structures of not more than 52,000 square feet	P	
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 in structures of not more than 52,000 square feet		SUP
Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	
Manufacture of carpets and carpet yarns in structures of not more than 52,000 square feet	P	
<del>Manufactured home or mobile home sales</del>		SUP
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	
Publicly owned solid waste container sites		SUP
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	
Resource recovery		SUP
Solid waste transfer stations		SUP

	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	

~~(1) Residential uses:~~

~~Accessory structures, as defined in section 24-2.~~

~~Apartments.~~

~~Multiple family dwellings.~~

~~Single family dwellings.~~

~~Timbering in accordance with section 24-43.~~

~~Townhouses.~~

~~Two family dwellings.~~

~~Dwelling units, regardless of structure type, should be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities consistent with the intent of article VI, division 1, Residential Cluster Development.~~

~~(2) Nonresidential uses:~~

~~Accessory structures, as defined in section 24-2.~~

~~Adult day care centers.~~

~~Antique shops.~~

~~Arts and crafts shops.~~

~~Automobile rental.~~

~~Automobile repair and service including tire, transmission, glass, body and fender, and other automotive products 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.~~

~~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.~~

~~Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations.~~

~~Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities.~~

~~Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property.~~

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

~~Data processing centers.~~

~~Drug stores.~~

~~Dry cleaners and laundries.~~

~~Employment services or agencies.~~

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

~~Farmer's markets.~~

~~Feed, seed and farm supply stores.~~

~~Fire stations.~~

~~Fish farming.~~

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

~~Funeral homes, cemeteries and memorial gardens.~~

~~Gift stores.~~

~~Greenhouses and nurseries.~~

~~Group quarters for agricultural workers.~~

~~Handicrafts stores.~~

~~Health clubs, exercise clubs and fitness centers.~~

~~Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property.~~

~~Home care facilities.~~

~~Home occupations as defined.~~

~~Hospitals.~~

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

~~Houses of worship and cemeteries accessory hereto.~~

~~Indoor sport facilities.~~

~~Indoor theaters.~~

~~Industrial and technical training schools.~~

~~Janitorial service establishments.~~

~~Libraries.~~

~~Limousine service.~~

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

~~Machinery sales and service with major repair under cover.~~

~~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 in structures of not more than 2,000 square feet.~~

~~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 in structures of not more than 2,000 square feet.~~

~~Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.~~

~~Manufacture of carpets and carpet yarns in structures of not more than 2,000 square feet.~~

~~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.~~

~~Nonemergency medical transport.~~

~~Nursing homes.~~

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

~~Office supply stores, secretarial and duplicating services.~~

~~Parking lots and garages.~~

~~Photographer, picture, artist and sculptor stores and studios.~~

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

~~Post offices.~~

~~Printing and publishing establishments,~~

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

~~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.~~

~~Property maintenance facilities, sheds or garages.~~

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

~~Public meeting halls.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Research, development and design facilities or laboratories.~~

~~Rest homes.~~

~~Restaurants, tea rooms 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.~~

~~Schools.~~

~~Taxi service.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Veterinary hospitals.~~

~~Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property.~~

~~Water impoundments, new or expansion of.~~

~~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-141, 5-4-92; Ord. No. 31A-145, 7-6-92; 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-184, 12-8-98; Ord. No. 31A-242, 7-14-09)

**~~Sec. 24-522. Uses permitted by special use permit only.~~**

~~In the mixed use districts, all 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:~~

~~Campgrounds.~~

~~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.~~

~~Fast food restaurants.~~

~~Flea markets.~~

~~Golf courses.~~

~~Heliports, helistops and accessory uses.~~

~~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 in structures of 2,000 square feet and greater.~~

~~Manufactured home or mobile home sales.~~

~~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.~~

~~Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution under cover or screened with landscaping and fencing from adjacent property.~~

~~Museums.~~

~~Petroleum storage.~~

~~Publicly owned solid waste container sites.~~

~~Radio stations, television stations, transmission relay stations and communication towers.~~

~~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. Rental of more than three rooms in a single family dwelling unit.~~

~~Resource recovery facilities.~~

~~Shooting ranges, indoor.~~

~~Solid waste transfer stations.~~

~~Theme Parks.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities.~~

~~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.~~

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

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

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

~~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 well drilling establishments.~~

~~Wineries.~~

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-218, 7-12-05)

**Sec. 24-5213. Density.**

(a) The number of dwelling units which may be constructed in any residential or mixed use-residential area designation as indicated on the master plan shall be determined by the number of gross acres at the site and the use proposed. The maximum densities of dwelling units per acre which may be constructed are:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Base Gross Density (Dwelling Units Per Acre)</u>	<u>Maximum Gross Density with density bonus (see table under section 24-521 (b))</u>
A	Single-family structures	3 6	6
B	<del>Multi-family Attached</del> structures containing two up to four dwelling units; or townhouses	5 10	10
C	<del>Multi-family Attached</del> structures less than three stories and containing more than four dwelling units	6 12	12
D	<del>Apartments Attached</del> structures of three or more stories and containing more than four dwelling units	9 18	18

(b) For the purposes of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area of the parcel as calculated below:

<u>Percentage of Nondevelopable Area</u>	<u>Gross Acreage Shall Equal</u>
Less than 35%	Total Area of Parcel
More than 35%	Developable Land Plus Up To 35% of the Parcel's Land

(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.

(1) For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site

area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.

(b) In addition to the base density standards from section 24-521 (a) a density bonus can be achieved with the provision of options as detailed below. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.

Bonus Increase from Base Density	Required Density Bonus Items from List Below
Up to the base density	0
33% above the base density	2
66% above the base density	4
100% above the base density	6

Density Bonus Item Options	
A.	<p>Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site.</p> <ul style="list-style-type: none"> <li>• <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</li> <li>• Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils)</li> <li>• Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u></li> <li>• Preservation of <u>wildlife habitat corridors that:</u> <ul style="list-style-type: none"> <li>Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area</li> <li>Consist of mature forestland</li> </ul> </li> </ul>
B.	Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division
C.	Design of a stormwater management plan that uses Better Site Design/Low Impact Development Techniques to meet the majority of applicable Chesapeake Bay Preservation Ordinance standards and requirements, as approved by the Engineering and Resource Protection Division
D.	100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site)
E.	Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy
F.	For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy), a density bonus of 1 shall be applied.
G.	Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee
H.	Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by

	<i>the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as is approved by the Director of Parks and Recreation or designee</i>
I.	<i>Development of binding design guidelines for Planning Director approval that include architectural and design standards above and beyond standard practice. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and unit design accessible to the disabled.</i>
J.	<i>Use of an infill site (80% of the property's boundaries abut previously developed land)</i>
K.	<i>Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>
L.	<i>Preservation of at least two contiguous acres of healthy, mature, native forestland</i>
M.	<i>Retention of at least five contiguous acres of agricultural land of prime or statewide importance</i>
N.	<i>Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location</i>
O.	<i>Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus)</i>

*(c) To achieve the intent of a mixed use development, no single use shall exceed 80 percent of the permitted uses within a mixed use zoning district.*

(Ord. No. 31A-141, 5-4-92)

**Sec. 24-5224. Open space.**

Development within the mixed use 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 ~~greenbelt road~~ *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, hiking trails, greenways or other similar amenity, excluding sidewalks.
- (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 60 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.

(Ord. No. 31A-141, 5-4-92)

**Sec. 24-5235. Height of structures.**

- (a) 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 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 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, 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.
- (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 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.

(Ord. No. 31A-141, 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-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

#### **Sec. 24-5246. Requirements for improvements and design.**

*(a) Complementary design. Mixed-Use districts are intended to have an integrated character with strong unifying design elements and therefore shall meet the following standards:*

*(1) Unified building design. Building design should be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.*

*Development shall focus on pedestrian-scaled design, a mixing of uses within buildings, and general design standards (such as landscaping, road design, etc.).*

*(2) Unified open space. Projects 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 24-522 for more details on open space.*

~~(b $\alpha$ )~~ *Water and sewer.* All structures and uses within a mixed use districts shall be served by publicly owned and operated water and sewer systems.

~~(b)~~ *Recreation areas.* Residential areas and mixed use structures and areas designated on the master plan 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.

~~(c)~~ *Parking.* Off street parking facilities 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.~~

~~(c)~~ *Streetlights.* Streetlights 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)~~ *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be *shown on the master plan and site plan and* preserved to the maximum extent possible.

~~(g)~~ *Signs.* All signs within a mixed use district shall comply with article II, division 3 of this chapter.

~~(g)~~ *Traffic circulation.* Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and 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 24-528.

~~(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.

*(i) Dwelling units, regardless of structure type, should shall be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities consistent with the intent of article VI, division 1, Residential Cluster Development. (This section has been relocated from the use list section, but is not a new requirement.*

*(j) Pedestrian accommodation.* Pedestrian accommodation shall be provided in accordance with section 24-35.

(Ord. No. 31A-141, 5-4-92; Ord. No. 31A-184, 12-8-98; Ord. No. 31A-205, 5-8-01)

#### **Sec. 24-5257. Setback requirements.**

*(a) Location of structures.* Structures shall be located 50 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 75 feet or more from the centerline of the external existing or planned or internal arterial public road.

*(b) Required set back from mixed use districts.* For commercial, industrial, office, residential and mixed uses a setback of 50 feet shall be maintained from the perimeter of a mixed use district. The setback 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.

*(c) Setback modifications; criteria for determination.* Reduction of the width of the setbacks specified in subsections (a) and (b) above may be approved for a mixed use zoning district that is designated Mixed Use by the Comprehensive Plan upon demonstration that the proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback 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 modification must meet one or more of the following criteria:

(1) The proposed setback is for the purpose of integrating proposed mixed use development with adjacent development;

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

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

Reduction of the width of the setbacks may also be approved for a mixed use zoning district that is not designated Mixed Use by the Comprehensive Plan upon finding that the proposed setback meets one or more of the criteria listed above and both of the following additional criteria:

(1) Properties adjacent to the properties being considered for a reduction in setback must be compatible;

(2) The proposed setback reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.

(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 ~~make a recommendation to the planning commission to~~ 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) Appeals.* ~~In the event the planning director disapproves of the items specified in section 24-525 (d) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.~~

~~(f) 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 Mixed Use Development District other than as specified in approved final plans.

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

(Ord. No. 31A-141, 5-4-92)

### **Sec. 24-5268. 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 or the county subdivision ordinance, whichever is greater. 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 *in accordance with the provisions of Sec. 24-62.* ~~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 environmental director.~~

~~(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 a mixed use 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 planning commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for these facilities where the planning commission finds that such specifications are not required in the interests of the residents and property owners of the mixed use 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 planning commission 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 mixed use development or because of the large area of the mixed use 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.~~

(Ord. No. 31A-205, 5-8-01)

**Secs. 24-529 - 24-534. Reserved.**

## **JAMES CITY COUNTY CONSTRUCTION PHASING GUIDELINES**

Construction within Mixed-Use development shall be sequenced in accordance with a project build-out schedule submitted for review as a part of the initial application, and approved by the board of supervisors. As a guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the phasing plan:

- (1) Building permits for up to 10% of the residential units may be issued prior to commencing any commercial construction; and
- (2) Certificate of occupancy must be issued for at least 25% of the commercial square footage as shown on the master plan, prior to building permits being issued for any residential unit above 50% of the total proposed units as shown on the master plan; and
- (3) Prior to issuance of Building Permits for construction of the final 20% of the residential units, certificates of occupancy must be issued for at least 80% of the commercial square footage as shown on the master plan.

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
DIVISION 5. RESIDENTIAL PLANNED COMMUNITY  
DISTRICT, R-4

**Sec. 24-274. Statement of intent.**

This district is intended to permit development, in accordance with a master plan, of large, cluster-type communities in a manner that will protect and preserve the natural resources, trees, watersheds, contours and topographic features of the land, protect and enhance the natural scenic beauty and permit the greatest amount of recreational facilities by leaving large areas permanently open. Within such communities, the location of all improvements shall permit a variety of housing accommodations in an orderly relationship to one another with the greatest amount of open area, the least disturbance to natural features and to implement the policies and designations of the Comprehensive Plan. A planned residential district may include a variety of residential accommodations and light commercial activity, but no industrial development is permitted.

(Ord. No. 31A-88, 20-66, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-275. Residential planned community defined.**

For purposes of this article, a residential planned community shall be a large, planned development consisting of 400 acres or more under a single ownership or control. The residential planned community is predominated by residential land uses and open space, but also contains such uses as recreation centers, fire stations, schools and retail establishments which make the residential planned community largely self-sufficient. An important feature of the residential planned community is its emphasis on site planning and the retention of large, open areas.

(Ord. No. 31A-88, 20-66.1, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-276. Documents required for submission.**

(a) *Generally*. The applicant shall submit *documents in accordance with section 24-23 of the zoning ordinance* ~~the following documents~~ to the planning director for submission to the planning commission *prior to any rezoning or special use permit application*:

~~(1) Application for rezoning.~~

~~(2) Master plan, 30 copies, ten submitted with the application for rezoning with the balance of the required copies submitted at the request of staff in preparation for planning commission review.~~

~~(3) Community impact statement, 30 copies, ten submitted with the application for rezoning with the balance of the required copies submitted at the request of staff in preparation for planning commission review.~~

The purpose of the master plan and community impact statement is to set an overall population and development ceiling for the Planned Community, to determine off-site impacts of the development and to identify the general arrangement of internal land uses.

(b) *Master plan.* ~~The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. It shall include:~~

~~(1) An inset map at a scale of not less than one inch to one mile (1" = 1 mile), showing the property in relation to surrounding roads, subdivisions or major landmarks.~~

~~(2) A north arrow.~~

~~(3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.~~

(4) The approximate boundaries of each section, land use or density, a general circulation plan with an indication of whether streets are to be public or private, and the approximate location of recreation areas, sidewalks and other pedestrian access ways, common open space areas, public facilities and areas proposed for dedication to public use within the project. Each residential section of the master plan shall be designated according to the following categories:

Area Designation

Dwelling Type

A	Single-family
B	<del>Multi-family</del> Attached structures containing two <del>up</del> to and including four dwelling units
C	<del>Multi-family</del> Attached structures less than three stories and containing more than four dwelling units
D	<del>Apartments</del> Attached structures of three or more stories and containing more than four dwelling units

The above designation shall be the highest and densest use to which such land may be put without amending the master plan. However, where the planning ~~director~~ ~~commission~~ finds the project does not vary the basic concept or character of the planned community and where it does not exceed the maximum density permitted under section 24-27985, the planning ~~director~~ ~~commission~~ may approve final plans for projects with lower densities or a lower category of uses than those shown on the master plan without amending the master plan. Common open space shall be located in a usable way and located so as to enhance the living environment of the residential planned community. Generally this shall mean that the common open space shall be distributed throughout the community and not aggregated in large areas that provide little or no benefit to the individual uses or the community at large.

(5) As marginal data it shall contain a table which shows, for each section or area of different uses, the use, approximate phasing, maximum number of dwelling units and density for residential areas, square feet of floor space for commercial areas, and their acreage.

(6) Schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.

(7) A statement on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets and other privately owned but common facilities serving the project.

~~(c) Community impact statement. The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:~~

~~(1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;~~

~~(2) Additional on-site and off-site public facilities or services which would be required as a result of the development;~~

~~(3) A traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director. Such study shall address projected traffic generation; internal and external traffic; turning movements and distribution at each access point; traffic distribution; capacity of surrounding roads; and road and access improvements;~~

~~(4) Fiscal impact of the proposed development, such as estimated tax revenues to be generated versus the cost of public improvements to be financed by the county or the state. Such study shall be prepared by an individual or firm qualified to conduct a fiscal impact analysis in a manner and form acceptable to the planning director;~~

~~(5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and~~

~~(6) Employment opportunities to be generated by the development.~~

(Ord. No. 31A-88, 20-67, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-118, 2-5-90; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92)

**~~Sec. 24-277. Administrative review fees.~~**

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

~~(Ord. No. 31A-88, 20-67.1, 4-8-85)~~

**~~Sec. 24-278. Approval of master plan; relationship to final plans; amendments.~~**

~~(a) The procedures for approval of a master plan shall be as specified in the procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.~~

~~(b) The residential planned community shall be established upon approval of the master plan by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13. Approved final plans, provided for in section 24-279, shall supersede the master plan and schematic plans. The zoning administrator shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public~~

water and public sewer facilities, shown on the final plan by providing either a letter of credit, certified check, cash escrow, cash payment, or other surety, approved by the county attorney.

(Ord. No. 31A 88, 20 69, 4 8 85; Ord. No. 31A 92, 12 2 85; Ord. No. 31A 142, 5 4 92; Ord. No. 31A 145, 7 6 92)24 5 5 4

**Sec. 24-279. Final plans-Submission; contents generally; variations from approved master plan.**

The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with article III of this chapter or with the county's Subdivision Ordinance, whichever is applicable. The final plans shall be consistent with the master plan as approved, but may vary to any degree which the planning commission believes does not vary the basic concept or character of the development.

(Ord. No. 31A 88, 20 70, 4 8 85; Ord. No. 31A 112, 2 6 89; Ord. No. 31A 142, 5 4 92)

**Sec. 24-280. Same-Administrative review fee.**

Submittals of a site plan or preliminary subdivision plat to implement any portion of an approved master plan shall be accompanied by a fee in accord with section 24 7 or section 19 15.

(Ord. No. 31A 88, 20 70.1, 4 8 85; Ord. No. 31A 130, 5 6 91)

**Sec. 24-281. Same-Contents; proposed deed of easement.**

(a) Where land is to be subdivided within the district, the final plan shall comply with the county's subdivision ordinance. Where land is not to be subdivided within the district, final plans shall comply with article III of this chapter. All final plans shall show the different types of open areas and other public or community amenities, the proposed use of all buildings and of all areas dedicated for public or private common use.

(b) The applicant shall furnish with a final plan a proposed deed of easement including restrictions safeguarding the permanent use of open areas.

(c) Easements and covenants shall clearly establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements/covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

(d) Lot sizes and setback lines shall be shown on final plans.

(Ord. No. 31A 88, 20 71, 4 8 85)

**Sec. 24-282. Same-Action.**

Final plans submitted pursuant to section 24 279 shall be approved or disapproved in accordance with article III of this chapter or accordance with the county subdivision ordinance.

(Ord. No. 31A 88, 20 72, 4 8 85)

**Sec. 24-27783. Addition of land to existing community.**

(a) Additional land area may be added to an existing residential planned community if it is adjacent (~~except for public roads~~) and forms a logical addition to the existing residential planned community and if it is under the same ownership or control.

(b) The procedure for an addition shall be the same as if an original application were filed and all of the requirements of this article shall apply, except the minimum acreage requirement of 400 acres.

(Ord. No. 31A-88, 20-75, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-27884. Permitted density overall.**

(a) The gross density of the total area of the planned residential community shall not exceed two dwelling units per acre.

(b) ~~Calculating gross density. For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage. For the purpose of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area as calculated below:~~

<u>Gross Acreage</u>	
<u>Percentage of Nondevelopable Area</u>	<u>Gross Acreage</u>
Less than 35%	Total area of parcel
More than 35%	Developable land plus up to 35% of the parcel's land

(c) ~~Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient.~~

(Ord. No. 31A-88, 20-76, 4-8-85; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-113, 4-3-89; Ord. No. 31A-142, 5-4-92)

**Sec. 24-27985. Permitted density within residential areas.**

The master plan shall designate the proposed dwelling unit densities within each residential area shown, according to the following categories:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Gross Density (Dwelling Units Per Acre)</u>
A	Single-family	4
B	<del>Multi-family Attached structures</del> containing <del>two</del> up to and including four dwelling units	9.6

C	<del>Multi-family</del> Attached structures less than three stories and containing more than four dwelling units	12
D	<del>Apartments</del> Attached structures of three or more stories and containing more than four dwelling units	18

Units for sale in condominium may be in any of the dwelling types listed above and the number of dwelling units per acre shall be determined by the dwelling type.

(Ord. No. 31A-88, 20-77, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92)

**Sec. 24-2806. Open space requirements.**

(a) At least 40 percent of the total acreage of the residential planned community shall be designated as open space. Such open space may include parks, lakes, walkways, trails, playground and recreation facilities, sports facilities, nonresidential clubhouse grounds, and right-of-ways and surface easements for drainage and other utilities over areas not within the lines of any residential lot. Golf courses may also be counted as open space for the purpose of meeting this requirement to a maximum of 60 percent of the required open space.

(b) The required open space shall contain recreation open space in the amount of one acre or more per 350 dwelling units. For the purposes of this section, recreational open space shall mean parks, playgrounds, swimming pools, tennis courts or other similar recreational facilities serving residents of the approved planned community.

(Ord. No. 31A-88, 20-77.1, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-2817. Permitted uses.**

In the residential planned community district, R-4, 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 buildings or structures as defined	P	
	Apartments	P	
	<del>Home occupations, as defined</del>	<del>P</del>	
	<del>Multi-family up to and including four dwelling units</del>	<del>P</del>	
	<del>Multi-family more than four dwelling units</del>	<del>P</del>	

	Single family dwellings	P	
	<del>Townhouses and condominiums</del>	<del>P</del>	
	<del>Two family dwellings</del>	<del>P</del>	
Commercial Uses	Accessory buildings or structures as defined	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	
	Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores	P	
	Dinner theaters	P	
	Dry cleaners	P	
	Funeral homes, cemeteries and memorial gardens	P	
	Home occupations as defined	P	
	Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields	P	
	<del>Hospitals, nursing homes and rest homes</del>	<del>P</del>	
	Hotels, motels, tourist homes and convention centers	P	
	Hunting clubs, conservation areas and preserves	P	
	Indoor theaters, museums, public meeting halls and outdoor entertainment, other than drive-in theaters	P	
	Medical clinics and offices	P	
	<del>Nursing homes</del>	<del>P</del>	
	Off-street parking as required by section 24-53 of this chapter	P	
	Parks, playgrounds, golf courses, tennis courts, swimming pools and other public or private recreation areas	P	
	Photographer, artist and sculptor studios	P	
	Property management facilities, sheds or garages	P	
	Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement	P	
	Rental of rooms to a maximum of three rooms	P	
	Restaurants, fast food restaurants, tea rooms and taverns	P	
	Yacht clubs, private or commercial marinas, boat storage and service facilities; if fuel is sold, then in accordance with section 24-38		

Civic	Fire stations	P	
	Libraries	P	
	Post offices	P	
	Private clubs, civic or service clubs, lodges and fraternal organizations <i>or places of public assembly</i>	P	
	Houses of worship	P	
	Schools	P	
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities		
Utility	Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities	P	
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities		SUP
	Water facilities (public) 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 shall be a permitted use only after the issuance of a special use permit by the board of supervisors. However, the following are permitted generally and shall not require a special use permit: (1) 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; (2) Distribution lines and local facilities within a development; including pump stations.		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	
Open	Timbering in accordance with section 24-43	P	

~~Accessory buildings or structures, as defined.~~

~~Apartments.~~

~~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.~~

~~Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores.~~

~~Dinner theaters.~~

~~Dry cleaners and laundries.~~

~~Funeral homes, cemeteries and memorial gardens.~~

~~Home occupations as defined.~~

~~Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields.~~

~~Hospitals, nursing homes and rest homes.~~

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

~~Houses of worship.~~

~~Hunting clubs, conservation areas and preserves.~~

~~Indoor theaters, museums, public meeting halls and outdoor entertainment, other than drive in theaters.~~

~~Medical clinics and offices.~~

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

~~Parks, playgrounds, golf courses, tennis courts, swimming pools and other public or private recreation areas.~~

~~Photographer, artist and sculptor studios.~~

~~Private clubs, civic or service clubs, lodges and fraternal organizations.~~

~~Property maintenance facilities, sheds or garages.~~

~~Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement.  
Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Restaurants, fast food restaurants, tea rooms and taverns.~~

~~Retail food stores, bakeries and fish markets.~~

~~Schools, libraries, fire stations and post offices.~~

~~Single family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Townhouses and condominiums.~~

~~Two family dwellings.~~

~~Water impoundments, new or expansion of, 50 acres or more with dam heights of more than 25 feet with a special use permit.~~

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

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

~~Yacht clubs, private or commercial marinas, boat storage and service facilities; if fuel is sold, then in accordance with section 24-38.~~

All uses are subject to the limitations hereinafter provided.

(Ord. No. 31A-88, 20-78, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98)

#### **Sec. 24-2828. Limitations.**

- (a) Commercial uses shall be located in well-designed commercial areas of the residential planned community and shall be shown on the master plan and on pertinent final plans.
- (b) Not more than 20 percent of the total area shall be devoted to commercial uses in the residential planned community and such commercial uses are to be limited to the areas designated on the master plan and on pertinent final plans.
- (c) Uses in a residential planned community shall be permissible only in the general location shown on the approved master plan as previously set forth.

(Ord. No. 31A-88, 20-79, 4-8-85; Ord. No. 31A-142, 5-4-92)

**Sec. 24-2839. Utilities.**

(a) All development within the R-4 District shall be served by publicly owned and operated water and sewer systems,

(b) Extensions and expansions of public utilities to serve the development shall be governed by the regulations and policies governing service of the appropriate public agency.

(c) Recreational maintenance facilities, maintenance facilities, temporary sales offices, temporary construction offices and accessory structures may be permitted to temporarily operate on individual well and septic systems provided the following is met:

(1) The structure shall not be within the minimum connection distance for public utilities as determined by the James City Service Authority;

(2) Individual wells shall be approved by the health department and the ~~planning director~~ director of code compliance prior to preliminary site plan approval;

(3) Individual septic tank systems shall be approved by the health department prior to preliminary site plan approval;

(4) The structure shall connect to public water within five years from the date of final site plan approval and shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and the director of code compliance. The structure shall connect to public utilities within 30 days of the date that such facilities are constructed within the minimum connection distance for public utilities as determined by the James City Service Authority; and

(5) No more than one structure served by an individual well and septic system shall be permitted at one time within a Planned Community.

~~(d) Water facilities (public) 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 shall be a permitted use only after the issuance of a special use permit by the board of supervisors. However, the following are permitted generally and shall not require a special use permit:~~

~~(1) 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;~~

~~(2) Distribution lines and local facilities within a development; including pump stations.~~

(Ord. No. 31A-88, 20-80.1, 4-8-85; Ord. No. 31A-142, 5-4-92; Ord. No. 31A-216, 2-22-05)

**Sec. 24-2840. Street improvements.**

(a) All dedicated public streets shown on the ~~final~~ development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards or the county

subdivision ordinance, whichever is greater. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted *in accordance with the provisions of Sec. 24-63*, upon 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 final 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 director of code compliance.~~

~~(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 final 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 final plan.~~

~~(d) The uniqueness of each proposal for a residential planned community requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities and the specifications for curbs, gutters, sidewalks, street lights and storm water drainage be subject to modification from the specifications established in Chapter 19. The planning commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for a particular facility where the planning commission finds that such specifications are not required in the interests of the residents of the residential planned community 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 planning commission 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 residential planned community or because of the large area of the residential planned community 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 within the area of the master plan;~~
- ~~(4) That any waiver or modification as to sidewalks in AB@, AC@, AD@, or AE@ density areas be justified on the basis of anticipated pedestrian traffic or because other provisions are made for pedestrian traffic.~~
- ~~(5) That traffic lanes of streets are sufficiently wide to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and~~
- ~~(6) 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 soil tests for CBR value and erosion characteristics of the particular subgrade support soils in the area.~~

(Ord. No. 31A-88, 20-80.2, 4-8-85; Ord. No. 31A-105, 2-22-88; Ord. No. 31A-142, 5-4-92)

**~~Sec. 24-291. Effect of other provisions of zoning and subdivision regulations on division.~~**

~~The provisions of this division shall not be limited by any provision of any other part of the county zoning or subdivision regulations inconsistent herewith.~~

~~(Ord. No. 31A-88, 20-80.3, 4-8-85; Ord. No. 31A-142, 5-4-92)~~

**Sec. 24-28592. Sign regulations.**

To assure an appearance and condition which is consistent with the purposes of the residential planned community district, R-4, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter, except that unique signing systems may be approved by the planning commission and the board of supervisors where such sign systems contribute significantly to the character of the residential planned community. However, in no case shall the sign's square foot size exceed the maximum allowed in article II, division 3 of this chapter. Home occupation signs shall not be permitted in the residential planned community district.

(Ord. No. 31A-88, 20-80.4, 4-8-85; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-142, 5-4-92)

**Sec. 24-28693. Height limits.**

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank, athletic field lighting, or other accessory functions, which are part of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. 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 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. 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. Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- 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 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

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

(Ord. No. 31A-89, 9-9-85; Ord. No. 31A-142, 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-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

**Sec. ~~24-294~~. Uses permitted by special use permit only.**

~~Tower mounted wireless communication facilities in accordance with Division 6, Wireless Communications Facilities.~~

(Ord. No. 31A-219, 8-9-05)

**Secs. 24-295 - 24-303. Reserved.**

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICTS

**Sec. 24-482. Statement of intent.**

The purpose of the planned unit development district is to promote efficient use of land, allow flexible application of development controls, allow various densities and land uses, protect surrounding property and protect the natural features and scenic beauty of the land. This shall be accomplished by permitting a wider range of densities and uses to be developed in accordance with a master plan which allows for clustering of uses or densities in various areas of the site.

**Sec. 24-483. Designation of zoning district.**

Planned unit development districts shall be categorized as either residential (PUD-R) or commercial (PUD-C), and upon approval of the master plan by the board of supervisors, this designation shall be the zoning district of the parcel.

**Sec. 24-484. Documents required for submission.**

(a) *Required documents.* The applicant shall submit ~~documents in accordance with section 24-23 of the zoning ordinance~~ the following documents to the ~~zoning administrator~~ *planning director* ~~for submission to the planning commission~~ *prior to planning commission consideration of any rezoning or special use permit application:*

~~(1) Application for rezoning.~~

~~(2) Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.~~

~~(3) Community impact statement, for any planned unit development containing 50 or more acres or comprising 200 or more dwelling units, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.~~

~~(b) Master plan.~~ The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. It shall include:

~~(1) An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivisions or major landmarks.~~

~~(2) A north arrow.~~

~~(3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within or adjoin the property.~~

(4) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and right of ways with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication to public use within the project. Common open space shall be located so as to enhance the living environment of the proposed development. Generally this shall mean that the common open space shall be distributed throughout the site in moderate sized, concentrated, contiguous areas and not aggregated in large areas that provide little or no benefit to the individual uses or the development at large.

Each section or area of the master plan shall be designated as follows:

<i>Area Designations</i>	<i>Type of Development</i>
A	Single family
B	Attached structures containing two to four dwelling units
C	Attached structures less than three stories and containing more than four dwelling units
D	Attached structures of three or more stories and containing more than four dwelling units
E	Commercial uses
F	Wholesale and warehouse uses
G	Office uses
H	Light industrial uses
I	Institutional or public uses
J	Areas of common open space, with recreation areas noted

For purposes of this article, the term "common open space area" shall refer to any tract of land intended to be used in common primarily by residents of the planned unit development.

(5) As marginal data it shall contain a table which shows, for each section or area of different uses, the following:

- a. The use;
- b. Approximate development phasing;
- c. Maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and
- d. Maximum acreage of each use.

(6) Schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.

(7) A statement satisfactory to the county attorney on the guarantees and assurances to be provided for the maintenance of common open space, recreation areas, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.

(c) *Community impact statement.* The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:

- (1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made

~~of sewer, water, schools, fire stations and other major locally financed facilities.~~

~~(2) Additional on-site and off-site public facilities or services which would be required as a result of the development.~~

~~(3) A traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director. Such study shall address projected traffic generation, internal and external traffic, turning movements and distribution at each access point, traffic distribution, capacity of surrounding roads, and road and access improvements.~~

~~(4) Fiscal impact of the proposed project, such as estimated revenues to be generated versus the cost of public improvements to be financed by the county or the state. Such study shall be prepared by an individual or firm qualified to conduct a fiscal impact analysis in a manner and form acceptable to the planning director.~~

~~(5) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution.~~

~~(6) Employment opportunities to be generated by the development.~~

**~~Sec. 24-485. Master plan-Administrative review fees.~~**

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

**~~Sec. 24-486. Procedures.~~**

~~(a) Report of the planning director. The planning director may refer copies of the master plan and community impact statement to other local public officials for their comments. Within 30 working days of the receipt of the application and accompanying documents, the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. The application, master plan, community impact statement and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.~~

~~The report of the planning director shall include, but not necessarily be limited to, the following:~~

~~(1) Evaluation of the proposed density and uses at the site in relation to the county's Comprehensive Plan.~~

~~(2) Evaluation and recommended changes in the design of land use, circulation and densities shown on the master plan of the property.~~

~~(3) Impact of the proposal on surrounding property and the environment.~~

~~(4) Evaluation of the fiscal impacts of the proposal and the proposed financing of required improvements.~~

~~(5) Recommendations regarding the dedication of property or facilities for public use.~~

~~(6) Final recommendations regarding approval of the application and master plan or changes which are necessary.~~

~~(b) Consideration by the planning commission and board of supervisor. The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13. The board of supervisors, if it approves the master plan, may impose conditions to such approval.~~

~~Upon approval of the master plan by the board of supervisors, the planned unit development district is deemed established. Thereafter, all amendments to the master plan shall be in accord with section 24-13 of this chapter. The master plan shall guide the general location of all features shown therein, including land uses, densities, roads, public uses and other features. Approved final plans, provided for in section 24-487, shall supersede the master plan and schematic plans. The zoning administrator shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, shown on the final plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.~~

**~~Sec. 24-487. Relationship of final plans to master plan.~~**

~~Following the establishment of a planned unit development district and approval of the board of supervisors of a master plan, the applicant may furnish to the planning commission seven copies of a final plan of any part or section of the community shown on the master plan. The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with article III of this chapter or the county's subdivision ordinance. The final plans shall be consistent with the master plan as approved, but may alter to any degree which the planning commission believes does not alter the basic concept or character of the development. The planning commission may make this determination using conceptual preliminary plans. If the variations are approved at the conceptual preliminary plan level, final plans shall be consistent with the variations approved by the planning commission.~~

**~~Sec. 24-488. Final plans Contents.~~**

~~Where land is to be subdivided within the district, the final plan shall comply with the county's subdivision ordinance. Where land is not to be subdivided within the district, final plans shall comply with article III of this chapter. All final plans shall show the different types of open areas and other public or community amenities, and proposed use of all buildings and of all areas dedicated for public or private common use.~~

**~~Sec. 24-489. Same Administrative review fee.~~**

~~Submittals of a site plan or preliminary subdivision plat implementing any portion of an approved master plan shall be accompanied by a fee in accord with section 24-7 or section 19-15.~~

**~~Sec. 24-490. Same Action.~~**

~~Final plans submitted pursuant to section 24-487 shall be approved or disapproved in accordance with article III of this chapter or in accordance with the county's subdivision ordinance.~~

***Sec. 24-485. Adequacy of public facilities and roads.***

*Planned unit development districts shall be so located and developed so that they will not exceed the capacity of the adjacent roads which will serve the property or the capacity of public water and sewer*

systems in the event connections to one or both are proposed, unless the applicant shall dedicate right-of-way, contribute to the construction of new facilities or create such facilities to the extent their share of such as the percentage of their land developed and so served. The rate of development shall not exceed the rate of construction and increasing capacity of the limiting facility.

**Sec. 24-48691. Minimum area of districts.**

Planned unit development districts shall be located on a single parcel of land or separate but contiguous parcels which are under one ownership or control and which shall total ~~not less than~~ five acres *or more*.

**Sec. 24-48795. Addition of land to an existing planned unit development.**

Additional land area may be added to an existing planned unit development if it is adjacent to ~~(except for public roads)~~, forms a logical addition to and if the addition will come under common ownership or control as the original parcel. The procedure for an addition shall be the same as if an original application were filed, and the requirements of this article shall apply, except the minimum acreage requirement.

**Sec. 24-48892. Density.**

(a) The gross density of the net developable area of the planned unit development shall not exceed the maximum density suggested by the Comprehensive Plan and in no case shall exceed four dwelling units per acre. ~~The number of dwelling units which may be constructed in any area designation shall be determined by the number of net developable acres at the site and the use proposed. The net developable acres shall equal the total land area of the site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding a 25 percent gradient. The number of units which may be constructed are:~~ *The maximum densities of dwelling units per acre which may be constructed are:*

<i>Area Designation</i>	<i>Dwelling Type</i>	<i>Maximum Base density (dwelling units per acre)</i>	<i>Maximum gross density with density bonus (see table under section 24-488(c))</i>
A	Single family	2 4	4
B	<del>Multi-family Attached structures containing two up to and including four dwelling units, or townhouses</del>	5 9.6	10
C	<del>Multi-family Attached structures less than three stories and containing more than four dwelling units</del>	6 12	12
D	<del>Apartments Attached structures of three stories or more and containing more than four dwelling units</del>	9 18	18

(b) For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.

(c) In addition to the base density standards shown above, a density bonus can be achieved with the provision of options as detailed below. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.

Bonus Increase from Base Density	Required Density Bonus Items from List Below
Up to base density	0
33% above base density	2
66% above the base density	4
100% above the base density	6

Density Bonus Item Options	
A.	<p>Retention of one of the following <u>environmentally-related conservation features</u>. The <u>item must constitute at least 5% of the developable area of the site</u>.</p> <ul style="list-style-type: none"> <li>• <u>100 foot buffers around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</u></li> <li>• <u>Retention of soils in hydrologic groups A and B (retain at least 50% of these soils)</u></li> <li>• <u>Preservation of a Conservation Area as identified by an approved watershed management plan</u></li> <li>• <u>Preservation of wildlife habitat corridors that:</u>  <u>Protect a corridor at least 100 feet in width from one protected area (on or off the PUD property) to another protected area</u></li> </ul>
B.	<u>Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division</u>
C.	<u>Design of a stormwater management plan that uses Better Site Design/Low Impact Development Techniques to meet the majority of applicable Chesapeake Bay Preservation Ordinance standards and requirements, as approved by the Engineering and Resource Protection Division</u>
D.	<u>100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site)</u>
E.	<u>Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development</u>

	<i>Policy</i>
<i>F.</i>	<i>Commitment to provision or affordable/workforce housing that applies to 10% more of the proposed units than would result from application of the County's Affordable and Workforce Housing Policy (This provision may be used for more than one density bonus increment)</i>
<i>G.</i>	<i>Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee</i>
<i>H.</i>	<i>Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as is approved by the Director of Parks and Recreation or designee</i>
<i>I.</i>	<i>Development of binding design guidelines for Planning Director approval that include architectural and design standards above and beyond standard practice. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and unit design accessible to the disabled.</i>
<i>J.</i>	<i>Use of an infill site (80% of the property's boundaries abut previously developed land)</i>
<i>K.</i>	<i>Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>
<i>L.</i>	<i>Preservation of at least two contiguous acres of healthy, mature, native forestland</i>
<i>M.</i>	<i>Retention of at least five contiguous acres of agricultural land of prime or statewide importance</i>
<i>N.</i>	<i>Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location</i>
<i>O.</i>	<i>Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus)</i>

**Sec. 24-493. Adequacy of public facilities and roads.**

Planned unit development districts shall be so located and developed that they will not exceed the capacity of the adjacent roads which will serve the property or the capacity of public sewer and water systems in the event connections to them are proposed, unless the applicant shall dedicate right of way, contribute to the construction of new facilities or create such facilities to the extent of his fair share of such as the percentage of his land developed and so served. The rate of development shall not exceed the rate of construction and increasing capacity of the limiting facility. Relocated to directly after submittal requirements.

**Sec. 24-48994. Open space.**

(a) Thirty-five percent of the gross area of any planned unit development district shall be retained in open space. This may include common open areas, perimeter open space, buffers between various uses or densities, public open space, recreation areas, easements, areas of excessive slopes, low lying areas, marshes or historic sites or other features which will enhance the value of the site, reduce adverse impacts and otherwise be an asset to the community. For the purposes of this article, the term "open space" shall exclude open space in the private yards of individual dwelling units.

(b) Common open space areas shall be protected by assurances, satisfactory to the county attorney, that set forth the provisions made for the permanent care and maintenance of such property. Easements or covenants shall establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service.

**Sec. 24-4906. Height and spacing of structures.**

(a) 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 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 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, 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.

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 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 building 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. 24-4917. Requirements for improvements and design.**

(a) *Water and sewer.* Except as set forth herein, all structures and uses within a planned unit development district shall be served by public water and public sewerage systems. Extensions and expansions of public utilities to serve the development shall be governed by the regulations and policies governing service of the appropriate public agency. Nonresidential structures and uses may be permitted to temporarily operate on individual well and septic systems provided the following conditions are met:

(1) The structure or use shall not be within the minimum connection distance for public utilities as determined by the James City Service Authority;

(2) Individual wells shall be approved by the health department and the *planning director* ~~director of code compliance~~ prior to preliminary site plan approval;

(3) Individual septic tank systems shall be approved by the health department prior to preliminary site plan approval;

~~(4) The structure shall connect to public water within five years from the date of final site plan approval and shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and the director of code compliance. The structure shall connect to public utilities within 30 days of the date that such facilities are constructed within the minimum connection distance for public utilities as determined by the James City Service Authority; and~~

~~(5) No more than one structure served by an individual well and septic system shall be permitted at one time within a Planned Community.~~

~~(4) The structure or use shall connect to public utilities within thirty days of the date that such facilities are constructed within the minimum connection distance for public utilities as determined by the James City Service Authority;~~

~~(5) Extensions and/or expansions of public water and/or sewer to serve the structure or use are being planned or constructed by the developer or the appropriate public agency. Such extensions and/or expansions shall be within the minimum connection distance for public utilities as determined by the James City Service Authority. If such extensions and/or expansions are being planned and constructed by the developer, their construction shall be guaranteed by surety, letter of credit, cash escrow or other form of guaranty approved by the county attorney;~~

~~(6) The fire marshal of James City County shall determine that there is adequate fire protection for the proposed structure or use; and~~

~~(7) The foregoing notwithstanding, the structure or use shall connect to public utilities within three years from the date of final site plan approval.~~

(b) *Recreation areas.* Areas on the master plan designated as A (single-family detached), B (*multi-family* ~~Attached structures~~ containing two *up* to four dwelling units), C (*multi-family* ~~Attached structures~~ less

~~than three stories and containing more than four dwelling units) or D (*apartments* attached structures of three or more stories) shall be provided with a recreation area or areas. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities prior to the issuance of certificates of occupancy. Such facilities shall be owned and maintained by the developer or a residents' association.~~

~~(c) *Parking*. Off-street parking facilities shall be provided in accordance with the off-street parking requirements of section 24-53.~~

~~(d) *Street*. All *dedicated public* streets *shown on the development plan* shall meet the *design and construction* requirements of the Virginia Department of Transportation's *standards* or the *requirements of the county subdivision ordinance, regulations*, whichever is greater. Such *public* streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.—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 environmental director. Private streets may be permitted upon the approval of the board of supervisors *in accordance with the provisions of Sec 24-62*.~~

~~(e) *Fire hydrants*. Fire hydrants shall be at locations and of types approved by the service authority and county fire chief. No structure within the district shall generally be further than 400 feet from a hydrant.~~

~~(f) *Streetlights*. Streetlights shall generally be provided at each intersection and adequately spaced in parking lots 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. No lighting fixture shall exceed a height of 15 feet within residential areas of a planned unit development district nor 30 feet in commercial or industrial areas.~~

~~(g) *Drainage facilities*. Facilities for the adequate control of stormwater drainage and erosion and sedimentation shall be provided in accordance with the *Virginia Erosion and Sediment Control Handbook* and the *Virginia Department of Transportation Drainage Manual*.~~

~~(h) *Natural features and amenities*. Existing features which would add value to the residential development or to the county as a whole, such as trees, watercourses, historical sites and similar irreplaceable assets, shall be preserved to the maximum extent possible.~~

~~(i) *Signs*. To assure an appearance and condition which is consistent with the purposes of the planned unit development 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, except that unique signing systems may be approved by the planning *director commission* where such sign systems contribute significantly to the character of the planned community. However, in no case shall the signs square foot size exceed the maximum allowed in article II, division 3 of this chapter.~~

#### **Sec. 24-4928. Setback requirements and yard regulations.**

(a) *Peripheral setbacks*. Any planned unit development, PUD, district approved under this article, shall adhere to the following setback requirements:

(1) Residential.

a. *Perimeter setbacks.* For residential uses a minimum landscape setback of 50 feet shall be maintained from all property lines adjoining a different zoning district which abut the site. Where attached structures in a PUD-R District adjoin an existing R-1, R-2 or R-6 District, or an A-1 or R-8 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum setback shall be 75 feet.

b. *Right-of-way buffer setbacks.* For residential uses, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

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

2. The minimum right-of-way buffer on all external non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

3. ~~If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above. The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.~~

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning ~~director~~ ~~commission~~ may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than ~~five~~ ~~ten~~ acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

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

(d) *Modifications to the landscape requirements.* The planning ~~director~~ ~~commission~~ may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any

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

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~ Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~commission~~ *director* may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~commission~~ *director*. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon ~~the recommendation of the environmental director and the~~ approval of the planning ~~commission~~ *director*.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning ~~commission~~ *director*.

*(i) Appeals. In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the Planning Commission.*

(2) *Commercial.* For commercial uses a minimum landscape setback of 75 feet shall be maintained from all property lines adjoining a different zoning district which abut the site and/or existing or planned public roads or properties that are peripheral to the planned unit development district.

(3) *Industrial, public or institutional uses.* For industrial, public or institutional uses a minimum landscaped setback of 100 feet shall be maintained from all property lines adjoining a different zoning district which abut the site and/or existing or planned public roads or properties that are peripheral to the planned unit development district. Where industrial structures adjoin an existing residentially zoned district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 125 feet.

(b) *Internal setback requirements for industrial uses.* A minimum setback of 50 feet shall be required from streets which are internal to the site for any industrial structure.

(c) *Yard regulations.* Except for setbacks specified in section 24-498 (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a planned unit development district other than as specified in approved final plans.

(d) *Parking restrictions in setbacks.* Landscape setbacks shall not be used for streets or for parking except for entrances which may penetrate the setback.

**Sec. 24-4939. Permitted uses.**

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory buildings or structures, as defined	P	
	Apartments	P	
	<i>Home care facilities</i>	<i>P</i>	
	<i>Home occupation, as defined</i>	<i>P</i>	
	Multiple-family <i>up to and including four</i> dwellings	P	
	<i>Multi-family more than four dwellings</i>	<i>P</i>	
	Single-family dwellings	P	
	Nursing homes and facilities for the residence and/or care of the aged	P	
	<del>Townhouses</del>	<del>P</del>	
	<del>Two family dwellings</del>	<del>P</del>	
Commercial Uses	Accessory buildings and structures, as defined	P	
	Automobile service stations, with major repair in a fully enclosed building, or retail sale of automotive accessory items; 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 offices	P	
	Coin laundries which are accessory to other residential uses and for the primary use of their residents	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	
	Drug stores	P	
	Dry cleaners and laundries	P	
	Funeral homes	P	
	Golf courses, country clubs	P	

	Hotels, motels, and resort facilities	P	
	Indoor theaters	P	
	Marinas, docks, piers, <i>yacht clubs</i> , boat basins and waterfront activities, <i>boat storage and servicing, repair and sale facilities for the same</i> ; if fuel is sold, then in accordance with section 24-38	P	
	Medical clinics or offices	P	
	Museums	P	
	Off-street parking as required by section 24-53	P	
	Photography studios and sales, artist and sculptor studios, arts and crafts and handicraft shops, antique shops, reproduction and gift shops	P	
	Plants and garden supply, hardware and paint, and home appliance sales and service, with storage in a fully enclosed building	P	
	Restaurants, tea rooms and taverns	P	
	Restaurants which are accessory to permitted private clubs and marinas	P	
	Retail shops associated with community recreation facilities	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	
	<i>Veterinary hospitals</i>	P	
	<i>Wineries</i>	P	
Civic	Fire stations	P	
	<del>Houses of worship</del>	<del>P</del>	
	Libraries	P	
	<i>Places of public assembly, such as public meeting halls, houses of worship, lodges and fraternal organizations</i>	<del>P</del>	
	Public meeting halls	P	
	Post offices	P	
	Schools	P	
Utility	Public utilities	P	
	Radio and television stations	P	
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless		SUP

	Communication Facilities		
	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 in accordance with section 24-43	P	

(b) In the planned unit development district, commercial (PUD-C), 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	Apartments, townhomes and condominiums	P	
	Multi-family dwellings	P	
Commercial Uses	Commercial Uses as listed in (a) above		
	Theme parks	P	
	Golf courses	P	
Industrial Uses	Printing and publishing	P	
	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	
	Research, design and development facilities or laboratories	P	
	Wholesale and warehousing, with storage in a fully enclosed building	P	
Utility	Utility Uses as listed in (a) above		

(1) Residential uses:

~~Accessory buildings or structures, as defined.~~

~~Apartments.~~

~~Coin laundries which are accessory to other residential uses and for the primary use of their residents.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities.~~

~~Fire stations.~~

~~Golf courses, country clubs.~~

~~Houses of worship.~~

~~Marinas, docks piers, boat basins and waterfront activities; if fuel is sold, then in accordance with section 24-38.~~

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

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

~~Restaurants which are accessory to permitted private clubs and marinas.~~

~~Retail shops associated with community recreation facilities.~~

~~Schools.~~

~~Single family dwellings.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Townhouses.~~

~~Two family dwellings.~~

~~(2) Commercial uses:~~

~~Automotive service stations, with major repair in a fully enclosed building, or retail sale of automotive accessory items; if fuel is sold, then in accordance with section 24-38.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business and professional offices.~~

~~Drug stores.~~

~~Dry cleaners and laundries.~~

~~Fire stations.~~

~~Funeral homes.~~

~~Houses of worship.~~

~~Indoor theaters.~~

~~Libraries.~~

~~Medical clinics or offices.~~

~~Motels, hotels and resort facilities.~~

~~Museums.~~

~~Photography studios and sales, artist and sculptor studios, arts and crafts and handcraft shops, antique shops, reproduction and gift shops.~~

~~Plants and garden supply, hardware and paint, and home appliance sales and service, with storage in a fully enclosed building.~~

~~Post offices.~~

~~Public meeting halls.~~

~~Public utilities.~~

~~Radio and television stations.~~

~~Restaurants, tea rooms and taverns.~~

~~Retail and service stores, including the following stores: books, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, greeting card, ice cream, jewelry sales and service, locksmith, music and records, pet, picture framing, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel and yard goods.~~

~~Retail food stores, bakeries, fish markets.~~

~~Schools.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

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

~~(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:~~

~~(1) Commercial uses: Same as paragraph (2) of subsection (a) above.~~

~~(2) Light industrial uses:~~

~~Printing and publishing.~~

~~Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted in a fully enclosed building, with no dust, noise, odor or other objectionable effect.~~

~~Research, design and development facilities or laboratories.~~

~~Wholesale and warehousing, with storage in a fully enclosed building.~~

~~(3) Theme parks.~~

~~(4) Apartments, townhouses and condominiums.~~

~~(5) Private streets within "qualifying industrial parks" in accordance with section 24-55.~~

~~(6) Golf courses.~~

~~(c) In the planned unit development district, residential (PUD-R) or commercial (PUD-C), all structures to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors:~~

~~(1) Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities.~~

~~(2) Water facilities (public) 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.~~

**Sec. 24-494500. Access points.**

All commercial and light industrial areas within the district shall have safe and convenient access onto a collector street or major thoroughfare. Turning lanes of sufficient length may be required to be built and dedicated by the developer.

**Sec. 24-495501. Requirements for commercial uses in the PUD-R District.**

If commercial uses specified in section 24-499(a)(2) are included within the district, they shall be located in well-planned commercial areas and so designated on the master plan. In a PUD-R, the commercial area or areas with accompanying parking shall not exceed a total of 30 percent of the gross area of the district. The size and scale of commercial uses shall be compatible with surrounding residential areas.

**Sec. 24-496502. Requirements for light industrial uses in the PUD-C District.**

If light industrial uses specified in section 24-499(b)(2) above are included within the district, they shall be located in well planned light industrial areas and so designated on the master plan. All light industrial activities shall be of a nature and so conducted that the effects of noise, dust, light or odor shall not extend beyond the limits of the light industrial area of the district.

**Secs. 24-503 - 24-513. Reserved.**

## Chapter 24

### ARTICLE I. IN GENERAL

#### Section 24-1. Short Title

This chapter shall be known and may be cited as the “James City County, Virginia, Zoning Ordinance” or simply as the “Zoning Ordinance.”  
(Ord. No. 31A-88, § 20-1, 4-8-85)

**Section 24-2. Definitions** *(A list of amendments to the Definitions section with illustrations will be provided for review at a later time)*

#### Sec. 24-3. Purpose of chapter; zoning map.

(a) The board of supervisors hereby enacts this chapter, together with the zoning map and all accompanying data thereon or affixed thereto ~~and~~ which is and shall remain on file in the office of the county administrator, and which is hereby incorporated in and made a part of this chapter for the purpose of promoting the health, safety and general welfare of the public, and for the further purpose of accomplishing the objectives of sections 15.2-2200, 15.2-2280 and 15.2-2283 of the Code of Virginia.

(b) This chapter is designed so as to give reasonable consideration to each of the following purposes, where applicable:

- (1) To provide for adequate light, air, convenience of access and safety from fire, flood, and other dangers;
  - (2) To reduce or prevent congestion in the public streets;
  - (3) To facilitate the creation of a convenient, attractive and harmonious community;
  - (4) To facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements;
  - (5) To protect against destruction of or encroachment upon historic areas;
  - (6) To protect against one or more of the following: Overcrowding of land; undue density of population in relation to the community facilities existing or available; obstruction of light and air; danger and congestion in travel and transportation; or loss of life, health or property from fire, flood, panic or other dangers;
  - (7) To encourage economic development activities that provides desirable employment and enlarge the tax base;
  - (8) To provide for the preservation of agricultural and forestal lands.
- (Ord. No. 31A-88 § 20-3, 4-8-85)

#### Sec. 24-4. Exclusive nature of the chapter.

This chapter shall be deemed exclusive in nature and only those uses specified shall be permitted in the various zoning districts. If a use is not specified in a zoning district, it shall be prohibited in that district. In the event that a use is not permitted in any zoning district, it may only be permitted after appropriate amendment to the text of this chapter.  
(Ord. No. 31A-100, 4-6-87)

**Sec. 24-5. Zoning administrator; administration and enforcement of chapter.**

This chapter shall be administered and enforced by the zoning administrator who shall be appointed by the governing body. The zoning administrator shall serve at the pleasure of that body. Compensation for such shall be fixed by resolution of the governing body.

(Ord. No. 31A-88, § 20-5, 4-8-85)

**Sec. 24-6. Duty of those authorized to issue licenses and permits to conform to chapter.**

All departments, officials and public employees of this jurisdiction who or which are vested with the duty of authority to issue permits or licenses shall conform to the provisions of this chapter. They shall issue permits for uses, buildings or purposes only when they are in harmony with the provisions of this chapter. Any such permit, if issued in conflict with the provisions of this chapter, shall be null and void.

(Ord. No. 31A-88, § 20-6, 4-8-85)

**Sec. 24-7. Administrative fees.**

Fees shall be charged *and collected* at the time of application to offset the cost of making inspections, issuing permits, advertising notices and other expenses incident to the administration of this chapter or to the filing or processing of any appeal or amendment thereto. ~~The following fees shall be charged and collected at the time of application.~~ *Fees shall be charged in accordance with the Fee Schedule document provided by the James City County Development Management Department and approved by the James City County Board of Supervisors.*

<u>Procedure</u>	<u>Fee</u>
(1) Rezoning	\$1,200.00 plus \$75.00 per acre, not to exceed \$15,000.00
(2) Applications for special use permits:	
a. Generally (General special use permits processed with a rezoning shall pay a rezoning fee only)	\$1,000.00 plus \$30.00 per acre, not to exceed \$5,000.00
b. Manufactured home on an individual lot	100.00
c. Family subdivision under section 24-214	100.00
d. Amendment to a special use permit	400.00
e. Wireless communications facilities under division 6	1,500.00
(3) Master plan review:	
a. Initial review of any Residential Cluster, Mixed Use or a PUD with less than 400 acres (PUD's with 400 acres or more shall pay a rezoning fee only)	200.00
b. Revision of approved plan:	
1. Residential Cluster	75.00
2. R-4, PUD, Mixed Use	150.00
(4) Site Plan Review:	
a. Administrative review:	

1. ~~Residential structures or improvements, \$600.00, plus \$60.00 per residential unit.~~
  2. ~~Nonresidential structures or improvements, \$600.00, plus \$0.024 per sq. ft. of building area.~~
  3. ~~Mixed Use structures or improvements, \$600.00, plus \$60.00 per residential unit plus \$0.024 per sq. ft. of nonresidential building area.~~
- b. ~~Planning commission review:~~
1. ~~Residential structures or improvements, \$1,800.00, plus \$60.00 per residential unit.~~
  2. ~~Nonresidential structures or improvements, \$1,800.00, plus \$0.024 per sq. ft. of building area.~~
  3. ~~Mixed Use structures or improvements, \$1,800.00, plus \$60.00 per residential unit plus \$0.024 per sq. ft. of nonresidential building area.~~
- e. ~~Amendment to an approved plan:~~
1. ~~Residential structures or improvements, \$100.00, plus \$10.00 per residential unit.~~
  2. ~~Nonresidential structures or improvements, \$100.00, plus \$0.004 per sq. ft. of building area.~~
  3. ~~Mixed Use structures or improvements, \$100.00, plus \$10.00 per residential unit plus \$0.004 per sq. ft. of nonresidential building area.~~
  4. ~~Residential or nonresidential structures or improvements where the number of dwelling units or area of building area, pavement, or open space is not changed more than 15 percent, \$100.00.~~
- d. ~~Zoning administrator and fire department review only, \$20.00.~~
- e. ~~Each additional review after second resubmission, \$250.00 not to include resubmissions that are the result of substantial redesign due to other agency comments.~~
- (5) ~~Sign permits, \$5.00 per square foot of gross sign area.~~
- (6) ~~Appeals to the board of zoning appeals, \$250.00.~~
- (7) ~~Application for a height limitation waiver to the board of supervisors, \$200.00~~
- (8) ~~Application for administrative variance, \$100.00~~
- (9) ~~Public hearing applicant deferral request when the applicant fails to meet a staff imposed deadline for additional information relevant to the application except where deferral is the result of a commission or board action, \$350.00 per request.~~
- (10) ~~Conceptual plan review, \$25.00.~~
- (11) ~~Zoning verification request, \$100.00.~~
- (12) ~~Stormwater inspection fees: There shall be a fee for the inspection of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.~~
- (Ord. No. 31A-88, C 20-8, 4-8-85; Ord. No. 31A-130, 5-6-91; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-170, 6-25-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-178, 8-18-98; Ord. No. 31A-190, 4-13-99; Ord. No. 31A-212, 4-22-03; Ord. No. 31A-225, 4-24-07; Ord. No. 31A-235, 5-27-08)

### **Sec. 24-8. Certificate of occupancy.**

(a) Land may be used or occupied and buildings structurally altered or erected may be used or changed in use only after a certificate of occupancy has been issued by the ~~zoning administrator~~ *building official*. Such a certificate shall state that the building or the proposed use, or the use of the land, complies with the provisions of this chapter. A similar certificate shall be issued for the purpose of maintaining, renewing, changing or extending a nonconforming use. The certificate shall be issued within ten days after the erection or structural alteration of such building or part has conformed with the provisions of this chapter and all applicable codes and ordinances. Upon the request of the holder of a permit, the ~~zoning administrator~~ *building official* may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(b) The ~~zoning administrator~~ *building official* shall not issue a temporary certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads, public water and public sewer facilities, or the completion of required landscape areas and plantings shown on the approved site plan or other approved plan by providing either a letter of credit, certified check, cash escrow or cash payment approved by the county attorney.

(Ord. No. 31A-88, § 20-10, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-116, 11-6-89)

### **Sec. 24-9. Special use permits.**

In order to provide for good zoning practices; *and* the purpose the zoning district seeks to accomplish, to provide for adjustments in the relative location of uses and buildings of the same or different classification, and to promote the usefulness of these regulations, special use permits, limited as to location by the district regulations, are permitted as set forth under the terms of this chapter. In considering an application for a special use permit in those districts allowing them, the planning commission and the board of supervisors shall give due regard to the James City County Comprehensive Plan, the nature and condition of adjacent uses and structures, and the probable effect upon them of the proposed ~~exception~~ *use permit*. They shall also take into account the special characteristics, design, location, construction, methods and hours of operation, effect on traffic conditions, or any other aspects of the particular use or structure that may be proposed by the applicant.

The planning commission and the board of supervisors should consider whether the proposed establishment or use will adversely affect the health, safety or welfare of persons residing or working on the premises or in the neighborhood, will unreasonably restrict an adequate supply of light and air to adjacent property, will increase congestion in the streets, will increase public danger from fire, will impair the character of the district or adjacent districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of this chapter.

After a public hearing, if the planning commission determines the above considerations have been protected, the planning commission shall recommend to the board of supervisors that the special use permit be granted. The board of supervisors shall consider the recommendation of the planning commission and after a public hearing and a determination that the above considerations have been protected shall grant the special use permit.

An application for a special use permit substantially the same as one previously denied shall not be reconsidered within a one-year period from the date the similar application was denied *by the board of supervisors.*

(Ord. No. 31A-88, + 20-10, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-116, 11-6-89)

**Sec. 24-10. Public hearing required.**

Prior to issuance of a special use permit a public hearing shall be held by the planning commission and by the board of supervisors; provided, however, that a special use permit for a manufactured home, temporary classroom trailer, *or* a family subdivision may be issued after a public hearing is held by the board of supervisors only. Whenever the planning commission is not required to hold a public hearing, it need not consider the permit nor make a recommendation to the board of supervisors for such permit.

(Ord. No. 31A-88, § 20-10.1, 4-8-85; Ord. No. 31A-108, 4-18-88; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-201, 12-1-99)

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

*(This section is being reviewed under commercial districts)*

(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. 24-12. Revocation of special use permits.**

- (a) The governing body may, by resolution, initiate a revocation of a special use permit. When initiated, the revocation process shall be handled as would a new application for a special use permit, following the procedures set forth in section 24-9 of this chapter.
- (b) After review by the ~~planning office~~ *director of planning* and consideration and recommendation by the planning commission, the governing body shall act on the proposal to revoke the special use permit. Grounds for revocation shall include, but not be limited to, the following:
  - (1) A change in conditions affecting the public health, safety and welfare since adoption of the special use permit; or
  - (2) Repeated violations of this chapter, including any conditions attached to the special use permit, by the owner/operator of the use; or
  - (3) Fraudulent, false or misleading information supplied by the applicant (or his agent) for the special use permit; or
  - (4) Improper public notice of the special use permit public hearing(s) when the permit was considered by the planning commission or the governing body; or

- (5) An error or mistake in fact that led to an arbitrary and unreasonable decision made by the governing body when approving the special use permit.

(Ord. No. 31A-102, 6-1-87)

**Sec. 24-13. Amendment of chapter.**

As provided for by section 15.2-2286(7) of the Code of Virginia, the board of supervisors may from time to time amend, supplement or change by ordinance the boundaries of the districts or the regulations herein established; any such amendment may be initiated by resolution of the board of supervisors or by motion of the planning commission or by petition of any property owner, contract purchaser with the owner's written consent, or the owner's agent therefore of the property which is the subject of the proposed zoning map amendment, addressed to the board of supervisors. Petitions for change or amendment shall comply with the requirements of section 24-23. These changes may be made, provided:

- (1) The planning commission and the board of supervisors shall each hold at least one public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard.
- (2) That notice shall be given of the time and place of such hearing by publication as a box advertisement in at least two issues of some newspaper having a general circulation in the jurisdiction. Such notice shall specify the time and place of hearing at which persons affected may appear and present their views, not less than ~~six~~ *five* days nor more than 21 days after final publication. After enactment of any such plan, ordinance or amendment, further publication thereof shall not be required.
- (3) When a proposed amendment of the zoning ordinance involves a change in the zoning classification of 25 or less parcels of land, then, in addition to the advertising as required above, written notice shall be given by the planning commission at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or the occupant of all abutting property and property immediately across the street from the property affected. When a proposed amendment of the zoning ordinance involves a change in the zoning map classification of more than 25 ~~but less than 500 parcels of land~~, then, in addition to the advertising as above required, written notice shall be given at least five days before the hearing to the owner, owners or their agent of each parcel of land involved. One notice sent by first class mail to the last known address of such owner as shown on the current real estate assessment books shall be deemed adequate compliance with this requirement; provided, that a representative of the local commission shall make affidavit that such mailings have been made and file such affidavit with the papers in the case. Nothing in this paragraph shall be construed as to invalidate any subsequently adopted amendment or ordinance because of the inadvertent failure by the representative of the planning commission to give written notice to the owner, owners or their agent of any parcel involved. Such notice shall be sent in accordance with section 15.2-2204 of the Code of Virginia.
- (4) No plan, ordinance or amendment shall be enacted, amended or re-enacted unless the board of supervisors has referred the proposal to the planning commission for its recommendation or has received the planning commission recommendation. Failure of the planning commission to report 100 days after the first meeting of the commission after the proposed plan, amendment or reenactment has been referred to the commission for action shall be deemed approval. After the public hearing required in subsection (1) above, the board may make appropriate changes or corrections in the ordinance or proposed amendment.
- (5) A petition for a plan or amendment substantially the same as one previously considered shall not be reconsidered within a one-year period from the date the similar petition was decided *by the board of supervisors*.

(Ord. No. 31A-88, § 20-14, 4-8-85; Ord. No. 31A-201, 12-1-99; Ord. No. 31A-210, 12-10-02)

**Sec. 24-14. Construction and severability of provisions.**

This chapter shall be liberally construed so as to effectuate the purposes hereof. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that is contrary to the constitution of the commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government agency, person or circumstance.

(Ord. No. 31A-88, § 20-14.1, 4-8-85)

**Sec. 24-15. Purpose of this article.**

It is the general policy of the county, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that is not applicable to land similarly zoned. The provisions of this article shall not be used for the purpose of discrimination in housing.

(Ord. No. 31A-88, § 20-14.2, 4-8-85)

**Sec. 24-16. Proffer of conditions.**

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the board of supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:

- (1) The rezoning itself must give rise to the need for the conditions;
- (2) Such conditions shall have a reasonable relation to the rezoning;
- (3) All such conditions shall be in conformity with the Comprehensive Plan of the county;
- (4) No proffer shall be accepted by the county unless it has adopted a capital improvement program pursuant to Virginia Code, section 15.2-2239. In the event proffered conditions include the dedication of real property or payment of cash, such property shall not transfer and such payment of cash shall not be made until the facilities for which such property is dedicated or cash is tendered are included in the capital improvement program; provided, that nothing herein shall prevent the county from accepting proffered conditions which are not normally included in such capital improvement program;

(5) If proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered  
(Ord. No. 31A-88, § 20-14.3, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-115, 6-5-89)

**Sec. 24-17. Enforcement and guarantees as to conditions.**

The zoning administrator shall be vested with all necessary authority on behalf of the county to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

- (1) The ordering in writing of the remedy of any noncompliance with such conditions;
- (2) The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and
- (3) Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the zoning administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.  
(Ord. No. 31A-88, § 20-14.4, 4-8-85)

**Sec. 24-18. Records.**

The zoning map of the county shall show by an appropriate symbol on the map the existence of conditions attached to the zoning on the map. The zoning administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.  
(Ord. No. 31A-88, § 20-14.5, 4-8-85)

**Sec. 24-19. Petition for review of decision.**

(a) Any zoning applicant who is aggrieved by a decision of the zoning administrator, pursuant to the provisions of section 24-17, may petition the board of supervisors for the review of such decision. Such appeal shall be taken within 30 days from the date of the action complained of and shall be instituted by filing with the zoning administrator and with the county administrator a notice of appeal, specifying the grounds thereof.

(b) The zoning administrator shall forthwith transmit to the board of supervisors all of the papers constituting the record upon which the action appealed from was taken. The board of supervisors shall hear the appeal within 45 days from the date of the filing and give public notice in accordance with section 15.2-2204 of the Code of Virginia of the date fixed for the hearing, and shall give written notice at least five days before the hearing to the owner or owners, their agent or the occupant of each parcel involved and to the owners, their agent or occupant of all abutting property and property immediately across the street from the property affected.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the board of supervisors, after notice of appeal has been filed with him, that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In

such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of supervisors or by a court of record on application or notice to the zoning administrator and on due cause shown.

(Ord. No. 31A-88, § 20-14.6, 4-8-85; Ord. No. 31A-217, 4-26-05)

**Sec. 24-20. Amendments and variations of conditions.**

(a) Conditions proffered and accepted as part of an amendment of the zoning ordinance shall continue in full force and effect until a subsequent amendment changes the zoning on the property covered by such conditions; provided, however, that such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

(b) There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the board of supervisors which shall be advertised pursuant to section 24-13 of this chapter.

(Ord. No. 31A-88, § 20-14.7, 4-8-85)

**Sec. 24-21. Relation of section to other laws.**

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other county ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other county ordinances.

(Ord. No. 31A-88, § 20-14.8, 4-8-85)

**Sec. 24-22. Penalties; sanctions, injunctive relief, fines.**

(a) Violating, causing or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner lessee, employee or other similar position, shall be unlawful and is subject to the following:

(1) *Criminal sanctions.* Upon conviction, shall be guilty of a misdemeanor and shall be fined not less than \$10.00, nor more than \$1,000.00. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding thirty day period shall constitute a separate misdemeanor offense for each thirty day period punishable by a fine of not less than \$10.00 nor more than \$1,000.00.

(2) *Injunctive relief.* Any violation or attempted violation of this chapter may be restrained, corrected or abated as the case may be by injunction or other appropriate relief.

(3) *Civil fines:*

a. A civil penalty in the amount listed on the schedule below shall be assessed for a violation of the respective offense:

- 1. Keeping an inoperative vehicle in residential or commercial zoning districts in violation of section 24-37, per vehicle ..... \$100.00
- 2. Constructing, placing, erecting or displaying a sign on private property without a sign permit issued by the county in violation of section 24-67, per sign..... 100.00

3. Occupying, or permitting to be occupied, a single-family dwelling (SFD) by more than three unrelated individuals in violation of the definition of "family" in section 24-2, per offense ..... 100.00
  4. Installing, placing or maintaining a dish antennae in violation of section 24-34, per offense ..... 50.00
  5. Failure to meet the tree replacement requirements for any buffer or setback for timbering in accordance with section 24-43, per offense ..... 100.00
- b. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten-day period and in no event shall a series of such violations result in civil penalties of more than \$3,000.00.
- c. Any person summoned for a scheduled violation may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.
- d. No provisions herein shall be construed to allow the imposition of civil penalties for:
1. Enforcement of the Uniform Statewide Building Code;
  2. Activities related to land development or activities related to the construction or repair of buildings and other structures;
  3. Violations of the erosion and sedimentation control ordinance;
  4. Violations of any provisions of a local zoning ordinance relating to the posting of signs on public property or public right-of-ways; or
  5. Violations resulting in injury to any person or persons.

(b) Civil or criminal action may be brought in conjunction with an action for injunctive relief. However, the offense designated for civil penalties above shall be in lieu of criminal enforcement. (Ord. No. 31A-88, §20-15, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-129, 3-4-91; Ord. No. 31A-182, 10-13-98; Ord. No. 31A-204, 5-8-01)

**Sec. 24-23. Submittal requirements.**

(a) The following *information* shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.

(1) Community impact statement. *The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum, shall address the following topics regarding infrastructure and quality of life:*

~~a. Infrastructure information:~~

- a. A traffic impact ~~study~~ *analysis* for all projects that expect to generate 100 or more weekday peak hour 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, or those projects with an entrance or exit onto a roadway with a level of service “D” or lower *shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy*. 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 *based on the TIA policy requirements*. Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the board of supervisors after reviewing the applicant's traffic impact ~~study~~ *analysis*; and

- b. A water and sewer impact study for all projects with an anticipated average daily flow greater than ~~30,000 gallons~~, *15,000 gallons* and/or for proposed residential projects containing ~~100~~ *50* lots or more. *Water conservation information in accordance with Water Conservation Guidelines Policy adopted by the board of supervisors on November of 2007.*
- c. ~~A conceptual stormwater management plan showing approximate location, footprint, and type of BMP; and~~
- c. An adequate public facilities report in accordance with Board of Supervisors policy *to include sewer, water, schools, fire, stations, libraries, and other major locally finances facilities. Schools information shall be prepared according to the Adequate Public School Facilities Test Policy adopted by the board of supervisors on June of 1998.*
- d. *Additional on-site and off-site public facilities or services which would be required as a result of the proposal.*

b. ~~Quality of life information~~

- e. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy;
- f. An environmental inventory in accordance with the James City County Natural ~~Areas~~ *Resource* policy;
- g. *An Environmental Constraints Analysis in accordance with the James City County Environmental Submittal Policy for Legislative Cases;*
- h. A fiscal impact ~~analysis study~~ when the proposal includes residential dwelling units. *If desired by the applicant supplemental studies may be prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the director of planning; and*
- i. *Parks and recreation information based on Parks and Recreation Master Plan Proffer Guidelines adopted by the board of supervisors on June of 2009.*

(2) Master plan. The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, right-of-ways (*with an indication of whether public or private*), accesses, opens spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. *The master plan should be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:*

1. *An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;*
2. *A north arrow, scale, the proposed use, approximate development phasing (if applicable);*
3. *The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;*
4. *If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;*
5. *If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.*
6. *If more than one type of land uses are proposed each use shall be designated on the master plan as follows:*

<i>Type of Development</i>	<i>Area Designation</i>
<i>Single family</i>	<b>A</b>
<i>Multi-family (up to and including four dwelling units)</i>	<b>B</b>
<i>Multi-family (more than four dwelling units)</i>	<b>C</b>
<i>Apartments</i>	<b>D</b>
<i>Commercial uses</i>	<b>E</b>
<i>Wholesale and warehouse uses</i>	<b>F</b>
<i>Office uses</i>	<b>G</b>
<i>Light industrial uses</i>	<b>H</b>
<i>Institutional or public uses</i>	<b>I</b>
<i>Areas of common open space, with recreation areas noted</i>	<b>J</b>
<i>Structures containing a mixture of uses</i>	<b>M*</b>
<i>Other structures, facilities or amenities</i>	<b>X</b>

Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.

*A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal.* The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master

plan shall be in accordance with section 24-13 of this chapter. Final ~~site development~~ plans may be approved after approval of a master plan by the board of supervisors. All final ~~site development~~ plans shall be consistent with the master plan, but may deviate from the master plan if the ~~zoning administrator concludes, after reviewing written comments from the planning director,~~ the ~~director of planning concludes that~~ the site plan does not alter the basic concept or character of the development or conflict with any conditions placed on the special use permit. If the zoning administrator determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13.

*For specific information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.*

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with ~~section 24-7 of this chapter.~~ *the fee schedule provided by the James City County Development Management Department and adopted by the board of supervisors.*
- (b) Supplemental information should be submitted in accordance with the “Supplemental Submittal Requirements for Special Use Permits and Rezonings” policy as adopted by the board of supervisors *on December of 1999 and any additional policies as necessary.*
- (c) Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.  
(Ord. No. 31A-201, 12-1-99)

#### **Section 24-24. Additional requirements for submittal.**

Each person or entity submitting an application for consideration under the provisions of section 24-23 including a special use permit, variance, erosion and sediment control permit, building permit, or any other land disturbance or rezoning measure, shall attach to such application a signed statement from the county treasurer certifying that for property listed in the application all real estate taxes owed to the county have been paid in full. The statement of certification from the county treasurer shall be valid for 30 days. Should the application be submitted more than 30 days after the treasurer has certified payment of taxes, a new certification from the treasurer shall be required.

**State law reference-**Permitted provisions in zoning ordinances; amendments; applicant to pay delinquent taxes; penalties, Code of VA., §15.2-2286.  
(Ord. No. 31A-247, 8-10-10)

**Secs. 24-25 - 24-31. Reserved.**

## Chapter 24

### ARTICLE III. SITE PLAN

#### Sec. 24-142. Statement of intent.

(a) The purpose of this article is to encourage sound and innovative design and to ensure that land is used in a manner that is efficient, in harmony with neighboring property and the environment, and in accordance with the Comprehensive Plan and provisions of this chapter or other parts of the James City County Code.

(b) Nothing herein shall require the approval of any development, use or plan, or any feature thereof, which shall be found by the commission or the zoning administrator to constitute a danger to the public health, safety or general welfare, or which shall be determined to be a violation of federal, state or county laws or regulations.

(Ord. No. 31A-132, 10-14-91)

#### Sec. 24-143. When site plans required.

Site plans shall be required for the following major uses and additions and expansions thereto:

- (1) ~~Multiple~~ ~~Multi~~-family dwellings *with a combined total of four units or more*; except for the addition of individual private decks and fences accessory thereto.
- (2) ~~Townhouses or condominiums~~ *Apartments*; except for the addition of individual private decks and fences accessory thereto.
- (3) ~~Churches, temples, synagogues or cemeteries~~; *Places of public assembly, such as churches, temples, synagogues, cemeteries; and public meeting halls;*
- (4) Docks, marinas, wharves, piers, bulkheads and the like or any overwater structures, except private overwater piers and boat houses accessory to ~~a~~ single-family dwelling;
- (5) ~~Business~~; *Commercial or industrial buildings or developments*;
- (6) Manufactured home parks;
- (7) Campgrounds;
- (8) Public parks or recreation facilities;
- (9) Public utilities, public service or transportation uses, transmission mains, buildings, generating, purification or treatment plants, water storage tanks, pumping or regulator stations, telephone exchange, transformer or substations, or power transmission lines;
- (10) Schools or public buildings;
- (11) Hospitals or nursing homes;
- (12) ~~Towers~~; *Wireless communications facilities*;

~~(13) Two or more two-family dwellings on the same parcel;~~

(13) Three or more single-family dwellings on the same parcel; or

(14) Off-street parking areas or any additions to existing off-street parking areas except for single-family residences.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-160, 5-1-95)

#### **Sec. 24-144. Preapplication conference and submission of conceptual plan.**

(a) Before filing an application for approval of a site development plan, the applicant is advised to confer with the planning director, or his designee, and such other agencies of the county, state and/or federal governments as the planning director suggests to be advisable concerning the general proposal.

(b) Prior to the submission of a site plan, the applicant or his representative, is advised to submit three copies of a conceptual plan for review by the director of planning, or his designee; such action does not constitute the submission of a site plan and is not to be construed as an application for approval in computing time limitations in relation thereto. The planning division shall transmit comments to the applicant within ~~24 calendar~~ **10 working** days of submittal of a **conceptual** plan which meets all applicable submittal criteria.

(c) The conceptual plan may be granted conceptual plan approval with conditions that should be satisfied prior to final site plan approval by the zoning administrator; such action does not constitute site plan approval or preliminary approval. ~~Submittal of a site plan that does not incorporate the conditions set forth during the conceptual plan review period, shall be reviewed by the commission under the requirements of section 24-148.~~ Unless required by the planning director, a resubmittal of conceptual plans shall not be necessary.

(d) Conceptual plans shall, at a minimum, ~~show:~~ **identify or contain:**

(1) ~~Property lines;~~ **Project title, title block, legend, north arrow and graphic scale, zoning and zoning of surrounding properties;**

(2) ~~Building locations and orientation;~~ **Vicinity and location maps and site address;**

(3) ~~Building locations on adjacent properties;~~ **County tax parcel number, site boundary, and parcel size information;**

(4) ~~Location of parking area(s);~~ **Buildings location and orientation, location of buildings on adjacent properties, building and landscape setbacks, buffers such as Resource Protection Areas (RPA) and CCC (Community Character Corridors);**

~~(5) Landscape areas/buffers;~~

(5) Entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.);

(6) Greenway connections (on-site and those adjacent to the subject property);

(7) **Narrative description of the** proposed use of site;

~~(8) Building/landscape setbacks per James City County ordinance;~~

~~(9) Site zoning and zoning of surrounding properties;~~

- (8) Location of stormwater management facilities;
  - ~~(12) Graphic scale;~~
  - (9) **Recorded** easements (conservation, utility, **rights-of-way**, etc.);
  - (10) Unique natural/visual features (viewsheds, water features, wetlands, **etc.**) ~~RPA buffer, known archaeological sites, etc.);~~
  - (11) Unique natural/visual features to be preserved (~~mature specimen trees, etc.);~~ **known archeological sites, etc);**
  - (12) List of currently binding proffers or SUP conditions;
  - (13) Location of entry signs; and
  - (14) **Existing** topography of site ~~using county base mapping (5 foot contour) or other mapping sources or surveys.~~
- (e) If the zoning administrator determines that one or more of the above submittal requirements is not applicable to the proposed project, the zoning administrator may waive those requirements.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-192, 5-11-99)

**Sec. 24-145. Site plan submittal requirements.**

- (a) Site plans shall, at a minimum, **identify or** contain:
  - (1) ~~Title of project;~~ **Project title, title block, north arrow, legend, graphic scale, zoning, parcel number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;**
  - (2) Name of engineer, architect, landscape architect, planner and/or licensed surveyor;
  - (3) **Vicinity and** location of site by an inset map at a scale no less than one inch equals 2,000 feet;
  - ~~(4) Indication of the scale, north arrow, zoning, parcel number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;~~
  - (4) Boundary survey of site;
  - (5) Location, type and size of all entrances to the site. All existing and proposed streets and easements, their names, numbers and width; \
  - (6) **Existing and proposed utilities with easements and sizes, projected peak water and wastewater flows, watercourses and their names and owners;**
  - ~~(7) Location, type and size of all entrances to the site;~~

- (7) Existing topography *using county base mapping (five foot contours) or other mapping sources or resources*, and proposed finished contours;
- (8) *Spot elevations shown at topographic low and high points*;
- (9) A landscape plan showing woodline before site preparation with species and average diameter of trees indicated with location and diameter of single trees in open areas; areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes; and size and type of trees to be removed having a minimum diameter breast height of 12 inches;
- (10) *A tree preservation plan and a phased clearing plan in accordance with Sections 24-87 and 24-90*;
- (11) *An outdoor lighting plan in accordance with Section 24-101*;
- (12) Provisions for off-street parking, loading spaces and pedestrian walkways including existing and proposed sidewalks, calculations indicating the number of parking spaces required and the number provided;
- (13) Number of floors, floor area, height and location of each building;
- (14) For a multifamily *or apartment residential* development, the number, size and type of dwelling units and the location, type and percentage of total acreage of recreation facilities;
- (15) Detailed utility layout including water and sanitary sewer plan with profiles; location of electrical transmission lines, gas pipelines, streetlights and fire hydrants; and showing the locations of garbage and trash disposal facilities;
- (16) Provisions for the adequate control of stormwater drainage and erosion and sedimentation, indicating all proposed temporary and permanent control measures;
- (17) Computation notations to include the total site area, and the amount and percentage of the site covered by open space and buildings, or dwelling units for multifamily *residential or apartment* developments;
- (18) Bylaws of homeowner association where applicable;
- (19) Copies of notification to adjacent property owners; and.
- (20) Copy of conceptual plan ~~reviewed under the requirements of section 24-144.~~ *(if applicable)*
- (21) *Narrative description of compliance of plan to any proffers or special use permit conditions*
- (22) *The following environmental information about the site proposed for development including:*
  - a. *All existing easements, disturbed area, impervious cover, and percent impervious estimate;*
  - b. *Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable, hydrologic soils group A & B);*
  - c. *Full environmental inventory consistent with section 23-10(2) of the County's Chesapeake Bay Preservation Ordinance (perennial stream assessment, delineated wetlands, limits of work);*

d. Demonstration that the project complies with section 23-9(b)(1), (2), & (3) of the County's Chesapeake Bay Preservation Ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized);

e. County watershed, steep slopes (grade 25% or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and

f. Description of Better Site Design or Low Impact Development (LID) techniques if being used.

(b) If the zoning administrator determines that one or more of the above submittal requirements is not applicable to the proposed project, the zoning administrator may waive those requirements.

(c) The submittal of a site plan with insufficient information shall result in the return of the plans to the applicant without review; such deficiencies shall be noted in written form.

~~(d) If the submitted site plan does not have an approved conceptual plan, as set forth in section 24-144, then the site plan shall be reviewed by the commission under the requirements of section 24-148.~~

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-192, 5-11-99)

#### **Sec. 24-146. Public access to site plan.**

(a) It shall be the responsibility of the applicant for site plan approval to notify all adjoining property owners, advising them of the submission of plans to the county and that plans are on file and available for review in the planning division. No site plan shall be reviewed until the applicant presents evidence to the satisfaction of the planning director, or his designee, that all property owners contiguous to and sharing a common property line with such applicants or whose property lies directly across from the proposed development have been notified in writing prior to the time the site plan is reviewed. Evidence that such notice was sent by mail to the last-known address of such owner as shown on the current real estate tax assessment books shall be deemed adequate compliance.

(b) All site plans shall be kept on file in the planning division and will be available for review by all interested persons during normal business hours for no less than five working days prior to receiving preliminary approval. This five-day period shall begin at the time the applicant has submitted sufficient evidence to the planning director that all adjacent property owners have been notified as required in this article. (Ord. No. 31A-132, 10-14-91)

#### **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 fast food restaurant; or a multifamily unit development of 10 or more units which is not subject to a binding, legislatively approved master plan, or~~

b. A shopping center; or

c. A single building or group of buildings which contain a total floor area that exceeds 30,000 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; which are not predominantly to be used as a warehouse, distribution center, office, or for other industrial or manufacturing purpose. The term "predominantly" shall be defined as 85 percent of the total square feet of the building or more.~~

(2) There are unresolved ~~problems~~ *conflicts* between the applicant, adjacent property owners or any departmental reviewing agency. *Unresolved conflicts shall be defined as disagreement in the interpretation or application of ordinance requirements which have a material impact on the proposed developments off-site impacts and/or density as determined by the director of planning.*

(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 ~~to~~ create or significantly expand 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 ~~under the terms of section 24-150.~~ (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)

#### **Sec. 24-148. Procedure for commission review of site plans.**

(a) The applicant shall submit to the planning director, or his designee, ten copies of the site plan and pay the appropriate application fee. Site plans shall first be reviewed by the DRC who shall forward a recommendation to the commission. In order for site plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such site plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review ~~requirements~~ *comments and requirements* by other agencies *and determine consistency with all applicable zoning ordinance requirements, policies and regulations.* The DRC shall consider the composite report and the site plan and make a recommendation to the commission.

(c) The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the site plan. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.

(d) The applicant may, at their discretion, submit an enhanced conceptual plan for review by the planning division, other agencies of the county, state and/or federal government as deemed necessary by the ~~planning director~~ *director of planning* and the DRC in advance of preparation of fully engineered plans. The planning division shall prepare a composite report on the proposed plans which shall include review *comments and requirements* by other agencies and determine consistency with all applicable zoning ordinance requirements, policies and regulations. The ~~composite report and the~~ *composite report and the* enhanced conceptual plan ~~and the planning division's composite report~~ shall be ~~reviewed~~ *considered* by the DRC *at one of its regularly scheduled monthly meetings when it meets* to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall notify the applicant of the commission's findings within ten working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, such notice shall

state the specific reasons for disapproval. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the planning division *and other agencies as deemed necessary by the director of planning*. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

- (e) The enhanced conceptual plan shall at a minimum contain:
  - (1) Project title, title block, legend, north arrows and ~~plan~~ *graphic* scale labeled;
  - (2) Vicinity and location maps and site address;
  - (3) Site owner and developer information;
  - (4) County tax parcel number, site boundary and parcel size information;
  - (5) Setbacks (Building, Landscape) and Buffers (RPA, Community Character);
  - (6) Adjacent property information;
  - (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;
  - (8) Existing topography using county base mapping (5 foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;
  - (9) Existing and proposed rights-of-way and easements;
  - (10) Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;
  - (11) Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;
  - (12) Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;
  - (13) Location and size of existing water mains and proposed connection point(s);
  - (14) Proposed location of water meters, waterlines, and fire hydrants;
  - (15) Proposed building usage and number of floors;
  - (16) Preliminary water demands based on proposed use and required fire flow;
  - (17) Fire flow test performed to determine adequate capacity
  - (18) Location of all existing or proposed private wells;
  - (19) Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);
  - (20) Proposed sanitary sewer, pump or lift stations, and grinder pump(s);
  - (21) Verification of sewer flow acceptance;
  - (22) Location of primary and secondary onsite disposal system;
  - (23) Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;
  - (24) Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;
  - (25) Proposed build out year and phasing information;
  - (26) Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;
  - (27) Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;
  - (28) Proposed design features or elements for which waivers will be sought;
  - (29) Project site area, disturbed area, impervious cover and percent impervious estimates;
  - (30) Applicable FEMA FIRM panel information and zone designations;
  - (31) County watershed, subwatershed and catchment;
  - (32) Identify if the site is subject to the county's Special Stormwater Criteria (SSC);
  - (33) Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;
  - (34) Full Environmental Inventory consistent with section 23-10(2) of the county's Chesapeake Bay

- Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;
- (35) Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation and minimize impervious cover consistent with the proposed land use or permitted development;
  - (36) Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;
  - (37) Identify location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;
  - (38) Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;
  - (39) Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;
  - (40) Identify preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;
  - (41) List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.
- (Ord. No. 31A-132, 10-14-91; Ord. No. 31A-246, 6-22-10)

**Sec. 24-149. Procedure for review of site plans by the commission's designee(s).**

(a) The applicant shall submit to the planning director, or ~~his~~ *its* designee, ten copies of the site plan and pay the appropriate application fee.

(b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall prepare a composite report on the proposed site plan which shall include review *comments and* requirements by other agencies and submit the report to the Commission's designees for consideration.

(c) The Commission's designees shall consider the planning division's report and either grant preliminary approval, defer, disapprove or refer the site plan back to the *DRC development review committee and full Commission*. The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator. The planning division shall provide written notice to the applicant of the Commission's designee's decision. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for disapproval.

(Ord. No. 31A-136, 1-6-92)

**Sec. 24-150. Procedures for administrative review of site plans.**

- (a) The applicant shall submit to the planning director, or designee, ten copies of the site plan and pay the appropriate application fee.
- (b) Upon meeting all submittal requirements, the site plan shall be reviewed by the planning division and other agencies of the county, state and/or federal government as deemed necessary by the planning director. The planning division shall transmit county staff comments to the applicant within 45 days of the initial submittal of plans meeting all applicable submittal criteria. No plan shall be approved until all staff and other agency comments are satisfied.

- (c) The site plan may be granted preliminary approval *with conditions that must be satisfied prior to final approval* by the planning division or deferred. It *or* may also be approved or disapproved by the zoning administrator. ~~The site plan may be granted preliminary approval with conditions that must be satisfied prior to final approval by the zoning administrator.~~ The planning division shall notify the applicant of any action taken on the site plan within ten working days of such action. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure preliminary or final approval. If disapproved, the notice shall state the specific reasons for denial.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-246, 6-22-10)

#### **Sec. 24-151. Review criteria generally.**

~~The director of planning, zoning administrator,~~ the planning commission, *or* its designee(s), ~~the planning director and the zoning administrator~~ shall ~~examine~~ *review* and consider site plans with respect to:

- (1) Intensity of land use including developable acreage, density and adequate provisions for open space and recreational facilities as appropriate to the site usage and to the Comprehensive Plan *Development Standards*;
- (2) Design and layout of the site including *all existing and proposed* buildings, *exterior* signs, recreation facilities, garbage and trash disposal facilities, sedimentation and erosion controls, storm drainage, stormwater management, sanitary sewage disposal and water supply ~~exit and entrance points~~ *locations* on the site including line sizes, areas to be landscaped with approximate arrangement and plant types and sizes indicated, and provisions for pedestrian and vehicular traffic movements within and adjacent to the site. Particular emphasis shall be placed upon the review of on-site aesthetics; public safety features; environmental, historic and vegetative preservation; efficient layout of buildings, parking areas *and* off-street loading and unloading; ~~and movement of people, goods and vehicles (including emergency vehicles) from access roads, within the site, between buildings and vehicles.~~ Vehicular access to the site shall be designed to aid overall traffic flow and to permit vehicles, *including emergency vehicles, a safe means of* ingress and egress;
- (3) Design standards contained in this chapter as they relate to traffic circulation, parking, *lighting*, performance standards, location of structures, *buildings and landscape* setbacks, ~~yards, bulk,~~ *yard requirements* height and building coverage *limits* shall apply, where applicable, to site plan approval. The design criteria established in the county subdivision ordinance and applicable standards of the State Department of Transportation shall apply where appropriate to site plan approval.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-136, 1-6-92)

#### **Sec. 24-152. Term of validity for preliminary approval.**

Preliminary approval of a site plan shall be valid for a period of one year. A revised site plan must be presented and properly filed with the planning director, or his designee, and receive final approval from the zoning administrator prior to the termination date of the preliminary approval.

(Ord. No. 31A-132, 10-14-91)

#### **Sec. 24-153. Submittal of revised site plan generally.**

Ten copies of a revised site plan shall be submitted to the planning director, or ~~his~~ *its* designee, who shall within 30 days review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The planning director, or ~~his~~ *its* designee, shall review each subsequent submittal of revised plans within 21 days. The planning director

shall provide a set of all submittals to ~~relevant~~ *applicable* agencies or departments for their review and written comments. The revised site plan shall be submitted on separate sheets ~~or overlays~~ as appropriate for accurate representation of the project. Insufficient submittals may be returned to the applicant with written notification of deficiencies from the planning director or his designee. The revised site plan shall, at a minimum, contain those items set forth in ~~subsection 24-145(a)(1) through (17).~~  
(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-246, 6-22-10)

**Sec. 24-154. Reserved.**

**Sec. 24-155. Action upon completion of review of revised site plan.**

Upon final approval of the site plan by the zoning administrator, the planning director, or ~~his~~ *its* designee, shall transmit two approved sets of plans to the developer, owner or authorized project agent. ~~and one~~ *One* copy of any correspondence and *approved set of plans* is to be retained *on file* by the planning director or his designee. *in Records Management.*  
(Ord. No. 31A-132, 10-14-91)

**Sec. 24-156. Term of validity of final approval.**

(a) Final approval of a site plan submitted under the terms of this article shall ~~expire~~ *be valid from the date of approval for a period of five years.* ~~after the date of such approval.~~ During that period, all building permits shall be obtained or the development shall be put into use. When building permits have been issued, the site plan approval shall run concurrently with the building permit term of validity for only those buildings and improvements covered by a *the permit(s).*

(b) ~~The approved final site plan shall be valid for a period of five years from the date of approval.~~ For so long as the final site plan remains valid in accordance with the provisions of this section, no change or amendment to any county ordinance, map, resolution, policy or plan adopted subsequent to the date of approval of the final site plan shall adversely affect the right of the developer or successor in interest to commence and complete an approved development in accordance with the lawful terms of the site plan unless there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare *as determined by the director of planning, and the director of building safety and permits.*

(c) Application for minor modifications to approved site plans made during the five-year term of validity shall not constitute a waiver of provisions of this section nor shall the approval of such minor modifications extend the ~~period~~ *term* of validity *of the originally approved site plan.* Any minor modification shall be made in accordance with section 24-157.

(d) The provisions of this section shall not be construed to affect any litigation nonsuited and thereafter refiled; the authority of the governing body to impose valid conditions upon approval of any special use permit, conditional use permit or special exception; the application to parcels of land subject to final site plans, to the greatest extent possible, of the provisions of the county's Chesapeake Bay Preservation ordinance, or any county ordinance adopted to comply with the requirements of the federal Clean Water Act Section 402(p) Stormwater Program and regulations promulgated thereunder by the Environmental Protection Agency.  
(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-147, 11-2-92)

**Sec. 24-157. Amendment of approved site plans.**

(a) Upon application, an approved site plan may be amended with the approval of the zoning administrator, provided that such proposed amendment does not:

- (1) Alter a recorded plat;

- (2) Conflict with the specific requirements of this article;
- (3) Change the general character or content of an approved development plan or use;
- (4) Have an appreciable affect on adjoining or surrounding property;
- (5) Result in any substantial change of major external access points;
- (6) Increase the approved number of dwelling units or height of buildings;
- (7) Decrease the specified yards and open spaces or specified parking and loading spaces; or
- (8) *Increase specified parking and loading spaces.*

(b) Amendments not in accordance with subsections (a)(1) through ~~(7)~~(8) of this section shall be considered as new site plans and resubmitted for approval. Approval of an amendment under this section shall not extend the term of validity of the original approved site plan.  
(Ord. No. 31A-132, 10-14-91)

**Sec. 24-158. Final "as-built" plans required.**

For all projects subject to site plan review in accordance with section 24-143, a copy of final "as-built" plans and specifications for all water and sewer facilities and fire hydrants shall be submitted to the James City Service Authority prior to the issuance of any ~~permanent~~ *final* certificate of occupancy *by the Building Safety and Permits Division.*  
(Ord. No. 31A-132, 10-14-91)

**Sec. 24-159. Compliance with site plan required.**

- (a) *Inspection and supervision during development:*
  - (1) Unless otherwise specifically provided in this chapter, the construction standards for all ~~off-site~~ *on-site* and *off-site* improvements required by this chapter, the site plan or other documents approved by the county shall conform to county design and construction standards. The director of ~~code compliance~~ *building safety and permits* or ~~his~~ *their* agents shall, after approval of the plan and specifications, inspect construction of all improvement and land disturbances to assure conformity with the approved plans to the maximum extent possible.
  - (2) The owner or agent shall notify the director of ~~code compliance~~ *building safety and permits* in writing three days prior to the beginning of all street or storm sewer work shown to be constructed on the site plan.
  - (3) The stormwater division shall, after approval of the plan and specifications, inspect construction of all stormwater installations, including but not limited to BMPs, storm drains, channels, inlets, and outfalls to assure conformity with the approved plans to the maximum extent possible.
  - (4) The owner or agent shall provide adequate supervision on the site during installation of all required improvements and have a responsible superintendent or foreman, together with one set of the approved plans, profiles and specifications available at the site at all times when the work is being performed.

- (b) *Sanctions, penalties and relief.* Any person, firm or corporation, whether as principal, agent, owner, lessee, employee or similar position, who violates or fails to comply with any provision of this article, permits such violation or erects any structure or uses any land or structure prior to preliminary approval or contrary to a site plan shall be subject to criminal sanctions, civil penalties and/or injunctive relief as provided in section 24-22.

(Ord. No. 31A-132, 10-14-91; Ord. No. 31A-235, 5-27-08)

**Sec. 24-160. Administrative review fees.**

Submittal of a site plan and subsequent revisions proposed by the applicant shall be accompanied by a fee as specified in section 24-7.

(Ord. No. 31A-130, 5-6-91)

**Secs. 24-161 - 24-170. Reserved.**

## **Traffic Impact Analysis Submittal Requirements Policy**

### **I. GENERAL**

In 2006, the Traffic Impact Analysis Regulations known as “Chapter 527” was approved by the General Assembly of Virginia to expand the role of the Virginia Department of Transportation (VDOT) in the land planning and development review process. Accordingly, James City County requires submission of all Traffic Impact Analyses (TIA’s) to be conformance with the aforementioned regulations. In addition, all TIA’s shall conform to the current versions of the Manual of Uniform Traffic Control Devices (MUTCD), the VDOT Road Design Manual, VDOT Access Management Regulations and Standards, the American Association of State Highway and Transportation Officials (AASHTO) and the Institute of Transportation Engineers (ITE) manuals unless otherwise approved by the Planning Director.

### **II. APPLICABILITY**

A. Submission of a TIA shall be required when one or more of the following apply:

- Projects that expect to generate 100 or more weekday peak hour trips to and from the site during the peak hour of operation based on the ITE manual’s trip generation rates.
- Projects with an entrance or exit onto a roadway with a Level Of Service “D” or lower operation.

Note: VDOT has different requirements that trigger a 527 TIA than County Ordinance. Should a TIA be required by VDOT, but not be triggered County requirements, this policy would not be applicable and no additional TIA is required.

### **III. EXCEPTIONS**

A TIA does not have to be updated/submitted if a TIA or 527 TIA was previously submitted for a rezoning or Special Use Permit and all assumptions made in the TIA remain valid.

### **IV. PROCEDURE**

A scoping meeting with VDOT and Planning Division staff is required for any proposal that requires the submission of a TIA. A scoping meeting is required when the proposed development generates more than 100 peak hour site trips. At this meeting the Planning Director will determine the minimum scope of work and if additional analysis’s pursuant to Section VI B are applicable. Fifteen paper copies and a digital copy of the TIA shall be submitted during application of the project with the County.

### **V. WHO PREPARES**

Generally, a licensed traffic engineer prepares a TIA; however, for smaller applications, the Planning Director may approve TIAs that have not been certified by a traffic engineer.

### **VI. CONTENTS OF A TRAFFIC IMPACT ANALYSIS**

A. The Traffic Impact Analysis shall at minimum include the following:

- Executive Summary
- Introduction
- Analysis of Existing Conditions
- Analysis of Future Conditions without Development
- Projected Trip Generation

- Analysis of Future Conditions with Development
- Signal Warrant Analysis
- Improvements necessary to achieve an overall Level of Service “C” on adjacent roadways/intersections. The Planning Director may approve movements in certain lane groups of LOS “D” in urban environments.
- Conclusion

#### B. Supplemental Analysis

As determined at the scoping meeting, the Planning Director may also request the following analysis as a component of the TIA:

- Weaving Analysis
- Corridor Study
- Queuing/Turn Lane Analysis
- Expanded Study Area
- Examination of Transit
- Accident/Safety Analysis

## R E S O L U T I O N

### ENVIRONMENTAL CONSTRAINTS ANALYSIS FOR LEGISLATIVE CASES

WHEREAS, in order to fully understand the impacts of a development on the local environment, consistent information should be provided to planning staff and members of the Planning Commission and Board of Supervisors prior to approval of a legislative case (special use permits and rezonings);

WHEREAS, a thorough environmental analysis will ensure that development is not planned for areas which may not be able to accommodate it due to environmental constraints; and

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby endorse the following:

Any application for a use requiring a special use permit and/or rezoning, shall be accompanied by an Environmental Constrains Analysis containing, at a minimum, the information below. All or portions of the Environmental Constraints Analysis may be excluded from legislative cases application as determined by the director of planning.

#### **I. Hydrologic Features:**

1. Location of all bodies of water such as streams, ponds, lakes, impoundments, rivers;
2. Name of watershed the project is located in;
3. Approximate location of tidal and non-tidal wetlands (e.g. sinkholes, wetland, springs, seeps, etc);
4. Approximate location of perennial and intermittent streams;
5. Description of receiving streams;
6. Floodplain delineation for 100 and 500-year storm events including tidal flooding, if applicable.

#### **II. Physical Features:**

1. Approximate location of steep slopes greater than 25% based on County GIS or better source (all sources must be referenced). The scale for which this shall be provided is at the discretion of the engineering and resource protection director;

2. Soils, especially prime agricultural lands and HSG A&B soils, based on the County soil survey;
3. Soils erodability based on the county soils survey;
4. Areas of forest, woodland cover and wildlife corridors;
5. Pre-development topography based on County GIS or alternate source approved by the engineering and resource protection director (all sources must be referenced)

**III. Prohibited or Restricted Development Areas:**

1. Location of required buffers and existing conservation easements;
2. Sites with known populations of rare, threatened or endangered species of plants or animals per studies done in accordance with the Natural Resource Policy;
3. Location of trees to be preserved in accordance with the Chez Bay Ordinance;
4. Preliminary location of Resource Protection Areas and of legal wetlands.

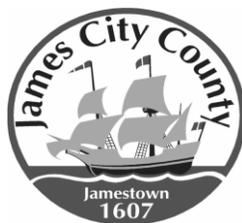
**IV. Existing and Proposed Changes to the site**

1. The nature of existing and approved but not yet built development(s) on the site;
2. Location of surrounding properties and neighborhoods;
3. Proposed limit of disturbance and a disturbance area estimate;
4. Calculation of existing and proposed pervious and impervious areas (e.g. parking areas, roads, sidewalks, buildings, etc);
5. If used, description of Better Site Design or Low Impact Development Techniques (e.g. pervious pavement, walks, infiltration areas, etc.);
6. Description of how disturbance is being minimized, indigenous vegetation is being preserved, and impervious cover reduced; and
7. Proposed conceptual stormwater management plan, including pre and post-development discharge analysis.

**V. Narrative Analysis of Environmental Constraints and Recommended Environmental Measures to Conform with the Proposed Environmental Analysis.**

### **Environmental Submittal Requirements for Site Plans**

- Existing topography
- Existing and proposed site features (buildings, roads, driveways, utilities, property lines)
- Existing easements
- Disturbed area, impervious cover, and percent impervious estimate
- Flood zone designation
- Required buffers
- Soils (highly erodible, hydric, permeable, hydrologic soils group A & B)
- Full environmental inventory consistent with section 23-10(2) of the County's Chesapeake Bay Preservation Ordinance (perennial stream assessment, delineated wetlands, limits of work)
- Demonstration that the project complies with section 23-9(b)(1), (2), & (3) of the County's Chesapeake Bay Preservation Ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized)
- Locations of proposed and existing storm water management/BMP facilities
- County watershed
- Steep slopes (grade 25%)
- Sites with known populations of rare, threatened or endangered species of plants or animals per studies done in accordance with the Natural Resource Policy
- Locations of existing conservation easements
- Areas of forest, woodland cover and wildlife corridors
- Description of Better Site Design or Low Impact Development (LID) techniques if being used



Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

Version 8.24.11

## FISCAL IMPACT STUDY

### WORKSHEET AND ASSUMPTIONS

Please fill out all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions, please contact the Planning Office at (757) 253-6685 or [planning@james-city.va.us](mailto:planning@james-city.va.us)

- 1a) PROPOSAL NAME \_\_\_\_\_
- 1b) Does this project propose residential units? Yes \_\_\_\_\_ No \_\_\_\_\_ (if no, skip Sec. 2)
- 1c) Does this project include commercial or industrial uses? Yes \_\_\_ No \_\_\_ (If no, skip Sec. 3)

#### **Fiscal Impact Analysis Worksheet Section 2: Residential Developments**

2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Are any units affordable? Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes, how many?) \_\_\_\_\_

#### **Residential Expenses – School Expenses**

2b) TOTAL NEW STUDENTS GENERATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students generated by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Generated
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			

2c). TOTAL SCHOOL EXPENSES. *Multiply* the total number of students generated from (2b) by the Per-Student Total Expenses below.

Total Students Generated	Per-Student Operating Expenses	Per-Student Capital Expenses	Per-Student Total Expenses	Total School Expenses

	\$5920.16	\$2176.06	<b>\$8096.22</b>	\$
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**Residential Expenses - Non-School Expenses**

2d) TOTAL POPULATION GENERATED. *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

<b>Total Units Proposed</b>	<b>Average Household Size</b>	<b>Total Population Generated</b>
	<b>2.08</b>	

2e) TOTAL NON-SCHOOL EXPENSES. *Multiply* the population generated from (2d) by the Per-Capita Non-School Expenses below.

<b>Total Population Generated</b>	<b>Per-Capita Non-School Expenses</b>	<b>Total Non-School Expenses</b>
	<b>\$762.14</b>	\$

2f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

<b>Total School Expenses</b>	<b>Non-School Expenses</b>	<b>Total Residential Expenses</b>
\$	\$	\$

**Residential Revenues**

2g) TOTAL REAL ESTATE EXPECTED MARKET VALUE. Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

<b>Unit Type:</b>	<b>Number of Units:</b>	<b>Average Expected Market Value:</b>	<b>Total Expected Market Value:</b>
Single Family Detached		\$	\$
Townhome/Condo/Multifamily		\$	\$
Total:		N/A	\$

2h) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total market value from (2g) by the real estate tax rate below.

<b>Total Market Value</b>	<b>Real Estate Tax Rate</b>	<b>Total Real Estate Taxes Paid</b>
\$	<b>0.0077</b>	\$

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

<b>Real Estate Tax Paid</b>	<b>Personal Property Tax Average</b>	<b>Personal Property Taxes Paid</b>
\$	<b>0.15</b>	\$

2j) TOTAL SALES & MEALS TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$	.09	\$

2k) TOTAL CONSERVATION EASEMENT TAXES PAID. If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
	\$2000/acre (prorated)	\$

2l) TOTAL HOA TAXES PAID. If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	Total Assessed Value	Real Estate Tax Rate	Total HOA Taxes Paid
		.0077	\$

2m) TOTAL RESIDENTIAL REVENUES. *Add* all residential taxes paid to the County from (2h) through (2l).

<b>Total Residential Revenues</b>	\$
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2n) RESIDENTIAL FISCAL IMPACT. Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

### **Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments**

#### **Commercial and Industrial Expenses**

3a) TOTAL NEW BUSINESSES. How many new businesses are proposed? \_\_\_\_\_  
(include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall).

3b) TOTAL COMMERCIAL EXPENSES. *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

**Commercial & Industrial Revenues**

3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. *Estimate* the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	0.0077	\$

3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business Name	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business Name	Total Business Capitalization	Machinery and Tools Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3g) **TOTAL SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Tax Type	Projected Gross Sales	Sales Tax Rates	Sales Taxes Paid
Retail Sales		<b>0.01 of Gross Retail Sales</b>	
Prepared Meals		<b>0.04 of Prepared Sales</b>	
Hotel, Motel		<b>0.02 of Gross Sales*</b>	
<b>Total:</b>	<b>N/A</b>	<b>N/A</b>	\$

\*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

3h) **TOTAL BUSINESS LICENSES FEES PAID.** Estimate each business element's total gross sales. *Multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

Proposed Business Name(s)	Business Type* (see exhibit sheet)	Projected Total Gross Sales	Business License Rate	Annual Business License Fees Paid
	Professional Services		<b>0.0058</b>	
	Retail Services		<b>0.0020</b>	
	Contractors		<b>0.0016</b>	
	Wholesalers		<b>0.0005</b>	
	Exempt*		<b>No fee due</b>	
	Other Services		<b>0.0036</b>	
	<b>Total</b>	<b>N/A</b>	<b>N/A</b>	\$

3i) **TOTAL COMMERCIAL AND INDUSTRIAL REVENUES.** *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

<b>Total Commercial and Industrial Revenues</b>	\$
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3j) **COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

3k) **TOTAL PROPOSED FISCAL IMPACT.** *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

Residential Fiscal Impact	Commercial Fiscal Impact	Total Proposed Fiscal Impact
		\$

### **Fiscal Impact Analysis Worksheet Section 4: Current Land Use**

**Current Residential Use** (If there are no existing residential units, skip to (4g)).

4a) TOTAL CURRENT DWELLING UNITS. Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

### **Residential Expenses - School Expenses**

4b) TOTAL CURRENT STUDENTS. *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) TOTAL CURRENT SCHOOL EXPENSES. *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
	\$8096.22	\$

### **Residential Expenses - Non-School Expenses**

4d) TOTAL CURRENT POPULATION. *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
	2.08	\$

4e) TOTAL CURRENT NON-SCHOOL EXPENSES. *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
	\$762.14	\$

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

School Expenses	Non-School Expenses	Residential Expenses
\$	\$	\$

**Residential Revenues**

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
	\$
	\$
	\$
Total:	\$

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid
	.0077	\$

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid
	0.15	\$

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid
	.09	\$

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

<b>Total Current Residential Revenues</b>	\$
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4l) CURRENT RESIDENTIAL FISCAL IMPACT. *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

4m) FINAL RESIDENTIAL FISCAL IMPACT. *Subtract* current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	Current Residential Impact	Final Residential Fiscal Impact
		\$

### Current Commercial Use

**Current Commercial Expenses** (if there are no current businesses or commercial properties, skip to (5k).

5a) TOTAL CURRENT BUSINESSES. How many businesses exist on the proposal properties?  
\_\_\_\_\_ (include all businesses that rent or lease space at the location).

5b) TOTAL CURRENT COMMERCIAL EXPENSES. *Multiply* the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

### Current Commercial Revenues

5c) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each commercial property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0077	
		.0077	
Total:			\$

5d) TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each current commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

5e) TOTAL CURRENT MACHINERY AND TOOLS TAX PAID. If any manufacturing exists, *multiply* the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Machinery and Tools Tax Paid
		0.01	\$

• Businesses will paying tools tax will pay it instead business personal property.

5f) TOTAL CURRENT SALES TAXES PAID. *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

\*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

5g) TOTAL CURRENT BUSINESS LICENSES FEES PAID. *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		\$0.0058	
Retail Sales		\$0.0020	
Contractors		\$0.0016	
Wholesalers		\$0.0005	
Manufacturers		No tax	
Other Services		\$0.0036	
Total:	N/A	N/A	\$

5h) TOTAL CURRENT COMMERCIAL REVENUES. *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

<b>Total Current Commercial Revenues</b>	\$
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5i) CURRENT COMMERCIAL FISCAL IMPACT. *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

5j) FINAL COMMERCIAL FISCAL IMPACT. *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact
		\$

5k) FINAL FISCAL IMPACT. *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact
		\$

### **Fiscal Impact Worksheet Section 6: Phasing**

#### **Residential Phasing**

6a) *Copy and paste* the residential phasing template from the accompanying Excel sheet to the page below.

#### **Commercial Phasing**

6b) *Copy and paste* the commercial phasing template from the accompanying Excel sheet to the page below.

#### **Final Phasing Projections**

6c) *Copy and paste* the final phasing projection from the accompanying Excel sheet to the page below.

### **Fiscal Impact Worksheet Section 7: Employment**

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.

### **DEFINITIONS AND ASSUMPTIONS**

**Apartment** – a building used, or intended to be used as the residence of three or more families living independently of each other. (JCC Code 24-1-2). Tenants have no equity in the dwelling.

**Assessment Value** – assessment value is assumed to be within 1% of market value. Market value drives assessment value.

**Buildout** – all data and assumptions reflect the fiscal impact of the proposal at buildout.

**Commercial Expense Rate** – The commercial expense rate uses the proportional valuation method (see below) to determine individual business expenses. Under that method, businesses are collectively responsible for contributing 15% of the non-school budget (\$ 10,391,694). Dividing this portion of the budget by the total commercial real estate in the County (\$2,060,690,000) gives a commercial expense rate of 0.0045. This rate assumes that the costs of providing County services to a business are directly correlated with that businesses' property assessment. This assumes more valuable properties have generally more intense uses, incurring greater County expenses.

**Condomium** – a building, or group of buildings, in which units are owned individually and the structure, common areas and common facilities are owned by all the owners on a proportional, undivided basis. (JCC Code 24-1-4)

**Contractor** - any person, firm or corporation accepting or offering to accept orders or contracts for doing any work on or in any building or structure, any paving, curbing or other work on sidewalks, streets, alleys, or highways, any excavation of earth, rock, or other materials, any construction of sewers, and any installation of interior building components. (Code of Virginia § 58.1-3714)

**Direct Impact** – The worksheet only calculates direct financial impacts on the County budget. The worksheet is only one of many development management tools, and, as such, does not make a determination whether any type of development ‘should’ happen based solely on that proposal’s fiscal impact. The tool is not designed to measure non-budget impacts, such as increased traffic, or non-budget benefits, such as forwarding the goals of the Comprehensive Plan. Costs incurred by other entities, such as other localities or the State, remain uncounted.

**Dwelling** – any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, and tourist cabins. (JCC Code 24-1-4.1)

**Exempt** – certain types of business activities or products are exempted from annual County business licenses. These include manufacturers, insurance agencies, apartment complexes, and gasoline sales.

**Fees & Licenses** – all fees collected by the County, including business & professional licenses, planning fees, building permit fees, stormwater fees, environmental inspection fees, septic tank fees, dog licenses, and motor vehicle licenses, are deducted from the per- capita and per-business budgetary costs of each department that collects them.

**Fiscal Impact Analysis** – the County has created a set of standardized data and assumptions to streamline both the creation and review of fiscal impact studies. The County had no itemized list of questions for fiscal impact study creators to answer, resulting in portions of fiscal impact studies with no bearing on the County’s budgetary bottom line. The guesswork is removed from the creation of these documents. The data used by fiscal impact study authors also came from a myriad of sources, often within the County, which were difficult to verify. The fiscal impact analysis worksheet allows consistency across multiple fiscal impact studies, as well.

**Fiscal Impact Analysis Worksheet** – The worksheet helps the applicant present relevant data to the County, using data verified by the County. The worksheet provides consistency across all fiscal impact analyses.

**Non-School Expenses** – Non-school expenses includes all FY10 non-school budget spending. Non-School expenses are calculated using the Proportional Variation method. Using the Proportional Variation method, residents and businesses are assumed to be responsible for differing percentages of the County’s non-school spending.

**Manufacturing** – assembly of components, pieces, or subassemblies, or the process of converting raw, unfinished materials into different products, substances, or purposes.

**Market Value** – market value is assumed to be within 1% of assessment value. Market value drives assessment value.

**Manufactured Home** – A Manufactured Home is a structure not meeting the specifications or requirements of a manufactured home, designed for transportation, after fabrication. (JCC Code 24-1-8.1) The only Manufactured Homes counted in the Student Generation figure are those in designated Manufactured Home parks. Manufactured Homes on individual lots are indistinguishable from single-family detached dwellings for the purposes of the worksheet.

**Phasing** – all residential developments are assumed to have an absorption rate of 20% per annum. All commercial development are assumed to have an absorption rate of 20% per annum. The date stamp Year 1 in the phasing template represents 365 days after Board of Supervisors approval.

**Professional Services** - work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. Professional services shall also include the services of an economist procured by the State Corporation Commission. (Code of Virginia\_§ 2.2-4301)

**Proportional Valuation Impact** – proportional valuation impact assumes that a proposed residential or commercial project's fiscal impact is proportional to the percentage of the total tax base that is either residential or commercial. James City's proportional valuation is calculated using the County's Real Estate Mapping GIS program. The program calculated a aggregate property assessment value of \$13,763,228,800 for the entire County. The program calculated an aggregate commercial and industrial assessment value of \$2,060,690,000. Dividing the commercial value by the total value shows that commercial and industrial properties compose 15% of the total property tax base, and are responsible for 15% of County non-school expenses. This results in residential development being responsible for Schools impacts and 85% of non-school County operations. The proportional valuation method does not factor other assorted residential and commercial taxes, fees, and licenses into account. As 15% of the tax base, businesses contribute 15% for all County non-school expenses. As 85% of the tax base, residents contribute 85% for all County non-school expenses. Furthermore, individual business expenses to the County are calculated using the proportional valuation impact method. (See Commercial Expense Rate)

**Per-Business Expense Rate** – the per-business expense rate assumes that the County incurs non-school expenses equal to 0.04% of the commercial real estate assessment of any given business.

**Per Capita Evaluation Method** – this worksheet uses the Per Capita Evaluation method to assign per-capita and per-business costs to non-school expenses. This method assumes that current per-capita and per-business expenditures and service levels are consistent with future per-capita and per-business expenditures and service levels.

**Per Capita** – per capita calculations divide each department’s spending, minus fees and State contributions, by the current County population. This number excludes institutional residents in detention at correctional facilities and mental institutions. Total population is determined from James City County Planning Division figures.

JCC Population 2010	Dwelling Units 2010
62879*	30221**

\*JCC Planning Division Population Count Minus Institutional Population

\*\*JCC Codes Compliance Division Housing Unit Count + Apartment Count

**Per Student** – per student calculations divide County contributions to WJCC Schools, minus State educational contributions, by the total number of K-12 students living in James City and also attending WJCC Schools. Total students are determined from Williamsburg James City County Schools 2009-2010 School Year enrollment reports.

**Per Business** – per business calculations divide each departments spending, minus fees and State contributions, by the total number of County businesses. Total businesses are determined by the number of business licenses issued.

Total Number of JCC Businesses	5400*
Percentage of Property Tax Assessments	15%**

\*James City County Commissioner of the Revenue

\*\*Commercial impacts are calculated on a proportional variation process

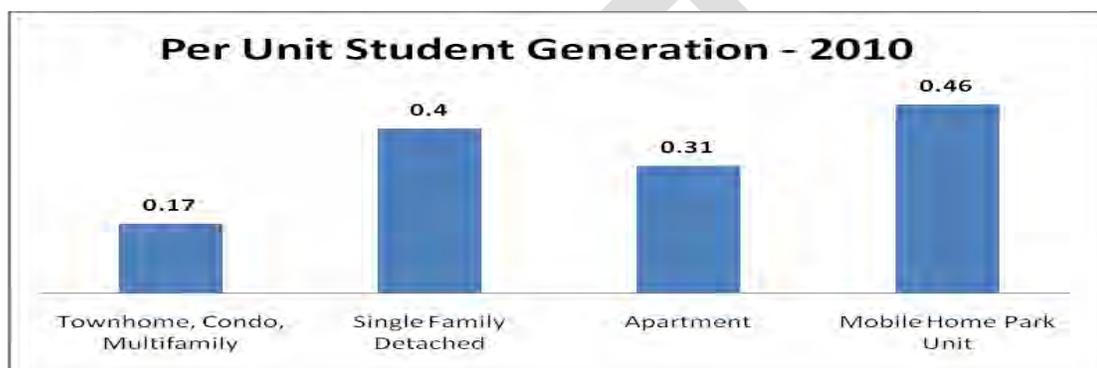
**Proffer** – proffers paid for schools can only be applied toward the capital expense portion of per-student school expenses. (See Board of Supervisors’ Proffer Policy).

**Retail Services** – display and sale of merchandise at retail or the rendering of personal services, such as food, drugs, clothing, furniture, hardware, appliances, barber and beauty, antiques, and household uses, and other uses. (JCC Code 24-1-10)

**Single Family Detached Dwelling** – A detached structure arranged or designed to be occupied by one family, the structure only having one dwelling unit. (JCC Code 24-1-4.1)

**State Contributions** – The State contributes both targeted and unspecified funds to the James City County budget. Funds for specific departments were subtracted from the budget totals of those departments. Unspecified state fund amounts were compiled, then evenly subtracted (7.75% of each department total) across all non-school departments.

**Student Generation Rate** - The student generation rate the number of students produced by a individual dwelling unit per year. Different domestic units produce students are different rates. Using WJCC enrollment figures, an address was found for WJCC student residing in James City County. Using the James City County Real Estate Division's Property Information map on the James City County website, the number of students from each subdivision was determined. Using the Real Estate Division's Real Estate Parcel Count, the number of improved lots in each neighborhood was determined. Total students from each neighborhood were divided by the total number of units from that neighborhood to determine the average number of students per housing unit. The student generation numbers for 256 subdivisions was determined this way, along with the same method for counting students from apartments and Manufactured Home parks.



**Townhome** – in a structure containing three or more dwelling units, a dwelling unit for single family occupancy, not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such dwelling units, each of which is served by an individual exterior entrance or entrances. (Sec. 24-1-12.1)

**Annual Update Methodology** – The Williamsburg-James City County school enrollment spreadsheet is the trigger for the Fiscal Impact Worksheet’s annual update. All other data will be available when the enrollment Excel file becomes available in September. To ensure the validity of County data and assumptions, the Fiscal Impact Worksheet should be updated annually. Some data will merely be updated, while other data, such as the school Student Generation Rate, will be used to create long-term averages.

#### **Data Required for Update**

1. Real Estate Assessment (REA)’s Parcel Count sheet. The Parcel Count sheet is a constantly updated file showing developed parcels and assessment values by subdivision.
2. The Property Information Network (PIN) is always available from at <http://property.jccgov.com/parcelviewer/Search.aspx> . The PIN will be used to reconcile WJCC subdivision classifications with those approved by Planning.
3. Acquire the most recent population estimate from the Planning office. Estimates are updated quarterly.
4. Acquire the most current number of building permits from Codes Compliance. Their records will show the net change in living units (residential C.O.’s minus demolitions) in the County for the year.
5. Call local apartment complexes and determine how many units each has for rental. This information will be used to update apartment student enrollment data.
6. The GIS program is constantly updated by REA Mapping staff. The GIS program will be used to sum total residential and commercial property value in the County.
7. Financial and Management Services (FMS) will have a copy of the most recent fiscal year budget. The budget will be used to determine the per-student, per-capita, and per-business costs of County services.

#### **Reference**

Burchell, Robert and David Listokin. (1978). *The Fiscal Impact Handbook*.  
New Jersey: Rutgers Center for Urban Policy Research.

## Chapter 24

### Article VII. Nonconformities

#### Sec. 24-628. ~~Nonconforming uses~~ *Statement of Intent*.

(a) *Purpose and intent.* The purpose of this article is to regulate nonconforming uses *and structures* in a manner consistent with sound planning and zoning principles. The general intent is that, over time, nonconforming uses will be discontinued in favor of uses conforming to this chapter and the zoning map. However, it is also recognized that nonconforming uses need not be entirely static and that under certain circumstances nonconforming uses *and structures* may change according to law and the provisions of this chapter.

(b) *Term defined.* The term "nonconforming use" shall mean any activity using land, building, sign, lot, and/or structure for purposes which were legally established prior to the effective date of this chapter, or subsequent amendment to it, and which would not be permitted to be established in a zoning district in which it is located by the currently adopted regulations. *"Nonconforming structure shall mean any structure not in conformance with current ordinance regulations."*

(c) *Status.* The nonconforming status of any nonconforming use shall adhere solely to the use of the land and not to the owner, tenant or other holder of any legal title to the property or the right to make use thereof.

(d) *Accessory or incidental uses.* A use that is accessory or incidental to a permitted principal use cannot be made the basis for a nonconforming principal use.

#### Sec. 24-631. Permitted changes of nonconforming uses.

(a) A nonconforming use may be changed, altered, repaired, restored, replaced, relocated or expanded only in accordance with the provisions of this article and subject to the appropriate approvals (including, among others, verification of the nonconforming use, site plan approval, building permit approval and zoning approval under this chapter) otherwise required by law.

(b) A nonconforming use may change to a conforming use.

(c) A nonconforming use may change to a more restricted nonconforming use upon approval by the zoning administrator. The zoning administrator's approval shall include a determination in writing that the proposed use is "more restricted" than the existing nonconforming use and shall not be given until the nonconforming status of the use has been verified in accordance with section 24-630 of this article. In determining whether a proposed use is a "more restricted" nonconforming use, the following factors, among others, shall be considered:

- (1) Whether the proposed use will change the size and scope of the existing use and the magnitude of such change;
- (2) Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, lighting, odor, noise and similar impacts;
- (3) Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood; and

- (4) How the quantum overall effect of the factors evaluated in preceding subsections (c)(1), (c)(2) and (c)(3) relate to the purpose, policies and objectives of this chapter.

*(d) Upon approval of the change to more restrictive use, site plan approval as set forth in ordinance is required when structural modifications or additions are necessary.*

### **Sec. 24-633. Expansion/improvements to nonconforming uses.**

(a) *Restriction for structure.* A nonconforming use may be extended throughout any part of a structure originally arranged or designed for such activity; provided, that current parking requirements shall be adhered to upon such extension.

(b) *Restriction for area.* Any permitted expansion shall occur only on the lot occupied by the nonconforming use *or structure* and no area of any lot not originally devoted to the nonconforming use shall be utilized for any aspect of such expansion; *notwithstanding the combination of lots to bring a nonconforming structure into compliance.*

(c) *One-family dwellings.* For a nonconforming one-family dwelling use, the dwelling may be expanded without limitation, except as provided for in this chapter. In addition, new or expanded residential accessory structures and uses (such as a storage shed, garage, swimming pool, etc.) may be permitted subject to the provisions of this chapter. Expansion of the dwelling and new or expanded accessory structures and uses shall meet all current zoning requirements, including height, yard and setbacks, for the zoning district in which they are located or the R-1 zoning district if such dwelling is not located in a zoning district where a residential use is permitted. In no case shall a nonconforming one-family dwelling be modified to accommodate additional dwelling units.

(d) *Business or industrial uses.* For uses in any district where the activity is permitted in the zoning district in which the lot is located, but where the current zoning requirements (including, but not limited to, parking, yards, setbacks, landscaping, screening and buffering, height, signs, lot coverage, connection to public sewer and water) are not met, expansion of the building, and expansion of the land area within the lot devoted to activities other than buildings, may be approved, provided all current zoning requirements applicable to the expansion are met.

(e) *Businesses or industrial uses not connected to public water and sewer.* Expansion of a use meeting all zoning requirements except for connection to public water and public sewer may be permitted upon approval of a special use permit excepting the use from the public water and public sewer requirements.

(f) *Expansion allowance resulting from right-of-way dedication.* Existing business or industrial uses which are permitted within any district and which have been made nonconforming with respect to open space, perimeter landscape requirements or setback requirements as a result of a right-of-way dedication to the county or the Virginia Department of Transportation without compensation shall be allowed to expand in accordance with the current zoning ordinance under the conditions which existed prior to the dedication.

(g) *Miscellaneous changes.* Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses *or structure* may be permitted, subject to the following standards:

- (1) Such changes shall not increase the land area occupied by any aspect of the nonconforming use and shall not increase the gross floor area of any nonconforming structure; and,

(2) Such construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict.

(h) *Expansion required by law.* Improvements may be made to the nonconforming use *or structure* for the sole purpose of accessibility or public safety when such improvements are necessitated by a local, state, or federal law. Such improvements may be approved by the zoning administrator and are not subject to paragraphs (d) and (g) of this section.

**Sec. 24-634. Restoration/replacement of a nonconforming use *or structure*.**

(a) A nonconforming use *or structure* damaged by casualty may be restored in accordance with the provisions of this section, provided such restoration has started within 12 months of the date of the casualty and is complete within 24 months of the date of the casualty. By casualty shall mean as a result of a fire or other cause beyond the control of the owner or by an act of God. By casualty shall not include damage caused by age or ordinary wear and tear or damage intentionally caused by the owner or an agent thereof.

(b) Nonconforming uses other than buildings and signs (such as, but not limited to, underground storage tanks, private sewage disposal systems and parking lots) may be restored or replaced when such structures become unsafe or unsound. A relocation on the same lot may be approved by the zoning administrator, provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.

(c) Such restoration shall not include any minor alterations, cosmetic modifications, interior renovations or similar changes unless approved under the provisions of section 24-633 of this article, nor shall such restoration include any expansion unless approved under the provisions of section 24-633. Such restoration may include changes that make the use *or structure* less nonconforming than it was prior to the casualty.

(d) Nothing in this section shall be construed to prevent the removal of a valid nonconforming manufactured home from property and replacement of that unit with another comparable manufactured home that meets the current HUD manufactured housing code. Such replacement unit shall retain the valid nonconforming status of the prior unit. For purposes of this article, a "nonconforming mobile home or manufactured home" shall be defined as any mobile home or manufactured home which does not meet all current zoning requirements and which was:

- (1) Located in the county prior to April of 1969, or any replacement thereof;
- (2) Located pursuant to a conditional use permit, either with or without an expiration date;
- (3) Located pursuant to a special use permit; provided, however, any manufactured home located pursuant to a special use permit with an expiration date shall be removed from the site upon expiration of the special use permit unless a new special use permit is approved to lawfully continue the use; or
- (4) A replacement for a mobile home or manufactured home located pursuant to a conditional or special use permit not specifically prohibited by the permit.

(e) A nonconforming office building meeting all current zoning requirements except connection to public water and sewer which is located within an industrial district may be replaced upon issuance of a special use permit excepting the use from the public water and sewer requirements. The replacement office building shall not exceed 4,000 square feet in floor area.

**Sec. 24-637. Appeals.**

Administrator's decision; appeal to board of zoning appeals. The decision of the zoning administrator under section 24-631(c), section 24-630(c), and section 24-633(a)(3) shall be final after 30 days unless an appeal is filed to the board of zoning appeals in accordance with section 24-663 of this chapter.

## Definitions Section

*Portable Cellular Transmission Facility (PCTF) – A portable, self contained transmission tower that can be moved to a location and set up to provide wireless service on a temporary or emergency basis. A PCTF is normally vehicle mounted and may contain a telescoping boom as the antenna support structure. PCTF's include, but are not limited to, Cells-on-Wheels (COW), Site-on-Wheels (SOW), Cell in a Box (CIAB) and Cell on Light Trucks (COLT) or other portable devices determined by the zoning administrator.*

*Radio Frequency (RF) Report - A statement from a registered engineer ensuring that the electromagnetic radiation emitted from the WCF, including all facilities that may already be attached, does not result in "public" exposure level on or outside the WCF that exceeds relevant FCC standards.*

*Noninterference/intermodulation study - A study prepared by a licensed engineer indicating no potential interference with public safety communications equipment.*

*Multiple Provisioning Antenna – Antennas used as part of an overall network such as Distributive Antenna Systems (DAS) that transmit and/or receive radio signals from multiple points and multiple users in a subscribed geographic area. These antennas shall conform to all FCC requirements.*

*Multi-Antenna system. WCFs that are networked together and connected to a wireless service source so that one or more multiple provisioning (high-powered) antennae which would normally be mounted on a tower to serve a given area are replaced or prevented by a group of lower power antennas to serve the same geographic area.*

*Support structure.* The structure to which antenna and other necessary hardware is mounted. Support structures shall include the following:

- (1) *Tower.* A pole or latticed structure designed for the attachment of one or more antenna as the primary use of the structure.
- (2) *Alternative mounting structure.* Light poles, utility transmission structures, water towers, *buildings* and other structures other than ~~building exteriors~~, towers, or camouflaged WCFs which are not primarily designed to support antenna nor are designed taller in order to accommodate antenna.
- (3) *Camouflaged structure.* Any WCF disguised or hidden so that all of its components are unnoticeable to the casual observer, or otherwise not have the appearance of an antenna or a tower, ~~and which meets at least one of the following: (1) the structure has the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located; (2) the structure has the appearance of vegetation native to eastern Virginia; or (3) the structure is completely surrounded by a minimum of a 100 foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, other structures or topography that provide at least the equivalent visual effect of a 100 foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure, renders the structure unnoticeable to the casual observer.~~
- (4) *Antenna Support Structures for Multi-Antenna systems - These are structures whose primary function is to deploy an antenna as part of a multi-antenna system arrangement.*

## ARTICLE II. SPECIAL REGULATIONS

### DIVISION 6. WIRELESS COMMUNICATIONS FACILITIES

#### Sec. 24-121. Statement of intent.

The purpose of this article is to ~~regulate~~ *provide guidance for* ~~personal~~ the *deployment and usage of* wireless communications facilities (WCFs) ~~so as to protect the health, safety, and general welfare of the community; to preserve the aesthetic quality of the community and its landscape; to protect property values; to protect the historic, scenic, rural, and natural character of the community; to minimize the presence of structures that depart from existing and future patterns of development, especially in terms of use, scale, height, site design, character, and lighting; to provide for adequate public safety communications; and to allow the providers of wireless communications facilities to implement their facilities in a manner that will fulfill these purposes, encourage their co-location; and allow them to fulfill their Federal Communications Commission (FCC) licenses.~~

~~The above objectives will be realized through the implementation of regulatory procedures which seek to:~~

- ~~(a) Keep the number of wireless communication facility sites to a minimum;~~
- ~~(b) Minimize the impacts of newly approved wireless communication facilities;~~
- ~~(c) Expedite the approval process for new wireless communication facility applications which, due to their location or design, aid in the achievement of items (a) and (b) above.~~

*(a) The goals for WCFs placement are to:*

- 1. Protect view sheds and the scenic beauty of James City County.*
- 2. Deploy WCFs in a manner that will not adversely impact property values.*

*(b) The objectives for the WCFs are to:*

- 1. Ensure that the deployment of WCFs will accommodate existing and future technologies by providing sufficient height and facility expansion capabilities to accommodate the needs of the current and future residential, commercial, and industrial market place.*
- 2. Ensure all deployments will provide significant coverage.*
- 3. Promote the use of camouflaged, alternatively mounted, and low rise WCF structures.*
- 4. Ensure that all new technologies accommodate the needs of the current and future residential and commercial market place.*

**Sec. 24-122. Where permitted, types Antenna Mounting.**

*(a) Antenna Mounting Categories.*

*The mounting or attachment of communications antennas may occur in five specific categories:*

1. *Tower. Attachment to a communications tower designed for that sole purpose pursuant to Sec. 24-122(b)(1).*
2. *Alternative Mounting Structure. Attachment to light poles, utility transmission structures, water towers, buildings and other structures other than towers, or camouflaged WCFs which are not primarily designed to support antenna nor are designed taller in order to accommodate antenna pursuant to Sec. 24-122(b)(2).*
3. *Camouflaged WCF. Attachment to a communications tower determined by the director of planning to be camouflaged that is designed for that sole purpose pursuant to Sec. 24-122(b)(3).*
4. *Multi-Antenna System. Antennas that are networked together and connected to a wireless service source so that one or more multiple provisioning (high-powered) antennae are prevented per Sec. 24-122(b)(4).*
5. *Portable Cellular Transmission Facility (PCTF). A portable, self contained transmission tower that can be moved to a location and set up to provide wireless service on a temporary or emergency basis per Sec. 24-122(5).*

*(b) Wireless Communications Facility Location Requirements.*

~~(a)~~ ~~1.~~ *Tower-mounted WCFs wireless communication facilities.* Tower-mounted WCFs shall be allowed as shown on Table 1.

Table 1: Tower Mounted Wireless Communications Facilities:

Zoning District	Maximum By Right Tower Height	S.U.P. Required
General Agriculture, A-1	≥35'	>35' feet
Rural Residential, R-8	≥35'	>35' feet
Residential R-1, R-2, R-3, R-5, R-6	Not Permitted	Not Permitted
Limited Business, LB	Not Permitted	Not Permitted
General Business, B-1	≥60'	>60' feet
Industrial (M-1, M-2, M-3)	≥60'	>60' feet
Planned Unit Development, PUD	Not Permitted	All Towers
Mixed Use, MU	Not Permitted	All Towers
Economic Opportunity (EO)	≥60'	>60'
Public Lands (PL)	≥60'	>60'
Research and Technology District (RT)	≥60'	>60'
Public Lands (PL)	≥60'	>60'
Residential Planned Community, R-4	Not Permitted	All Towers

- a. Towers shall meet the requirements in Table 1 above and the requirements in Sec. 24-123 through 24-128.
  - b. All towers shall be set back from any off site existing residential structure no less than 400 feet
- (b) 2. ~~Wireless communications facilities using alternative mounting structure~~ *Alternative Mounting Structure - WCFs*. WCFs determined by the ~~planning director~~ director of planning to be utilizing alternative mounting structures *as defined by this ordinance* shall be permitted in all zoning districts and shall conform to the following ~~requirements~~ *criteria* ~~except where such WCFs are located in M-2 districts:~~
- (1) a. The principal use of the structure to be used for the placement of the antenna shall be for a use not associated with the wireless communications facility as determined by the ~~planning director~~ *director of planning*.
  - (2) b. In addition to the height limitations of the underlying zoning district, the antennas mounted on alternative mounting structures shall conform to the following requirements:
    - a) (1) All panel antenna shall be no more than five feet measured to the outermost point of the panel antenna from any surface of the existing structure at the point of attachment.
    - b) (2) All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the mounting surface of the existing structure at the point of attachment.
    - e) (3) All parabolic or dish antenna shall be no more than five feet measured to the outermost point of the dish from any surface of the existing structure at the point of attachment.
    - (4) *Antennas shall be mounted in a manner that is architecturally compatible with the structure on which they are located as determined by the director of planning. All antennas (excluding whip antennas under 5' in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.*
  - (3) (5) Equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence.
  - (6) *WCFs shall meet the requirements in Sec. 24-123 through 24-128.*
- (c) ~~Building mounted wireless communications facilities.~~ WCFs mounted on the exterior of buildings shall be permitted in all zoning districts and, with the exception of such WCFs located in M-2 districts, shall meet the following requirements:
- (1) ~~The principal use of the building to be used for the placement of the antenna shall be for a use not associated with the wireless communications facility as determined by the planning director.~~
  - (2) ~~In addition to the height limitations of the underlying zoning district, building mounted antennas shall conform to the following height restrictions:~~
    - (a) ~~All panel antenna shall be no more than five feet measured to the top of the panel antenna above the roof proper of the existing building at the point of attachment.~~
    - (b) ~~All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the roof proper of the existing building at the point of attachment.~~
    - (c) ~~All parabolic or dish antenna shall be no more than five feet measured to the top of the dish above the roof proper of the existing building at the point of attachment.~~
  - (3) ~~Whip antennas shall be designed and located to minimize views from residences and public rights of way.~~
  - (4) ~~Panel and parabolic dish antennas shall be completely screened or camouflaged from views from residentially zoned areas and public rights of way in a manner that is architecturally compatible with the building in which they are located.~~

- (5) ~~Equipment enclosures shall be located within the building on which the WCF is placed or located underground if site conditions permit and if technically feasible. Otherwise, equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence matching the color, material, and design of the building.~~
- (d) 3. *Camouflaged wireless communications facilities.* WCFs determined by the ~~planning director~~ *director of planning* to be camouflaged as defined by this ordinance shall be permitted in all districts *if the setbacks of the zoning district and design standards of this ordinance are met.* Any appeal of this determination shall be made to the development review committee *who shall forward a recommendation to the planning commission.* ~~and~~ Written notice of the appeal must be received by the planning division within 30 days of the date of the ~~planning director's~~ *director of planning's* determination. ~~Camouflaged WCFs shall meet the following:~~
- (1) ~~Where a buffer is provided to camouflage the WCFs, the following requirements shall be met:~~
- a) ~~The buffer shall remain undisturbed until the WCF is removed except for any access drives and utilities necessary for the WCF and other improvements or timbering activities that do not alter the visual effect of the buffer as determined by the planning director; and~~
  - b) ~~The buffer shall be located in an on-site or off-site area that: 1) the planning director determines is not likely to be altered such that the visual effect of the buffer would be diminished while the WCF would be in existence, such as lands protected by the Chesapeake Bay Ordinance or other environmental regulations or conservation areas or community character corridors or areas depicted on the Comprehensive Plan; or, 2) such areas where the WCF owner has guaranteed the buffer will remain undisturbed while the WCF is in existence by way of ownership, lease agreement, recorded easement or other means acceptable to the planning director. Such leases and easements shall be in effect until such time as the WCF is removed; and~~
  - e) ~~Access drives shall be designed and located in a manner that provides no view of the WCF's base or related facilities from the road.~~
- (2) ~~Where the camouflaged WCF is intended to have the appearance of vegetation native to eastern Virginia, the following requirements shall be met:~~
- a) ~~The WCF shall be located and designed so as to appear to be a naturally occurring tree which is not noticeably dissimilar to nearby vegetation in terms of height, scale, texture, or color; and~~
  - b) ~~Should the WCF be taller than nearby trees, it shall be buffered with existing mature trees in a manner such that it will not appear out of scale with existing natural vegetation to an off-site viewer. Such buffer shall meet the buffer requirements stated above.~~
- Applicants may apply for any of the three categories of camouflaged towers as defined below:*
- a. **Architecturally Compatible.** *The structure has the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located.*  
*When an Architecturally Compatible WCF is proposed the following requirements shall be met:*
    - (1) *The structure shall have the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located as determined by the director of planning;*
    - (2) *The architecturally compatible WCF shall be placed in the vicinity of another structure that the proposed WCF intends to replicate and be unnoticeable to the casual observer that the primary use of the structure is for a WCF.*
    - (3) *The architecturally compatible WCF should be no taller than twice the permitted height of the replicated structure up to 70 feet.*
    - (4) *Professional Design Requirements:*
      - I. *All WCFs shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio to proportion of*

existing tree buffers or structures, and artistic view of the proposed facility in profile.

II. Landscape architect shall be professionally licensed in the Commonwealth of Virginia.

(5) Meet the requirements in Sec. 24-123 through 24-128.

(6) Shall be set back from any off site existing residential structure no less than 400 feet.

b. **Native Vegetation.** The structure has the appearance of vegetation native to eastern Virginia.

Where a Native Vegetation WCF is proposed the following requirements shall be met:

(1) Should the WCF be taller than nearby trees, it shall be buffered with existing mature trees in a manner such that it will not appear out of scale with existing natural vegetation from an off-site view.

(2) The WCF shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio to proportion of existing tree buffers or structures, and artistic view of the proposed facility in profile.

(3) Landscape architect shall be professionally licensed in the Commonwealth of Virginia.

(4) The WCF shall appear as native vegetation and be unnoticeable to the casual observer that the function of structure is for a WCF as determined by the director of planning.

(5) Access drives shall be designed and located in a manner that obscures views of the WCF's base or related facilities from the road point of ingress.

(6) Meet the requirements in Sec. 24-123 through 24-128.

(7) Shall be set back from any off site existing residential structure no less than 400 feet.

c. **Buffered.** The structure is well buffered by tall vegetation and/or other structures.

Where a Buffered WCF is proposed, the following requirements shall be met:

(1) A minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, buildings, or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure, renders the WCF unnoticeable to the off-site casual observer as determined by the director of planning.

(2) Shall be set back from any off site existing residential structure no less than 400 feet.

(3) The buffer shall remain undisturbed until the WCF is removed except for any access drives and utilities necessary for the WCF and other improvements or timbering activities that do not alter the visual effect of the buffer as determined by the director of planning. The buffer shall be located in an on-site or off-site area that: 1) the director of planning determines is not likely to be altered such that the visual effect of the buffer would be diminished while the WCF would be in existence, such as lands protected by the Chesapeake Bay Ordinance or other environmental regulations or conservation areas or community character corridors or areas depicted on the Comprehensive Plan; or, 2) such areas where the WCF owner has guaranteed the buffer will remain undisturbed while the WCF is in existence by way of ownership, lease agreement, recorded easement or other means acceptable to the director of

planning. Such leases and easements shall be in effect until such time as the WCF is removed.

(4) **Professional Design Requirements:**

- I. WCFs shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio to proportion of existing tree buffers or structures, and artistic view of the proposed facility in profile.
- II. Landscape architect shall be professionally licensed in the Commonwealth of Virginia.
- III. Access drives shall be designed and located in a manner that obscures view of the WCFs base or related facilities from the point of ingress.
- IV Meet the requirements in Sec. 24-123 through 24-128.

4. **Multi-Antenna system.** A Multi-Antenna system such as Distributed Antenna System (DAS) or others as determined by the zoning administrator shall be permitted as shown on Table 2. This deployment option is for situations where many small antennas are to be deployed that serve a small geographic area.

Table 2: Multi-Antenna system. Antennas shall be mounted no higher than stated below unless approved by the Board of Supervisors. Multi-Antenna systems are permitted in the following zoning districts:

Zoning District	Maximum By Right Antenna Mounting Height	S.U.P. Required
General Agriculture, A-1	≥35'	>35'
Rural Residential, R-8	≥35'	>35'
Residential R-1, R-2, R-3, R-4, R-5, R-6	Not Permitted	All Applications
Limited Business, LB	Not Permitted	All Applications
General Business, B-1	≥60'	>60'
Industrial (M-1, M-2)	≥60'	>60'
Planned Unit Development, PUD	Not Permitted	All Applications
Mixed Use, MU	Not Permitted	All Applications
Public Lands (PL)	≥60'	>60'
Economic Opportunity (EO)	≤60'	>60'
Research and Technology District (RT)	≤60'	>60'

Requirements for antenna mounting for Multi-Antenna systems:

- a. To the greatest extent possible, antennas should be alternatively mounted on structures not associated with the wireless communications facility as determined by the zoning administrator.

- b. *Antennas shall be unnoticeable to the casual observer and/or screened from view as determined by the director of planning.*
- c. *Equipment enclosures shall be camouflaged or screened from view by landscaping, walls or fencing.*
- d. *Antenna Support Structures for Multi-Antenna systems shall be designed to appear as native vegetation or other typical feature such as a light/telephone pole.*
- e. *Meet the requirements in Sec. 24-123 through 24-128*

**(5) Portable Cellular Transmission Facility (PCTF)**

- a. *A PCTF or other portable wireless communications device as determined by the Zoning Administrator shall be permitted for a maximum of 90 days in any 365-day period or during an emergency as determined by James City County Administrator or his designee.*
- b. *The PCTF shall be setback at least two times (2x) the height of the PCTF from any residential or public structure.*
- c. *The maximum height of the PCTF shall be 120 feet.*
- d. *The applicant shall submit a conceptual plan of the structure pursuant to Sec. 24-144 of the Zoning Ordinance, RF Report and a noninterference/intermodulation study no less than 7 business days prior to deployment stating how long the facility will be in use and demonstrate a public health or safety need for the facility. Upon review of the application, the Zoning Administrator may provide comments on the application or approve the use of the PCTF at the location and time duration indicated on the Conceptual Plan.*

**Sec. 24-123. General requirements.**

Except where otherwise noted in this section, the following requirements shall apply to all wireless communications facilities:

(a) *Setbacks.* In addition to meeting the requirements of the underlying zoning district, tower mounted WCFs (*including camouflaged towers*) shall conform to the following setback requirements:

- 1. *All towers shall be set back from any off site existing residential structure no less than 400 feet. All tower structures shall be located no closer than 400 feet from an occupied school or building used primarily for daycare.*
- 2. *All towers WCFs not meeting shall meet the structural requirements set forth in standard 222-F, of the "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures," or its successors as determined by the Building Official.*
- 3. *All towers shall meet the Virginia Uniform Statewide Building Code.*
- 4. *All towers shall be set back from all property lines and public rights-of-way a minimum of 110 percent of the tower height documented collapse radius.*
- 5. *All setbacks from a public right-of-way shall exclude any planned public right-of-way designated on the Six-Year Primary and Secondary Road Plans or the Comprehensive Plan.*

(b) *Appearance.* Towers, all WCFs equipment enclosures, and security fences shall conform to the following requirements:

- 1. *Lighting installed at all WCFs, other than low-intensity lighting installed for the purpose of site security, shall be only that required to meet the minimum requirements set forth in the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors. If lighting is required, the ~~planning director~~ director of planning shall review the available lighting alternatives and approve the lighting design. Such lighting shall*

minimize impacts on adjacent property and be located and designed to minimize visibility of the light source from the ground.

2. Towers shall be gray in color ~~unless otherwise required by~~ *unless otherwise approved by the director of planning* ~~and in compliance with~~ the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors.
3. No signage of any kind shall be displayed at or on a tower that advertises a product, service or business activity or institution.
4. All equipment enclosures shall be screened from public view with fencing and landscaping unless the enclosure is of a similar design and material to that used for a single-family residence and approved by the ~~planning director~~ *director of planning*.

(c) *Security.* Except where otherwise noted, the following security requirements shall apply to all WCFs:

1. All towers, WCFs using alternative mounting structures, and camouflaged WCFs shall be equipped with an anti-climbing device, or be designed in a manner that precludes climbing without the use of additional equipment.
2. Security fencing, if used, shall conform to the following:
  - a. Security fencing shall be screened from view with landscaping.
  - b. Chain-link fences shall be of a black or green color.
  - c. No fence shall exceed six feet in height and it shall contain no barb wire or similar barrier.

(d) *Special requirements for certain antenna.* Installation ~~or replacement~~ of any antenna on a tower shall require a special use permit if all of the following conditions apply:

1. The tower on which it is to be placed was constructed after the effective date of this ordinance; and
2. The tower on which it is to be placed is higher than the thresholds for towers requiring a special use permit identified on Table 1; and
3. A special use permit does not already exist which would permit the construction of that tower or the installation of additional antenna on that tower.

#### **Sec. 24-124. Performance standards.**

In considering an application for a special use permit for a WCF, the ~~planning director~~ *director of planning* shall prepare a *composite* report identifying the extent to which the application ~~takes into account~~ *is in compliance with* the Performance Standards for Wireless Communication Facilities ~~dated May 26, 1998~~ *XXXXX, 2011*, and endorsed by the board of supervisors. Such report shall be submitted to the planning commission and board of supervisors prior to the date of the public hearing on the special use permit application. In general, it is expected that all facilities shall substantially meet the provisions of the above performance standards.

#### **Sec. 24-125. Radio frequency standards.**

(a) *Federal communications commission emissions standards.* The WCF shall comply with Federal Communications Commission (FCC) standards for ~~nonionizing~~ *all* electromagnetic emissions.

(b) *Noninterference/intermodulation with local broadcasts.* The applicant shall ensure that the wireless communication facility will not cause localized interference/*intermodulation* with the ~~transmittance or~~ reception of area television or radio *authorized FCC* broadcasts. Prior to preliminary site plan approval of the WCF, a noninterference/intermodulation study shall be submitted to and approved by the ~~planning director~~ *director of planning* indicating that no interference with ~~county~~ *any* communications equipment will take place. If such interference/*intermodulation* is detected at any time,

and is not corrected within 60 days, the special use permit or any other permits may be modified or revoked.

**Sec. 24-126. Public safety considerations.**

(a) *Noninterference with public safety communications.* The applicant shall ensure that the WCF will not interfere with public safety communications. Should such interference be detected, and is not corrected or ceased within 24 hours, operation of the WCF shall be terminated and the special use permit or any other permits may be modified or revoked.

(b) *Antenna mountings for public safety communications.* Applicants shall be required to negotiate in good faith, and provide evidence of these negotiations acceptable to the ~~planning director~~ *director of planning* prior to preliminary site plan approval, with public safety agencies regarding vacant antenna locations on WCFs prior to making these locations available to other providers. In instances where a potential need for the antenna location is identified by a public safety agency, said agency shall have the right of first refusal for said antenna location for a period of 90 days after the date of final site plan approval.

(c) All WCF's providing voice service shall be reported to the James City County dispatch Center to ensure that all wireless E-911 calls are placed within the boundaries of James City County are routed to the James City County Dispatch Center.

**Sec. 24-127. Permit limitations.**

(a) *Guarantee of removal.* Prior to final site plan approval, the owner of the property on which a WCF is located shall post a performance bond, cash surety, or letter of credit in an amount sufficient to fund removal of an ~~disused~~ *abandoned or unused* WCF or any disused portion thereof, and site restoration. This bond or other financial mechanism shall remain in effect throughout the life of the WCF. A wireless communication facility shall be considered ~~disused~~ *abandoned or unused* if it is not being utilized for the purpose of providing ~~personal~~ wireless communications services for a period of six months. At such time the WCF shall be removed, except where the WCF is used by the county or deemed necessary by the county for placement of its communications equipment.

(b) *Right of access.* The county shall be granted access to the WCF for the purposes of inspection and, in the event a WCF is ~~disused~~ *abandoned or unused*, removal for the life of the facility.

(c) *Site restoration.* The site of a removed WCF shall be restored to its original state, except that any installed landscaping shall remain in place.

**Sec. 24-128. Processing and submittal requirements.**

~~(1)~~(a) *The following shall apply to all WCF applications:*

1. *Conceptual site plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of additional towers on the site, fences, access, and ownership and use of adjacent properties. *This plan should also include elevation or profile views.*
2. *Preapplication meeting.* Prior to formal application for a *camouflaged or tower* submittal, the prospective permittee or its representative shall attend a pre-application meeting with the ~~planning director~~ *director of planning* or his representative. The purpose of this meeting will be to discuss future service plans of the provider, the proposed WCF location, the configuration of the proposed WCF, the feasibility of co-location, the feasibility of alternative tower locations, and the feasibility of a building mounted WCF, utilizing an alternative

mounting structure or a camouflaged WCF. The director of planning may request a balloon test for a camouflaged determination.

3. *Professional certification.* The applicant shall provide certification by a Virginia-registered engineer specifying the following information prior to preliminary site plan approval:

- a. Antenna height, design, structure and capacity, including the number, type, and mounting elevations of antenna that could be accommodated.
- b. Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards adopted by the Electronics Industry Association, and all amendments thereto.
- c. A statement *RF report* from a registered engineer that the nonionizing electromagnetic radiation emitted from the WCF, including all facilities that may already be attached, does not result in an exposure level on or outside the WCF that exceeds relevant FCC standards.
- d. ~~(5) Intermodulation study.~~ An *Noninterference/* intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the ~~planning director~~ *director of planning*.

~~(a)~~(b) In addition to meeting all other processing and submittal requirements for site plans, and special use permits for tower mounted WCFs, applicants shall also comply with the following:

(1) *Collocation efforts.* The applicant shall allow other users to locate on the tower and site and shall provide the County, upon request, verifiable evidence of having made good faith efforts to allow such locations. To this end, the applicant shall execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site, and copies of said letters shall be sent to all wireless communication facilities service providers licensed to serve the county and a copy of their response, if any, shall be provided to the ~~planning director~~ *director of planning*. The ~~planning director~~ *director of planning* may waive this requirement for camouflaged WCFs where collocation would preclude the wireless communications facility from meeting ordinance requirements for such facilities, and for wireless communications facilities that utilize alternative mounting structures, or are building mounted.

~~(b)~~(2) Any application for a special use permit for the installation of a WCF shall not be deemed complete until accompanied by the following materials, which shall be submitted six weeks prior to the planning commission meeting.

(3) *Search and service area mapping.* The applicant shall provide mapping, deemed suitable by the ~~planning director~~ *director of planning*, depicting the following:

- a) The search area for the proposed WCF along with underlying property lines and divisions. The map shall be of a clearly indicated scale and municipal boundaries and all primary and secondary highways within the search area shall be delineated.
- b) The intended service area of the proposed WCF with a radio signal propagation ~~plot map~~ *to include information such as building, car, and ambient coverage* or other suitable graphic, depicting the level of signal coverage with and without the proposed WCF. At

least one other graphic shall also be provided that shows the relationship of this coverage to that of existing and proposed WCFs operated by the same provider and future service plans, within the county and within five miles of the border thereof.

~~(3)~~(4) *Evidence of attempts at co-location and using alternative locations, designs, and operating procedures.* An applicant shall provide a copy of its co-location policy and the following evidence of attempts to co-locate and attempts to utilize alternative locations, designs, and operating procedures in a manner acceptable to the ~~planning director~~ *director of planning*:

- (a) The applicant shall indicate on a map provided by the planning department all existing tower and building mounted WCFs, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed new location. The ~~planning director~~ *director of planning* may reduce the radius of this study area where the intended coverage of the proposed WCF is less than three miles.
- (b) Applicants shall provide evidence acceptable to the ~~planning director~~ *director of planning*, including radio signal propagation plottings, that all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the site of a proposed WCF have been evaluated with respect to their ability to provide adequate service coverage and antenna-mounting opportunity, and evidence acceptable to the ~~planning director~~ *director of planning* that adequate service coverage cannot be provided through an increase in transmission power, or through the use of camouflaged wireless communication facilities, alternative mounting structures, building mounted WCFs, or a system that uses lower antenna heights than proposed. The ~~planning director~~ *director of planning* may waive these requirements where documented evidence, satisfactory to the ~~planning director~~ *director of planning* is available that indicates alternative locations and designs are not feasible, and where the intended coverage of the proposed WCF is less than three miles.
- (c) The applicant shall provide evidence deemed suitable by the ~~planning director~~ *director of planning* that good faith negotiations have taken place to use existing WCFs, and existing alternative mounting structures and buildings, including copies of letters sent to other service providers and their response, if any, on a request to co-locate on their facility.
- (d) The applicant shall provide verifiable written evidence, deemed suitable by the ~~planning director~~ *director of planning*, of the feasibility of replacing all existing WCFs within a three mile radius of the site of the proposed WCF in order to accommodate the proposed WCF.

~~(4)~~(5) *Public safety communications antenna requirements.* The applicant shall provide written evidence, deemed suitable by the ~~planning director~~ *director of planning*, of consultation with the relevant public safety agencies regarding their need for antenna space at any newly proposed WCF support structure.

~~(e)~~(6) *Balloon test.* At least three weeks prior to the planning commission meeting, the applicant shall conduct a balloon test that simulates the height of the proposed WCF. *The balloon test shall be scheduled within the first week following application submittal to ensure that the application is eligible to be placed on the relevant planning commission agenda.* The ~~planning director~~ *director of*

~~planning~~ may also require the balloon to be flown at other altitudes to determine impacts. The ~~planning director~~ *director of planning* shall give notice of the balloon test at least seven days prior to the day of the test in a newspaper having a general circulation in the county. The results of the balloon test, providing representative photographic evidence of the views of a proposed WCF from residential areas, public rights-of-way, and other sensitive areas identified by the ~~planning director~~ *director of planning* or his representative shall be provided to the ~~planning director~~ *director of planning* at least two weeks prior to the planning commission meeting. Other scaled graphical simulations of potential views encompassing a proposed WCF may be substituted for the balloon test results or required in addition to the balloon test results at the discretion of the ~~planning director~~ *director of planning*.

## ARTICLE V. DISTRICTS

### DIVISION 2. GENERAL AGRICULTURAL DISTRICT, A-1

#### Sec. 24-212. Permitted uses.

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

#### Sec. 24-218. Height limits.

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

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory or nonaccessory 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:

- a. Such structure will not obstruct light to adjacent property;
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- c. Such structure will not impair property values in the surrounding area;
- d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed

- and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
- e. Such structure will not be contrary to the public health, safety and general welfare.
- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall not be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed 45 feet in height.
- (4) Communication towers permitted by a special use permit by the board of supervisors may be in excess of 35 feet in height.

## ARTICLE V. DISTRICTS

### DIVISION 7. LOW-DENSITY RESIDENTIAL DISTRICT, R-6

#### **Sec. 24-328. Permitted uses.**

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

#### **Sec. 24-335. Height limits.**

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

- (1) The height limit for dwellings may be increased to 45 feet and to three stories; provided, that the two side yards for the dwelling are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory 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:
- a. Such structure will not obstruct light to adjacent property;
- b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- c. Such structure will not impair property values in the surrounding area;
- d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed

and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and  
e. Such structure will not be contrary to the public health, safety and general welfare.

- (3) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height, except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (2) above and may exceed the height of the main structure and may exceed 35 feet in height.

## ARTICLE V. DISTRICTS

### DIVISION 8. RURAL RESIDENTIAL DISTRICT, R-8

#### **Sec. 24-348. Permitted uses.**

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

#### **Sec. 24-354. Height limits.**

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

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, rear and side yards shall be increased one foot for each foot in height above 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations and accessory and nonaccessory 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 and 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:

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

**ARTICLE V. DISTRICTS**  
**DIVISION 13. RESEARCH AND TECHNOLOGY DISTRICT, RT**

**Sec. 24-328. Permitted uses.**

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

**PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES  
THAT REQUIRE A SPECIAL USE PERMIT  
XXXXX, 2011**

In order to maintain the integrity of the James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, ~~tower-mounted~~ wireless communications facilities (WCFs) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications for WCFs. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards:

A. Collocation and Alternatives Analysis

1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible, and that proposed new sites contribute to the goal of minimizing new tower sites.
2. Applicants should demonstrate the following:
  - a. That all existing ~~towers~~ WCFs, and ~~potential~~ alternative mounting structures ~~and buildings~~ more than 60 feet tall within a three-mile radius of the proposed site for a new WCF cannot provide adequate service coverage or ~~an~~ antenna mounting opportunity.
  - b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing WCF within a three mile radius of the site of the proposed WCF, or through the use of a camouflaged WCF, alternative mounting structure, ~~multi-antenna system~~ ~~or a building-mounted WCF~~, or a system that uses lower antenna heights than proposed.
  - c. The radii of these study areas may be reduced where the intended coverage of the proposed WCF is less than three miles.
3. Towers should be sited in a manner that allows placement of additional WCF facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.
4. All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.

B. Location and Design

1. ~~WCFs Towers and tower sites~~ should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) ~~WCFs Towers~~ should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the ~~WCF tower~~ would be located; and (2) ~~WCFs towers~~ should be located and designed in a manner that protects the character of the County's ~~scenic resource~~ **Community Character** Corridors and historic and scenic resource areas and their view sheds.
2. ~~WCFs Towers~~ should be located and designed consistent with the following criteria:

<i>Proposed Location of <del>Tower</del> WCF</i>	<i>Impact Criteria</i>
<i>a. Within a residential zone or residential designation in the Comprehensive Plan</i>	<i>Use a camouflage design, <b>Multi-Antenna system</b>, or have a minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or <del>scenic resource</del> <b>community character</b> corridors.</i>
<i>b. <del>Within</del> <b>Near</b> a historic or scenic resource area or <del>within a scenic resource corridor</del> on a <b>Community Character Corridor</b></i>	<i>Use a camouflaged design or have minimal intrusion on to residential areas, historic and scenic resources areas or <del>roads in such areas, or scenic resource</del> on community character corridors.</i>
<i>c. Within a rural lands designation in the Comprehensive Plan</i>	<i>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a camouflaged design or have minimal intrusion on to residential areas, or <del>scenic resource corridors</del> <b>community character corridors</b>.</i>  <i>For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</i>
<i>d. Within a commercial or in an industrial designation in the Comprehensive Plan</i>	<i>Use a camouflage design or have minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or <del>scenic resource</del> community character corridors.</i>

*Notes for the above table:*

1. Exceptions to these criteria may be made on a case by case basis where the impact of the proposed ~~tower~~ **WCF** is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a golf course and some combination of commercial areas, industrial areas, or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.

2. A ~~WCF tower~~ will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such ~~WCF tower~~ should only be visible off-site when viewed through surrounding trees that have shed their leaves.
3. Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.
4. ~~WCFs Towers~~ should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the ~~WCF tower~~ from residential areas and public roads are very limited. At a minimum, ~~towers WCFs~~ 200 feet or more in height should exceed the location standards listed above.
5. Towers should be freestanding and not supported with guy wires.

#### C. Buffering

1. ~~Towers WCFs~~ should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire WCF as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the ~~tower WCFs~~ base or related facilities.
2. Towers should be buffered from adjacent land uses and public roads as much as possible. following buffer widths and standards should be met:
  - a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas, or ~~scenic resource~~ *community character* corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the ~~tower WCF~~.
  - b. In or adjacent to all other areas, at least a 50 foot wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.