

A G E N D A
JAMES CITY COUNTY BOARD OF SUPERVISORS
County Government Center Board Room
September 11, 2012
7:00 P.M.

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. MOMENT OF SILENCE**
- D. PLEDGE OF ALLEGIANCE** – Nicholas Gall, 6th grade student homeschooled
- E. PRESENTATION**
 - 1. Martha McCartney – 125th Anniversary of James City County Board of Supervisors
 - 2. VaCO Achievement Award – Comprehensive Plan Implementation Tracking Tool
 - 3. NaCO Awards
- F. PUBLIC COMMENT**
- G. BOARD REQUESTS AND DIRECTIVES**
- H. CONSENT CALENDAR**
 - 1. Minutes –
 - a. August 14, 2012, Work Session
 - b. August 14, 2012, Regular Meeting
 - 2. Proclamation for National Preparedness Month
- I. PUBLIC HEARINGS**
 - 1. Case No. ZO-0014-2011. Exterior Signage
 - 2. Case No. SUP 0012-2011, nTelos, Route 199 Wireless Communication Facility
 - 3. Case No. ZO-0004-2012. Walnut Grove Proffer Amendment
 - 4. Case No. ZO-0002-2012. Definitions
 - 5. Case No. ZO-0005-2011, Endorsement of Green Building Incentives
 - 6. Case Nos. ZO-0007-2011 and ZO-0009-2011, Residential Districts, Cluster Overlay, Residential Redevelopment Policy and Workforce Housing Opportunities Policy
 - 7. Case No. ZO-0008-2011. Multiple Use Districts and Mixed Use Construction Phasing Policy
 - 8. Authorization of Conveyance of J.B. Blayton Elementary School and Lois S. Hornsby Middle School Property to Williamsburg-James City County School Board
- J. BOARD CONSIDERATIONS**
 - 1. Legislative Application Deferral Policy
 - 2. Zoning Ordinance Transition
 - 3. Renaming of Longhill Road Connector
- K. PUBLIC COMMENT**
- L. REPORTS OF THE COUNTY ADMINISTRATOR**
- M. BOARD REQUESTS AND DIRECTIVES**
- N. CLOSED SESSION**
 - 1. Consideration of a personnel matter(s), the appointment of individuals to County boards and/or commissions pursuant to Section 2.2-3711(A)(1) of the Code of Virginia
 - a. Community Action Agency
- O. ADJOURNMENT** – to 4 p.m. on September 25, 2012

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF AUGUST 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
W. Wilford Kale, Jr., Jamestown District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Transportation Projects Update

Ms. Tamara Rosario, Principal Planner, presented the Board with an update on the County's Transportation Projects.

Mr. Allen Murphy, Director of Development Management, was in attendance to answer any questions from the Board.

Ms. Rosario began her presentation by stating that the objective of this presentation was to update the Board on transportation project allocations and potential transfers of funds as well as receive feedback on the donor projects, strategies, and desired outcomes.

Ms. Rosario listed the potential donor projects available by category. They were as follows:

A. Congestion Mitigation and Air Quality Improvement Program (CMAQ) Projects:

- a. Longhill Road Multi-Use Trail
- b. Longhill Road Corridor Improvements
- c. Ironbound Road Corridor Improvements
- d. Airport Road Bicycle Improvements

B. Regional Surface Transportation Program (RSTP) Projects:

- a. Olde Towne Road Curve
- b. Mooretown Road Extension Study (MRES)
- c. Skiffes Creek (Route 60/Route 143) Connector Study

C. Secondary Funds Projects:

- a. Olde Towne Road Curve
- b. Croaker Road (Route 607) Reconstruction

D. Revenue Sharing Projects:

- a. Richmond Road/Lightfoot Road Turn Lane Improvements
- b. Tewning Road Shoulder and Drainage Improvements

Ms. Rosario stated that the strategy is to meet the Virginia Department of Transportation (VDOT) rules for transfers; maximize and optimize the use of available monies; fund construction deficits on recipient projects on course to be advertised; fund projects as directed per the Board's discussion on the Secondary Six-Year Plan; fund construction deficits on recipient projects, which will allow them to remain fully funded; and fund other projects identified in the Transportation Improvement Program (TIP) in order to fund a complete phase or advance their timelines.

Ms. Rosario listed the Potential Recipient Projects as follows:

- A. Monticello Avenue
- B. Safe Routes to School - James River Elementary
- C. Longhill Road Widening (LRW)
- D. Racefield Drive, Croaker Road Multi-Use Trail
- E. Richmond Road/Route 199 West Ramp Improvements
- F. Centerville Road/News Road Intersection Improvements
- G. Pocahontas Trail (Route 60) Multi-Modal Corridor

Ms. Rosario explained the individual recipient projects in detail and how the transfer of funds from the donor projects would impact the recipient projects.

Monticello Avenue Project - the transfer would fund the construction deficit so it can continue to advertise using CMAQ funds and transferring funds from the Longhill Road Multi-Use Trail. Mr. Middaugh asked Ms. Rosario to explain why the Longhill Road Multi-Use Trail project was no longer being done. Ms. Rosario explained that Federal design and right-of-way (RW) issues made the scope of the project unfeasible and the costs would outweigh the benefits. She noted that the bike and pedestrian concerns would be covered under the scope of the Longhill Road Corridor Study.

Safe Routes to School Project - the transfer would fund crosswalks and signage around James River Elementary School providing safer avenues for children to walk to school. Ms. Rosario noted that this project would be funded and allowed to proceed to advertisement.

Longhill Road Widening - there are multiple options that the Board would have to choose from and are as follows:

- A. RSTP Option 1 would advance and fund 100 percent of Preliminary Engineering (PE) and would fund 80 percent of RW. Ms. Rosario noted that this option would require the Hampton Roads Transportation Planning Organization (HRTPO) to designate the LRW projects as an RSTP project.

- B. RSTP Option 2 would preserve MRES, advance and fund 100 percent of PE and fund 68 percent of RW. Again, this would require HRTPO to designate this project as an RSTP project.
- C. Secondary Option 1, when combined with RSTP Option 1, would fund and advance 100 percent of RW. This option, when combined with RSTP Option 2, would fund 85 percent of RW. Ms. Rosario noted that the remainder of the Secondary funds would be sufficient to fund the deficit on Croaker Road Multi-Use Trail, fully fund and advance two intersection improvement projects, and seek transfer of Future Year CMAQ funds to advance Pocahontas Trail (Route 60) Multi-Modal Corridor.
- D. Secondary Option 2, when combined with RSTP Option 1, funds three percent of construction. When combined with RSTP Option 2, would advance and fund 100 percent of RW. Ms. Rosario noted that this option would also preserve the MRES. She stated that the remainder of the Secondary Funds would be insufficient to complete match for other CMAQ projects.

Racefield Drive Project - the transfer would advance and fully fund the project.

Croaker Road Multi-Use Trail - the transfer would fund the construction deficit which would allow the project to remain fully funded.

Richmond Road/Route 199 West Ramp Improvements - the transfer would advance and fully fund the project. Ms. Rosario noted the potential for future year allocations to be transferred to Pocahontas Trail (Route 60) Multi-Modal Corridor to better align with VDOT funding guidelines.

Centerville Road/News Road Intersection Improvements - the transfer would advance and fully fund the project. Ms. Rosario noted the potential for future year allocations to be transferred to Pocahontas Trail (Route 60) Multi-Modal Corridor to better align with VDOT funding guidelines.

Pocahontas Trail (Route 60) Multi-Modal Corridor - the transfer and future year allocations would advance and fully fund PE and RW.

Ms. Rosario cautioned the Board that any transfers would require several steps of approval and are not guaranteed. She asked the Board if it concurs with the list of Donor projects and if the Board wishes to preserve or transfer funds from the MRES. She also asked if the Board concurred with the use of available funds to fund and advance projects as outlined.

Mr. Middaugh thanked Ms. Rosario for her efforts in putting together a presentation that simplified a rather complicated issue. He then advised the Board to take up the MRES issue, saying that it is a go or no-go decision.

Mr. Icenhour asked for clarification on the different options for the LRW project. He asked if the MRES was left intact, then the secondary funds will be necessary for the LRW project. He asked how far does that money go, and are there some projects that are going to run out of money before completion.

Ms. Rosario stated that in either scenario the County is spending down the secondary funds available to it. If applied to the LRW project, there will not be enough money left to apply to other projects. Those other projects would be pushed out 5-6 years down the road and would also be losing out on the current CMAQ funds available and would be dependent on future CMAQ funds.

Mr. Middaugh asked if there was a possibility to fund the shortfall in MRES in the future.

Ms. Rosario responded yes there were possibilities for funds in the future.

Mr. Middaugh noted that these project costs are dynamic and require an ongoing reassessment.

Ms. Jones asked Mr. Icenhour if he had received all the clarification he needed on the MRES decision.

Mr. Kale asked for clarification again on the effect of the MRES.

After going through the different options, Ms. Rosario stated that she was not recommending Option 2 because of the forfeit of CMAQ funds.

Mr. Middaugh noted that approving Option 1 allows other projects to be completed as well.

Mr. Kale stated that he wanted to point out that in two years there would be no study money available from VDOT and in three to five years there would be no new construction money from VDOT. Therefore, he believes that MRES is important and is necessary to define the corridor. Because the corridor is shared with another locality, Mr. Kale stated that it was necessary for the County to define the corridor first and in such a way that would benefit the County.

Mr. Icenhour stated that the approval of Option 1 is a trade-off. Option 1 allows 85 percent of RW on the LRW project and preserves MRES while allowing other projects to go forward. Mr. Icenhour stated that he is concerned that by preserving MRES for some future, undefined purpose or benefit, the County's number one priority is being pushed down the road for completion.

Mr. Kennedy stated that he believes the importance of the MRES lies in the ability to provide an alternate emergency exit route in the event of another hurricane.

Mr. McGlennon stated that the MRES is undefined and may not have money later to fund construction because VDOT is not going to have money for new construction in 2017. He stated that he was not in favor of moving forward with a study for a project that may or may not be able to be completed in the future.

Ms. Jones stated that she supports the MRES moving forward, because it could provide an alternate emergency route as well as an economic development potential.

Mr. Icenhour replied that he believes another alternate route is irrelevant to handling the overflow from Interstate 64 when it is gridlocked. One more alternate route is not going to solve the problem of Interstate 64, in his opinion.

Mr. Icenhour and Mr. McGlennon both stated that the MRES is a waste of taxpayer dollars.

Mr. Kale stated that he supports the MRES, but if the study was completed under budget he would like to see the excess monies transferred to the LRW project.

Mr. McGlennon asked what the purpose of the Mooretown corridor would be.

Mr. Middaugh stated that the purpose of the study was to find out what development potential there is along Mooretown Road.

Mr. Kennedy asked about the spending on the easements along Longhill Road.

Mr. Murphy stated that roughly \$2 million had been spent on easements along Longhill Road.

Mr. Kennedy stated that his point was that poor planning had been an issue in the past, so he supports the MRES because it is a long-term planning goal.

Mr. Middaugh requested that the Board put it to a vote during the regular meeting. He stated that it could be done during the Board Discussions portion of the agenda.

At 5:05 p.m. the Board of Supervisors took a break.

At 5:11 p.m., the work session reconvened.

2. Land Acquisition Programs

Mr. Middaugh presented background information on the two different land acquisition programs currently in use by the County. He stated that the programs were mostly passive and that staff is looking for direction from the Board on the priority of these programs. He specifically asked what kinds of parcels or tracts of land to actively look for instead of being passive, as well as, how to apply those funds currently available.

Mr. Kennedy stated that he feels the program gets bogged down in bureaucracy. He would like to contract someone to take a more active role in searching out land. He also noted that landowners are currently less inclined to sell because the price of the land has gone down. Mr. Kennedy stated that the process needs to be streamlined.

Ms. Jones stated that the feedback she had received from citizens was that the County had purchased more land than expected and expressed frustration over a campground that the County cannot keep up. She stated that 36 percent of the property in the County is under some sort of conservation. She asked what the goal was. She asked if it is 50 or 75 percent. Ms. Jones stated that 36 percent conservation seems a good percentage to her, so she would like the goal defined. She stated that she would like the programs to continue in the same way that they are now.

Mr. McGlennon stated that the feedback he had received from citizens was positive and that they support the greenspace and land acquisition programs. He felt it would be worthwhile to utilize some of the available funds to hire/contract someone to actively search out potential land/property.

Mr. Kennedy stated that there is a need to evaluate the feasibility of the program and if it is not feasible, then the monies should be transferred elsewhere.

Mr. McGlennon stated that the programs should be focusing on land that could be a benefit to the County in the future. Reforesting potential, helping with future Stormwater run-off regulations, and purchasing conservation easements along streamlines, were the examples Mr. McGlennon used to illustrate a broader approach.

Mr. Icenhour stated that it was necessary to have a comprehensive look at what it is the County is trying to accomplish. He stated that he would like to preserve the borrowing capacity, but does not want to commit to spending it at this time. He also stated that the County could use the programs in a different way.

Instead of purchasing the property and holding on to it, the County could purchase property, put conservation restrictions on the property, and then put the property back on the market, thereby shaping the conservation of the land without the County having to hold on to the property.

Mr. Icenhour also noted that the desired outcomes for property would be different within and outside the Primary Service Area (PSA). He reiterated his desire to preserve the ability to borrow and spend on viable projects and wants to be proactive on finding those viable acquisitions.

Mr. Kale stated that he believes it is necessary to reevaluate the questions and criteria for the Purchase of Development Rights (PDR).

Mr. Middaugh stated that going forward, the Board agreed on the following items:

- a. Preserve the right to borrow.
- b. Revisit what we want to accomplish with the Land Acquisition Programs.
- c. Revisit criteria for the PDR.
- d. Be more proactive in searching for property.

Mr. Kennedy stated that there was another option, with the potential of saving taxpayer dollars. The County could transfer PSA rights, essentially transfer parcels in the PSA for parcels outside the PSA. This could be utilized for environmentally sensitive areas.

Mr. Middaugh confirmed that the members were in agreement on how to move forward.

D. CLOSED SESSION

Mr. McGlennon made a motion, at 5:45 p.m., to go in to closed session pursuant to Section 2.2-3711(A)(1) of the Code of Virginia, consideration of appointment of individuals to County boards and/or commissions; as well as Section 2.2-3711(A)(3) of the Code of Virginia, for the consideration of the purchase of parcel(s) of property for public use.

On a roll call vote, the vote was AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). Nay: (0).

The motion was approved by a unanimous voice vote.

At 6:12 p.m., Ms. Jones recessed the Board.

Robert C. Middaugh
Clerk to the Board

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 14TH DAY OF AUGUST 2012, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
W. Wilford Kale, Jr., Jamestown District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE - Jocelyn Fellows, a rising fourth-grader at Matoaka Elementary School, led the Board and citizens in the Pledge of Allegiance.

Ms. Jones recessed the Board at 7:03 p.m. in order to conduct the James City Service Authority (JCSA) Board of Directors Meeting.

Ms. Jones reconvened the Board of Supervisors Meeting at 7:05 p.m.

E. PRESENTATIONS – None

F. PUBLIC COMMENT

1. Mr. John Pottle, 4233 Teakwood Drive, Williamsburg, Pastor of Crosswalk Community Church, led the Board and citizens in an invocation.

2. Mr. Keith Sadler, 9929 Mountain Berry Court, Toano, addressed the Board with concerns over Greenspace/Land Acquisition Program dollars that are not necessary for the County to spend at taxpayer's expense. He expressed concern over the United Nations Agenda 21 and the Wildlands Project.

3. Mr. Henry Denning, 4315 Audley Green Terrace, Williamsburg, addressed the Board, on behalf of the residents of Colonial Heritage, concerning the Dominion Virginia Power (Virginia Power) proposed Surry-Skiffes Creek power lines. He stated that the Board only supports the route if it goes under the river and respectfully requested that the Board support the route proposed by Virginia Power. He presented the

Board with a signed petition supporting the current route proposed by Virginia Power. Mr. Denning also invited Mr. Kennedy, Mr. Middaugh, and Mr. Rogers to attend Colonial Heritage's upcoming Homeowners Association (HOA) meeting.

Mr. Middaugh stated that he and Mr. Rogers would be attending the Colonial Heritage HOA meeting. Mr. Middaugh noted that the first resolution passed by the Board in regards to this issue was for rejecting the Chickahominy Route proposed by Virginia Power. The Board has recommended the route go under the James River for a variety of reasons including economic, aesthetic, and tourism. The route needs to be the best result for the whole County. Mr. Middaugh stated that he looked forward to explaining these reasons in more detail at the Colonial Heritage HOA meeting.

4. Ms. Sue Sadler, 9929 Mountain Berry Court, Toano, addressed the Board and thanked Ms. Jones for her service as Chairman of Board. She noted that under Ms. Jones' leadership, the James City County Bond Rating has gone up while the Federal government's has gone down. Ms. Sadler also addressed the Board concerning property owners' right to raise and keep chickens on their property.

5. Ms. Mary Leedom, 6119 Wildey, Seaford, a member of Concerned Citizens of Historic Triangle addressed the Board with citizen concerns regarding the loss of property rights under the guise of sustainable development. Limitations have been put on aqua-culture, rural lands, and farms and the ability to raise chickens on your own property.

6. Ms. Rosanne Reddin, 2812 King Rook Court, Williamsburg, addressed the Board concerning effective leadership traits. She stated that Ms. Jones exhibits these leadership traits. Ms. Reddin said that Ms. Jones has led the County to national recognition for its bond rating. She commended and thanked Ms. Jones for her service.

7. Mr. Russ Gibbons, 117 King William Drive, addressed the Board on behalf of Backyard Chicken Keeping. He stated that he would be willing to pay for a special permit if that would allow him and his family to keep their chickens that they see as pets.

Mr. Middaugh stated that the Planning Commission will be taking up this issue to determine how it can be inserted into the Code. Mr. Middaugh told Mr. Gibbons to contact Mr. Allen Murphy, Director of Development Management, on how to deal with this issue in the interim until the Planning Commission can address the issue.

8. Ms. Janet Casenave, 3404 Waterview Road, Toano, addressed the Board and thanked Ms. Jones for her service as Chairman.

9. Mr. John Mateer, 107 Tanbark Lane, Williamsburg, addressed the Board and stated his admiration and respect for the outgoing Chair, Ms. Jones. He stated that Ms. Jones has been steadfast in supporting property rights and lowering the budget.

10. Ms. Marjorie Ponziani, 4852 Bristol Circle, Williamsburg, addressed the Board and thanked Ms. Jones for her leadership, for her explanation of Agenda 21, and for not renewing membership in the International Council for Local Environmental Initiatives (ICLEI).

11. Ms. Linda Reese, 511 Spring Trace, Williamsburg, addressed the Board concerning a complete ban of the tethering of dogs in James City County. She requested that the Board follow in the footsteps of the City of Hampton and add this issue to the agenda in the future for Board consideration.

12. Ms. Linda Rowe, 122 Winterset Pass, Williamsburg, addressed the Board concerning the tethering of dogs. She provided a picture of a dog that had been tethered in a field and the collar had grown into the dog's neck. She stated that she strongly supports an ordinance that bans tethering of dogs.

13. Mr. Ed Oyer, 139 Indian Circle, Williamsburg, addressed the Board and asked for remembrance of our troops overseas. Mr. Oyer spoke about declining property values and real estate assessments. He mentioned that cluster homes are bad for property values, but also pose a risk in case of a fire.

G. BOARD REQUESTS AND DIRECTIVES

Mr. McGlennon stated that he, Ms. Jones, and Mr. Icenhour attended a groundbreaking for Habitat for Humanity on August 13, 2012. He said that this new project is a partnership that will benefit the Morriset family and that Anheuser Busch is the main sponsor of funding for the project.

Mr. Icenhour noted that he attended the groundbreaking for the Grove Community Outreach Center on August 8, 2012.

H. CONSENT CALENDAR

Mr. McGlennon made a motion to approve the Consent Calendar.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

1. Minutes-
 - a. July 24, 2012, Work Session
 - b. July 24, 2012, Regular Meeting
2. Contract Award – Architectural Services For Fire Station 1, Renovation/Reconstruction – \$425,000

RESOLUTION

CONTRACT AWARD – ARCHITECTURAL SERVICES FOR FIRE STATION 1,

RENOVATION/RECONSTRUCTION – \$425,000

WHEREAS, a Request for Proposals (RFP) for Architectural Services for Fire Station 1 was publicly advertised and staff reviewed proposals from nine firms interested in performing the work; and

WHEREAS, upon evaluating the proposals, staff determined that Guernsey-Tingle Architects was the most fully qualified and submitted the proposal that best suited the County's needs as presented in the RFP.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby awards the \$425,000 contract for Architectural Services for Fire Station 1 to Guernsey-Tingle Architects.

3. Dedication of Streets in the Marywood Subdivision - Phases One and Three

RESOLUTION

DEDICATION OF STREETS IN THE MARYWOOD SUBDIVISION –

PHASES ONE AND THREE

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation advised the Board that the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on July 1, 1994, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described in the attached Additions Form AM-4.3 to the secondary system of State highways, pursuant to §33.1-229 of the Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described and any necessary easements for cuts, fills, and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

I. PUBLIC HEARINGS

1. Case No. ZO-0014-2011. Exterior Signage

Ms. Jones noted staff was requesting a deferral.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones kept the Public Hearing open until September 11, 2012.

Mr. McGlennon made a motion for deferral until September 11, 2012.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

2. Case No. Z-004-2012. Walnut Grove Proffer Amendment

Ms. Jones noted that the applicant was requesting a deferral.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones kept the Public Hearing open until September 11, 2012.

Mr. McGlennon made a motion for deferral until September 11, 2012.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Jones (4). NAY: Kennedy (1).

3. Case No. SUP-0008-2012. Chickahominy Baptist Church Day Care

Ms. Leanne Reidenbach, Planner III, addressed the Board regarding Ms. Alice Wilson's request for a Special Use Permit (SUP) to operate a child day-care center in the existing accessory building on the Chickahominy Baptist Church property for up to 30 children and staff. Ms. Reidenbach noted that while the 2009 Comprehensive Plan does not recommend commercial facilities as primary uses in Rural Lands, it does note that certain low intensity uses may be appropriate if they are compatible with the natural and rural character of the area. She stated that staff finds the proposed day care to be compatible with the existing church site and does not negatively affect agricultural or forestall uses. The proposal is also compatible with the surrounding zoning and development. Ms. Reidenbach also noted that the Department of Social Services would have oversight of the proposed day care and stated that the Planning Commission had unanimously approved the SUP.

Mr. Icenhour noted that there is a significant distance between the day care and the existing playground on the church property and asked if this was something for the Department of Social Services to consider.

Ms. Reidenbach stated that having a playground is a requirement by the Department of Social Services and it would be making the determination if it is an acceptable distance.

Ms. Jones opened the Public Hearing.

1. Ms. Alice Wilson, 236 Bush Springs Road, Williamsburg, owner of Alice's Wonderland Playhouse, addressed the Board and requested that it approve the SUP. She stated that the day care would be monitored by the Department of Social Services. Ms. Wilson noted that the day care would be open until 7 p.m. and on Saturdays. She stated that these extended hours would meet the needs of parents that work in Hampton Roads who struggle to pick up their children by 6 p.m. Ms. Wilson thanked the Board for its time.

Ms. Jones asked if anyone else would like to speak about this case.

As no one wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. McGlennon made a motion to approve the SUP.

Ms. Jones asked Mr. Middaugh to call the role.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

RESOLUTION

CASE NO. SUP-0008-2012. CHICKAHOMINY BAPTIST CHURCH DAY CARE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Ms. Alice Wilson has applied for an SUP to allow a child day-care center in an existing accessory building on the site of the Chickahominy Baptist Church (the “Center”); and

WHEREAS, a public hearing was advertised, adjoining property owners notified, and a hearing conducted on Case No. SUP-0008-2012; and

WHEREAS, the proposed Center is depicted on the plan prepared by the James City County Planning Division, dated June 21, 2012, and entitled “JCC Case No. SUP-0008-2012, Chickahominy Baptist Church Day Care;” and

WHEREAS, the proposed Center is located in its entirety on property zoned R-8, Rural Residential, further identified as Parcel No. (1-9B) on James City County Real Estate Tax Map No. (22-3); and

WHEREAS, the Planning Commission, following its Public Hearing on July 11, 2012, voted 7-0 to recommend approval of Application No. SUP-0008-2012.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve SUP Application No. SUP-0008-2012, as described herein, pursuant to the following conditions:

1. **Master Plan:** This SUP shall be valid for the operation of a child day-care center. The Center and play areas shall be generally located as shown on the master plan titled “JCC Case No. SUP-0008-2012, Chickahominy Baptist Church Day Care” drawn by the James City County Planning Division dated June 21, 2012.
2. **Occupancy:** The total number of occupants at any time, including, but not limited to, staff and children, shall be determined by regulations of the Virginia Department of Social Services and by James City County Building Safety and Permits, whichever regulations are more restrictive. In no case shall the occupancy exceed 30 individuals at any time.
3. **Site Plan:** A site plan shall be submitted to the James City County Planning Division and shall be approved by the Planning Director.
4. **Drainfield Capacity:** Prior to final site plan approval, the applicant shall receive full approval from the Virginia Department of Health for septic tank and drainfield capacity in an amount sufficient to handle the Center.
5. **Lighting:** Should a new exterior site or building lighting be installed for the operation of the day care, such fixtures shall have recessed fixtures with no lens, bulb, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light source in such a manner that all light will be directed downward and the light source is not visible from any side. No glare greater than 0.1 footcandle shall extend beyond the property line unless it is lighting an adjacent pedestrian walkway or road.

6. **Licensure:** Prior to final site plan approval, the applicant shall provide evidence of licensure to operate a child day-care center from the appropriate State agencies.
7. **Enrollment Figures:** Beginning with the adoption date of this resolution and following at six month intervals, the Center shall provide the Zoning Administrator actual Center enrollment data for the previous six months. The Center enrollment data shall include, at a minimum, the total number of children enrolled and the age of each child at the time of the report. Enrollment shall be limited to children aged two years, six months, and one day or older unless a fire suppression system is installed in accordance with Building Safety and Permits requirements.
8. **Hours of Operation:** Hours of operation shall be limited to between 6 a.m. and 7 p.m. on Monday through Friday, and 7 a.m. and 5 p.m. on Saturdays.
9. **Water Conservation Guidelines:** The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority prior to final site plan approval. The standards may include, but shall not be limited to, such water conservation measures as limitations on the installation and use of irrigation systems, the use of approved landscaping materials including the use of drought-tolerant plants where appropriate, and the use of water-conserving fixtures to promote water conservation and minimize the use of public water resources.
10. **Commencement and Severance Clause:** Within 36 months of the issuance of this SUP, the Center shall receive a Certificate of Occupancy, or the SUP shall become void.

4. Case No. AFD-04-86-2-2012/AFD-04-86-3-2012. Pates Neck Agricultural and Forestal District.

Mr. Luke Vinciguerra, Planner I, addressed the Board concerning the Pates Neck Agricultural and Forestal District (AFD). He stated that according to the State Code, the County must review all established AFDs prior to their expiration. During the review, districts must be continued, modified, or terminated. The Pates Neck AFD is scheduled to expire in September 2012. Mr. Vinciguerra noted that two additional property owners have requested to join the AFD, bringing the total acreage up to 755 acres. Mr. Vinciguerra stated that staff recommends continuation of the AFD with the inclusion of the two additional properties.

Ms. Jones opened the Public Hearing.

As no one wished to speak to this matter, Ms. Jones closed the Public Hearing.

Mr. Icenhour made a motion to approve the ordinance.

Ms. Jones asked Mr. Middaugh to call the roll.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

5. Case No. SUP-0007-2012. Jim's Well Service.

Mr. Jose Ribeiro, Planner II, addressed the Board regarding the SUP requested by Jim's Well Service. Mr. Frederick Johnson applied for an SUP to operate a contractor's office on his property, which is zoned A-1. Mr. Ribeiro noted that the applicant does not propose any additional structures on the property, other than expanding the covered storage area. Hours of operation would be Monday through Friday, 7 a.m. to 7 p.m.,

with two full-time employees picking up and returning materials and equipment. Mr. Ribeiro stated that staff finds the proposal to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. All reviewing agencies recommend approval of the SUP.

Mr. Kennedy noted that two similar cases, Tiki Climbing and Grinding Professional Tree Service and Johnny Timbers Tree and Landscaping Service, both tree removal services, had been heard in the past. Mr. Kennedy asked if any similar requirements were being made concerning keeping equipment fenced.

Mr. Ribeiro stated that yes, there were similar requirements. However, this case is unique because the property is a 44-acre parcel that is surrounded by a Resource Protection Area (RPA). Hence it is very well buffered from other residents. Mr. Ribeiro noted that there is a condition of the SUP requiring equipment to be stored or covered.

Mr. Kennedy stated that he just wanted to make sure there was consistency since there are similar cases that were somewhat controversial.

Mr. Ribeiro also noted that there were restrictions on commercial signage which would distract from the residential character of the area.

Ms. Jones opened the Public Hearing.

As no one wished to speak to the matter, Ms. Jones closed the Public Hearing.

Mr. Kennedy made a motion to approve the SUP.

Ms. Jones asked Mr. Middaugh to call the roll.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

RESOLUTION

CASE NO. SUP-0007-2012. JIM'S WELL SERVICE

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (the "SUP") process; and

WHEREAS, Mr. Frederick Johnson has applied for an SUP to allow a contractor's office and accessory uses; and

WHEREAS, the proposed development is shown on a plan titled "Special Use Permit Exhibit for Jim's Well Service" dated May 24, 2012; and

WHEREAS, the property is located at 194 Racefield Drive and can be further identified as James City County Real Estate Tax Map Parcel No. 0320100005; and

WHEREAS, the SUP shall also include a shared driveway situated within existing 40-foot easement on a parcel located at 200 Racefield Drive and further identified as James City County Real Estate Tax Map Parcel No. 0340100012D; and

WHEREAS, the Planning Commission, following its public hearing on July 11, 2012, voted 7-0 to recommend approval of this application; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of SUP-0007-2012 as described herein with the following conditions:

1. This SUP shall be valid for the operation of a contractor's office and accessory uses thereto (the "Proposal"), on approximately 0.25 acres of a property located at 194 Racefield Drive and further identified as James City County Real Estate Tax Map No. 0320100005 (the "Property"). The SUP shall also include a shared driveway situated within existing 40-foot ingress and egress easement on a parcel zoned A-1, General Agricultural, located at 200 Racefield Drive and further identified as James City County Real Estate Tax Map No. 0340100012D. Development of the Property shall be generally in accordance with the Master Plan titled "Special Use Permit Exhibit for Jim's Well Service" dated May 24, 2012 (the "Master Plan"), with such minor changes as the Planning Director determines does not change the basic concept or character of the development.
2. No work associated with the Proposal, except for clerical/office work, maintenance of equipment and vehicles, storage, and loading of materials on trucks shall be conducted at the Property.
3. The hours of operation shall be limited to 7 a.m. to 7 p.m. Monday through Friday.
4. Storage of equipment and machinery associated with the Proposal, excluding trucks and other vehicles, shall be located inside the "Outbuilding and Carport" or "Future Covered Storage Area" as shown on the Master Plan.
5. All vehicles associated with the Proposal shall maintain ingress/egress to Racefield Drive through one of two existing entrances (the "Entrance") located within a 40-foot access easement situated on adjacent parcel at 200 Racefield Drive.
6. Any improvements to the Entrance shall be reviewed and approved by the Virginia Department of Transportation (VDOT). During site plan review, the applicant shall provide evidence that all improvements to the Entrance required by VDOT will be contained within the existing 40-foot access easement, as shown in Exhibit A. Should improvements to the Entrance require work to be extended outside the access easement, the existing easement deed must be amended to contain all parts of the improved entrance within the access easement. Evidence of such amendment must be submitted to the Planning Director prior to final site plan approval.
7. No outdoor signage advertising the Proposal shall be allowed in the Property and elsewhere within or adjacent to the 40-foot access easement.
8. All new exterior light fixtures, including building lighting, on the Property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. In addition, a lighting plan shall be submitted to and approved by the Planning Director or his designee, which indicates no glare outside the property lines. All light poles shall not exceed 20 feet in height unless otherwise approved by the Planning Director prior to final site plan approval. "Glare" shall be defined as more than 0.1 foot-candle at the boundary of the Property or any direct view of the lighting source from the adjoining properties.
9. An amendment to this SUP application shall be necessary should the number of vehicles associated with the Proposal exceed eight vehicles. Beginning with the adoption date of this resolution and following at 12 months intervals, the applicant shall provide the Zoning Administrator a statement of compliance including the number of vehicles associated with the Proposal. This condition shall exclude employee's personal vehicles.

10. A site plan shall be required for this Proposal. Final approval of the site plan shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
11. This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

6. Case No. Z-0003-2012/MP-0001-2012. New Town Section 12.

Ms. Leanne Reidenbach, Planner III, addressed the Board in regards to the rezoning of New Town Section 12. She stated that Mr. Greg Davis of Kaufman and Canoles has applied to rezone Section 12 to allow development of 269 for-rent townhomes. Section 12 is currently zoned R-8 with proffers and is one of the last sections of New Town to be rezoned to MU, mixed-use. Section 12 is located in the west side of New Town near the end of WindsorMeade Way, bordered by WindsorMeade Retirement Community to the north and WindsorMeade Marketplace to the south. Both of which are zoned and designated as MU. She also stated that Section 12 is bordered by Route 199 on the east. Ms. Reidenbach explained that New Town was originally zoned R-8 with proffers as part of the overall Master Plan in 1997, which provided a sliding scale for residential and non-residential densities. Since then, the Board has approved each section going to MU with more specific master plans, specific proffers, and specific design guidelines. This process has resulted in a gradual buildout and development of New Town. It allows the Planning Commission and the Board of Supervisors to evaluate each phase of development and to mitigate any impacts of development.

Ms. Reidenbach stated that this applicant has proposed to shift unused development from the east side of Route 199 to the west side. Staff and the applicant have done a detailed inventory of development in New Town in comparison to the Master Plan and have determined that there is enough extra density to move 60 units to Section 12. After the transfer, revised density caps for New Town West still fall within overall ranges as defined in the original Master Plan with the exception of commercial square footage on the west side of New Town.

Ms. Reidenbach stated that a traffic study was submitted with the proposal and the Virginia Department of Transportation (VDOT) agreed that the project has minimal impact on Monticello Avenue and therefore no improvements are proposed along that corridor. A traffic study was also done for WindsorMeade Way and in accordance with VDOT and a third party consultant review, the applicant has proffered a 100-foot right-turn lane and a 100-foot taper at the entrance of the project. This is to ensure a safe entrance off WindsorMeade Way. The applicant has proposed other voluntary proffers to address impacts to the development. These include a natural resource study for endangered species, pre-construction meeting with residents of WindsorMeade Retirement Community, enhanced buffering along Route 199, ten workforce housing units, and cash proffers toward water, schools, public safety, and improvements at the Monticello Avenue/News Road intersection.

Ms. Reidenbach stated that the applicant's initial Master Plan has been reviewed and approved by the New Town Design Review Board (DRB). Any future plans, including building elevation and landscaping, will be required to be approved by the DRB. She stated that on July 11, 2012, the Planning Commission approved the project subject to the applicant providing enhanced landscaping along the side facing WindsorMeade Way. The Commission also asked the applicant to address resident concerns regarding security, construction hours/traffic, and potential visual impacts of buildings. In response, the applicant met with WindsorMeade Retirement Community and redesigned the area of the project closest to the WindsorMeade guardhouse to eliminate five residential units, relocated several buildings, provide a security fence, enhance landscaping along the property line, and plant enhanced landscaping along the stormwater pond near WindsorMeade Way to mitigate visual impacts. The applicant has added a proffer that limits construction hours and bulk deliveries.

Ms. Reidenbach stated that staff finds the proposal to be compatible with the 2009 Comprehensive Plan and the original New Town Master Plan and guidelines. Staff recommends that the Board approve the rezoning request and to accept the voluntary proffers.

Mr. Icenhour stated that he understood how square footage moved around from one section to another, but asked if this was the first time the Board has considered a conversion from residential to commercial or commercial to residential.

Ms. Reidenbach stated that was correct.

Mr. Icenhour stated that this is where seven residential units were taken out of Section 12 and converted to square footage in Section 11, which is the commercial section on the west side of New Town.

Ms. Reidenbach stated that was correct.

Ms. Jones opened the Public Hearing.

1. Mr. Greg Davis of Kauffman and Canoles, with his client, Mr. Bill Hall, from Oxford Properties, presented the project to the Board. He stated that the project is consistent with the 2009 Comprehensive Plan Goal H3, to increase workforce and affordable housing. He noted that projected rent of all units would fall within the Comprehensive Plan definition of “workforce housing” and 10 units are being proffered as “affordable housing.” He stated that it was important to note that the units would be indistinguishable from the market rate units.

Per the Planning Commission’s instructions, Mr. Davis stated that he and his team met with WindsorMeade on July 24, 2012. He stated that one area of concern is the area closest to WindsorMeade near the guardhouse. As a result of the meeting they have eliminated one building and moved the other. This allowed for much more buffering between Section 12 and WindsorMeade, approximately 60-80 feet of natural plant buffer between the properties. Mr. Davis stated that they had also agreed to enhance plantings around the stormwater pond and a tree-save area which would enhance and buffer the view from WindsorMeade Way. Oxford Properties proffered to build a security fence, which would extend onto WindsorMeade property to divide property and to prevent people from crossing over into the gated WindsorMeade community.

Mr. Davis went to explain the proffered construction hours. He stated that construction time would be from 7 a.m. -7 p.m., Monday through Friday, and 8 a.m. -7 p.m. on Saturday. There would be no construction done on Sundays. He stated that bulk deliveries would be limited from 8 a.m. - 5 p.m., Monday through Friday. He stated that they have also proffered to not use certain areas for construction parking or as staging areas. Mr. Davis said they plan to sequence the construction so that the area closest to WindsorMeade will be built out first for minimal disturbance of neighbors.

Mr. Davis stated that he wanted to talk about the density. He said that there would no negative impacts from the proposed density to the following:

- No traffic impact
- Overall positive fiscal impact
- No impact on public facilities, including schools
- No environmental impacts
- No safety impacts

He stated that these had been agreed upon by the applicant, staff, and a third party consultant.

Mr. Davis moved on to an explanation of the density transfer. For background purposes, he stated that the 1997 New Town Master Plan established unit allocations for each section as placeholders. Since 1997, planned density has decreased as each section has been rezoned and planned out. He stated that the numbers have decreased by 90,243 square feet of non-residential density, and 277 dwelling units. Unused, unsold density remains and has been routinely transferred around to the different sections of New Town. Mr. Davis stated that these transfers have been done at least 11 times. Mr. Davis reiterated that New Town density would not change or exceed the caps by virtue of this project. He said that New Town West was originally planned for up to 650 residential units. With the 269 units in Section 12, the total number built, planned, and projected is 612.

Mr. Davis explained that under the New Town Master Plan, there are density limits. If you maximize non-residential density then a limit is imposed on residential density. Conversely, if you maximize residential density, then a limit is imposed on non-residential density. He stated that under the Master Plan, the maximum of residential density for New Town is 2,345 units. If that many units were built, then the limit on non-residential density would 1,521,257 square feet. Conversely, if non-residential density was maximized, which for New Town is 2,148,000 square feet, the limit on residential density would be 1,597 units. Mr. Davis stated that the ratio between non-residential and residential density is fluid, as one increases the other decreases. There is a conversion factor of one residential unit for every 839 square feet of non-residential, commercial space.

Mr. Davis stated that currently there is 2,007,356 square feet of non-residential density built, planned, or projected in New Town per the inventory done by staff. He stated that there are currently 1,679 dwelling units built, planned, or projected in New Town and that includes the 209 units in Section 12. There is a gap between what will be built on the non-residential side and what the cap is. If that difference is transferred at one unit per 839 square feet to the residential density, then the maximum becomes 1,766 units. The bottom line is that transferring the unused density to the residential side and adding an additional 60 units to Section 12 does not exceed the density cap set forth by the 1997 New Town Master Plan.

Mr. Davis stated that area landowners have relied upon the master planned density. New Town is the area of the County where residential development and residential density are planned and desired. Mr. Davis said that staff, the Planning Commission, the DRB, and Mr. Paul Milana, the architect of New Town, recommend approval of this application.

2. Mr. Bob Spenski, 4627 Castleside Circle, WindsorMeade, addressed the Board and stated that they were advised to attend a meeting with Oxford Properties on July 24, 2012. He stated that only four of the nine members of the resident council were allowed to attend the meeting. Mr. Spenski stated that shortly after the meeting began, Mr. Davis stated that if the residents were going to pursue the issue of density then they could leave. Mr. Spenski said the Mr. Davis was only willing to discuss items in regards to the July 11, 2012, Planning Commission recommendations. He stated that density was excluded from that meeting. Mr. Spenski said that their only plea is in regards to density. WindsorMeade citizens have spent their lives working and saving to live here. Mr. Spenski stated that WindsorMeade is asking the Board to arbitrate density with the developer.

3. Mr. Lee Towle, 4260 Corbrige Course, WindsorMeade, addressed the Board in regards to the density issue. He stated that he was not sure if the Board had seen or was aware of a petition signed by 189 residents of WindsorMeade, 100 percent of the residents available at the time. He stated that a complete set of the petition was provided to the Secretary of the Board. The petition was directed to the Planning Commission and was submitted to the Planning Office on June 28, 2012. Mr. Towle said that the petition was not acknowledged or addressed at the Planning Commission meeting on July 11, 2012. The petition outlined the concerns of WindsorMeade residents including safety and security, density, and the location of the five buildings numbered 28, 29, 30, 31, and 32 on the applicant's plan. These buildings are close to the property line of WindsorMeade. Mr. Towle stated that the petition asked that those five buildings be eliminated from

the plan, which would somewhat reduce the density. He stated that the applicant has agreed to remove one building, which is a good first step. He stated that the 50-foot buffer proposed is a good small step; however, a 300-foot buffer like the wetlands buffer on the north side of the property would be better and preferable. Mr. Towle stated that they are asking the Board to have the applicant reduce the density and increase the land buffer between the properties. He stated that they are not against development, but are for a well-planned, unobtrusive development.

4. Mr. H. Donald Nelson, 4312 Southbury Square, Windsor Meade, addressed the Board. He stated that he is the Vice President of the WindsorMeade Resident Association. He stated that WindsorMeade was developed on 105 acres, with 96 villas and 85 apartments. That calculates to a density of two units per acre. Adding the assisted living and the nursing care facilities brings the density up to 2.1 units per acre. He stated that they were surprised to learn that Oxford Properties intended to build rental townhomes with a density of eight units per acre, or ten units per acre on developed land. He stated that they were told that the community would be like The Point in New Town. Mr. Nelson stated that WindsorMeade residents currently number 238, and are served by 138 employees plus contract workers. That correlates to a lot of people using WindsorMeade Way, generally during daylight hours. All of the residents are very concerned about adding 269 townhomes and 500 parking spaces, in addition to all the construction vehicles using WindsorMeade Way. He stated that the Association believes the increase of 60 units is unacceptable. Mr. Nelson acknowledged the applicant moving the one building and increasing the buffer and said it was a good move. However, the Association believes that the construction traffic of Windsor Meade Way and the construction over several years will affect WindsorMeade's ability to fill existing empty units.

Ms. Jones asked Mr. Nelson if he was speaking for himself or the Association.

Mr. Nelson stated he was speaking for the Association. He stated that the Association is asking Oxford Properties to consider reducing the density. He stated it should be reduced and the residents of Windsor Meade have been blocked from discussing it. Mr. Nelson stated that they are asking the Board to arbitrate density on the resident's behalf.

5. Ms. Barbara Hildenbrand, 4223 Corbridge Course, WindsorMeade, addressed the Board. She stated that the Virginia United Methodist Homes of Richmond purchased Parcel 13 and developed a premiere continuing care residential community. She stated that at the direction of the Planning Commission, Oxford Properties addressed buffering and removed the most offensive building which reduced their density by five units. She stated that they have made other worthwhile moves and those decisions have not gone unnoticed or unappreciated. Ms. Hildenbrand stated that no one has made a compelling argument by relocating residents into the Oxford project, that it will make the New Town businesses more successful. She stated that it is not the Board's job to make businesses more successful; it is the Board's job to create a community that works. She said that there are many legal documents and there may be available density numbers to cram into Section 12, but questioned if 269 is the right figure for WindsorMeade Way. She stated that she hopes the Board will give serious thought to the reduction of density.

Ms. Jones recessed the Board for a five minute break at 8:35 p.m.

Ms. Jones reconvened the Board at 8:39 p.m.

6. Mr. Larry Salzman, 1501 Harborough Road, Richmond, addressed the Board as the President of the New Town Association, the developers of New Town. He stated that he is also the President of the New Town Commercial Association, which is akin to a homeowners association, but for businesses of New Town. He stated that he does not have a financial interest in the proposed apartments; in fact the proposed apartments will compete with the apartments of New Town. He stated that New Town Association is willing to transfer some of the unused density to the developer for no compensation. He stated that they believe that it is good for the community. More dwelling units and more residents are good for the shops, restaurants, and

medical offices in New Town. He stated that New Town was conceived as a small town, with a mix of shops and residents. He would suggest that the apartments will attract a diverse type of residents, which is healthy for the community. He stated that businesses in New Town have invested on the reliance of more dwelling units in New Town. More housing and more people in New Town will help make more goods and services available in New Town, which is good for everyone in the community. He stated that the New Town Association supports the proposal.

7. Mr. Marshall Warner, 5215 Center Street, New Town, stated that he has been a resident of New Town for five years. He stated that the businesses say that the main reason they relocated to New Town was because they believed in the resident component of the Master Plan. The residential buildout would help support their businesses. Mr. Warner requested that the Board support the proposal.

8. Mr. Scott Grafton, 803 Latern Place, Williamsburg, stated that he is the owner of Ironbound Gym, located in the heart of New Town. He said he fully supports the Oxford proposal. Mr. Grafton said that he relocated his business from the City of Williamsburg to New Town because of the New Town Master Plan where people could shop, work, and live. He stated that his business is dependent on local residents and many of them live in New Town. He asked that the proposal be approved so that businesses may thrive.

9. Mr. James Wattington, 4701 Dovedale Drive, WindsorMeade, stated that he was not opposed to Oxford's overall plan, but concerned with the density. He stated that he was one of the members of the WindsorMeade resident council that was not allowed to attend the meeting with Oxford on July 24, 2012. He said that any conception that the resident council agreed with plan from that meeting is wrong since not all of the council was present. He stated that many of the residents of WindsorMeade will more than likely have a longer tenure at WindsorMeade than the residents of the these rental apartments. He stated that he is concerned with the long-term plan of the proposal and concerned with the density. He said that he is wondering what Oxford's breakeven point is on the density. He said that he doesn't know what the right number is, but the residents of WindsorMeade are depending on the Board to adjudicate the right number.

Ms. Jones asked if anyone else wished to speak.

As no one else wished to speak to this matter, Ms. Jones closed the Public Hearing.

Ms. Jones stated that she had a few questions for Mr. Davis. She said there were several comments made by citizens about a meeting and that they were not allowed to attend. Ms. Jones asked Mr. Davis to clarify.

Mr. Davis said that after the Planning Commission meeting, they called WindsorMeade to arrange a meeting. WindsorMeade set the time and determined who would attend. He said they showed up with their team not knowing who would be there.

Mr. Icenhour stated that he had some questions for staff and possibly the applicant. He asked about the retaining walls along the ponds.

Ms. Reidenbach stated that at this stage, no engineering details are available for the retaining walls. However, retaining walls of that size do require a building permit, so that would be under the purview of the Building Safety and Permit Division. Also, the walls would be required to be engineered by a licensed engineer that would be responsible for certifying that the retaining walls are built to the necessary specifications to support any adjacent buildings or roadways. She stated that discussions were held with the Engineering and Resource Protection Division early in the review process and they are aware of the retaining walls being there conceptually. The applicant has been put on notice that it may become necessary to move or possibly eliminate buildings due to their proximity to the retaining wall.

Mr. Icenhour said his other question was in regards to the proffers. He stated that the amount listed on the proffer document is less than what is listed in the chart on page 82 of the agenda. The actual signed proffer in the package assumes those recreation trails will be built on the property.

Ms. Reidenbach stated that yes that was correct. She also stated that there was an additional cash proffer called out in the proffer document should those trails not be able to be built on the property.

Mr. Icenhour questioned that they would be added on later.

Ms. Reidenbach stated yes, that is correct.

Mr. McGlennon asked Ms. Reidenbach to tell about the section being taken off on this proposal and asked if there are any limitations on the use of that area at a later date.

Ms. Reidenbach stated that Section 12B will remain zoned R-8 and subject to 1997 New Town proffers. If the owner wants to develop it later, they will have to come back before the Board to rezone to Mixed Use in accordance to the 1997 Master Plan and request density unit allocations.

Mr. McGlennon questioned that there was no density remaining to be allocated to that section later.

Ms. Reidenbach stated that there is none called out on the density table now, based on the conversion ratio there are about 27 units remaining until the overall New Town cap is met. Theoretically some of those units they may request to transfer to Section 12B, but it is not currently part of the proposal.

Mr. McGlennon questioned that the applicant has not proffered any sort of limitation on use of that portion of the property at this point.

Ms. Reidenbach stated that no, that property is not included in this zoning.

Mr. Kennedy asked what the original proposed density was for WindsorMeade 2001.

Ms. Reidenbach replied that Section 13 was approved to have 343 residential units and 34,100 square feet of non-residential.

Mr. Kennedy questioned the current status.

Ms. Reidenbach stated that in terms of the buildout, she did not have the exact numbers in front of her, but that there is probably about 1,500 square feet remaining and they have not come close to reaching the residential cap yet.

Mr. McGlennon said that there is considerable disagreement over density, but a surprising level of acceptance and enthusiasm for the project overall. He stated that the developers should be given credit for having each section done individually; however in this particular instance, this is the piece of New Town he finds least appealing from the perspective of what New Town is supposed to be - a multi-use, mixed-use community which encourages people to take advantage of their workplace, retail opportunities, and their home. This is a townhome community that will require people to get in their cars in order to do anything. It will make it difficult for them to take advantage of the proximity to other aspects of New Town. He said the applicant needs to think about the density necessary for this project to go forward. He stated that he was not ready to support a project at the level of density proposed.

Mr. Icenhour stated that he could agree and does not question the value of the project. He stated that everyone understands that this is a piece of property that will be developed and there is an acceptance of that,

but he is not sure of the appropriate size. He said that New Town is close to being at maximum commercial rather than maximum residential. In the 1997 Master Plan, Mr. Icenhour said there was a nice mix of commercial and residential. Over the years, through rezoning, currently there is 37 percent more commercial on this side of New Town than in the original Master Plan. In the current mix for residential on this side of New Town, all of the residential was removed from Section 11 and moved mostly into Section 13, WindsorMeade, leaving 209 residential units for Section 12. Mr. Icenhour said that this is really different than how the rest of New Town evolved. In the history of New Town, only one transfer of residential units to commercial square footage has occurred and that was for Section 11. It was done at a conversion ratio of 7,200 square feet per residential unit. This transfer established a precedent for transfers at 7,200 square feet. Mr. Icenhour said he thought the conversion should be somewhere closer to the average of 1,196 square feet, which works out to an additional 36 units. This puts the density somewhere around 245 for both Section 12A and 12B according to Mr. Icenhour. He stated that this proposal transfer's density out of the eastern side into the western side at a ratio that he does not think is appropriate. He asked the applicant to try and find a number closer to what everyone could agree upon. He stated that he thinks there is a deal that can be done for less than 269.

Mr. Kale stated that Route 199 came up after the Master Plan of 1997 and divided New Town. He said that there is no way, after 9 p.m., that one can walk home from Center Street safely, crossing everything to get to home on the western side of New Town. He said he believes that Route 199 created a whole different project on the western side and finds it perplexing that we keep being shown this project as a whole when Route 199 goes right down the middle. This project, Section 12A, is an in-fill project. Developments already exist on the western side that have been built, the commercial section in front and this project in the middle. Mr. Kale said that the project has a density problem. Mr. Kale said he will not be satisfied in a month to be told five or 10 units were cut off. Mr. Kale said he wanted a substantial reduction and thinks that the project would be well supported.

Mr. Kennedy stated that in 2001, he was skeptical of New Town. He voted against WindsorMeade in 2001, because of density transfers from other parts of New Town that went into WindsorMeade. He had concerns about a senior community in a mixed-use area. He said that when he looked at the density and the transfers in, one of the things explained to him was that this was how New Town was supposed to be, that density was fluid and transfers were going to be the norm. He stated he had another dilemma with a gated community in a mixed-use area, one that is supposed to be mobile. Mr. Kennedy stated he thought there is value in the proposal by Oxford in the type of people that will live there, young people and working people. Mr. Kennedy said that the east/west connection that Mr. Kale made earlier is one he understands. He said that people may not be able to walk that area, but there is a trolley that runs through New Town, public transit, and bike paths. So there is availability to do things other than drive. Mr. Kennedy said he thought some concessions have been made and maybe the density is too high, but asked of his colleagues to make a target and make it known.

Ms. Jones stated that she shares many of Mr. Kennedy's comments and appreciates the concessions and changes already made by the applicant.

Ms. Jones asked Mr. Davis to address some of these comments and whether or not you think these are areas that could be worked on and brought back or not.

Mr. Davis stated that given the sentiment of the Board, he would request that the application be deferred. He stated that his request would be that this be deferred to the first meeting in October.

Ms. Jones stated that she did not object to the timeline and ultimately wants a deferral to be productive for all parties.

Mr. Davis asked if Development Management would be the contact for recommendations by the Board on density numbers.

Ms. Jones stated yes. She also stated that she would encourage that in communicating with WindsorMeade that it be clear and that WindsorMeade be clear with Oxford if WindsorMeade has some magic number, then they need to communicate that to Mr. Davis.

Mr. Kale asked Mr. Davis if he could be prepared to come forward for the second meeting in September.

Mr. Davis stated that if it was just a matter of communicating with the County, then yes, but in evaluating the changing of density he is not conceding it is possible, but if so, that would require changing plans. Those changes must go back before the DRB before coming to the Board, proffers must be revised and rewritten and a great deal of work between agreeing on a number and being back with a plan. He stated that they do not want to come back requesting another deferral with the idea that something nefarious is going on.

Mr. McGlennon made a motion to defer this case to October 9, 2012, at 7 p.m.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

7. Ordinance to Amend and Reordain Chapter 9, Fire Protection, Article III, Fees, to Add New Section 9-12, Recovery of Expenses for Methamphetamine Lab Cleanup.

Mr. Rogers stated that this amendment is consistent with the recent amendment to the State Code, which provides for the collecting of fees for the cleanup of a methamphetamine lab as part of the criminal process or civil collection. He noted that previously collection was only done civilly. This should make collection easier should the County ever need to cleanup one of these facilities. Mr. Rogers recommended adoption of the amendment.

Mr. Kale asked if this amendment conforms to all of the aspects that the State allows counties to do under the new section.

Mr. Rogers responded in the affirmative.

Ms. Jones opened the Public Hearing.

As no one wished to speak, Ms. Jones closed the Public Hearing.

Mr. Icenhour made a motion to adopt the amendment.

Ms. Jones asked Mr. Middaugh to call the roll.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

J. BOARD CONSIDERATIONS

Ms. Jones noted that during the work session, staff presented several options regarding transportation projects. Ms. Jones asked Mr. Middaugh to briefly explain what was discussed.

Mr. Middaugh stated that the result of the discussion was as follows:

- Perform Mooretown Road Extension Study
- Fully Fund Monticello Avenue Project
- Fully Fund Safe Routes to School-James River Elementary Project
- Fully Fund Longhill Road Widening to complete preliminary engineering and right-of-way to 85 percent
- Fully Fund Racefield Drive
- Fully Fund and cover deficit on Croaker Road Multi-Use Trail
- Fully Fund and advance construction of Richmond Road/199 West Ramp Improvements
- Fully Fund and advance construction of Centerville Road/News Road Intersection Improvements
- Fully Fund Pocahontas Trail Multi-Modal to full preliminary engineering and right-of-way, and partial construction

Mr. Kale made motion to approve.

Ms. Jones asked Mr. Middaugh to call the roll.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

Mr. McGlennon and Mr. Icenhour noted that they did not support the Mooretown Road Extension Study.

K. PUBLIC COMMENT

Ms. Jones opened the Public Comment.

As no one wished to speak, Ms. Jones closed the Public Comment.

L. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. Middaugh stated that the County is pleased to host the Ladies' Professional Golf Association (LPGA) at Kingsmill for the Kingsmill Championship to be held from September 3-9. He stated that he wanted to make special note that September 8 would be a day-long event geared towards families. Most of the events would be free. He stated that there will be a golf clinic sponsored by the County for any child from the age of 7 to 17. Any child that registers and participates would be given tee-shirts designed by the schools.

Mr. Middaugh noted that registration can be done at www.kingsmillchampionship.com or there would be a link on the County website.

M. BOARD REQUESTS AND DIRECTIVES

Mr. Kale stated that the James City County Board of Supervisors celebrates its 125th anniversary on September 10, 2012. He suggested moving the next meeting to the anniversary date. He also stated that he would like to invite the County's unofficial Historian, Ms. Martha McCartney, to give a presentation at the next meeting.

Ms. Jones stated that she had concerns over changing the date of the next meeting. With it being short notice, it could cause confusion for the public who are used to the Board meetings being held on Tuesdays.

Mr. McGlennon stated that he hoped previous Board members that are available to join us at the next meeting would be invited to celebrate the anniversary.

It was agreed upon to keep the regularly scheduled meeting, but to invite Ms. McCartney to give a presentation in recognition of the anniversary.

Mr. McGlennon made a motion to elect Mr. Douglas Haller and Mr. Aaron Small to the Stormwater Program Advisory Committee and to elect Mr. David Gussman to the Chesapeake Bay Board and the Wetlands Board.

Ms. Jones asked Mr. Middaugh to call the roll.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

N. ADJOURNMENT

Mr. McGlennon made a motion to adjourn the Board meeting.

Ms. Jones asked Mr. Middaugh to call the roll.

On a roll call vote, the vote was: AYE: McGlennon, Icenhour, Kale, Kennedy, Jones (5). NAY: (0).

At 9:43 p.m., Ms. Jones adjourned the Board until 7 p.m. on September 11, 2012.

Robert C. Middaugh
Clerk to the Board

MEMORANDUM COVER

Subject: National Preparedness Month, September 2012

Action Requested: Shall the Board approve the resolution that declares September 2012 as National Preparedness Month?

Summary: The attached resolution highlights the need for our citizens to take concrete action, not only this month but year-round, toward preparing for emergencies and disasters by declaring September National Preparedness Month in James City County.

Staff recommends adoption of this resolution as another way to encourage individuals, families, organizations, and businesses within our community to be ready for any number of emergencies throughout the year.

Fiscal Impact: None

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Resolution

Agenda Item No.: H-2

Date: September 11, 2012

M E M O R A N D U M

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: William T. Luton, Fire Chief

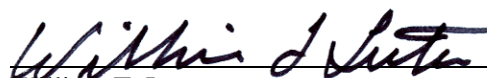
SUBJECT: National Preparedness Month, September 2012

For the past five years, the national *Ready* Campaign and its partners have received a Presidential proclamation designating September as National Preparedness Month (NPM). In Virginia, Governor Robert McDonnell also has issued a proclamation recognizing NPM and encouraging all citizens to be ready for emergencies by taking steps to prepare for emergencies at home, at work, and in our communities.

The attached resolution highlights the need for our citizens to take concrete action, not only this month but year-round, toward preparing for emergencies and disasters by declaring September National Preparedness Month in James City County.

NPM was created by the Federal Emergency Management Agency (FEMA) *Ready* Campaign in response to the tragic events of 9/11 to educate the public on how to prepare for emergencies. FEMA, the *Ready* Campaign and the statewide *Ready Virginia* outreach program all urge communities to be better prepared for disasters.

Emergency preparedness is the responsibility of every citizen of James City County. It takes a team effort to ensure that we are ready for any disaster. By adopting this resolution, we will encourage individuals, families, organizations, and businesses within our community to be ready for any number of emergencies throughout the year.


William T. Luton

CONCUR:

Robert C. Middaugh

WTL/nb
NPrepareMth_mem

Attachment

RESOLUTION

NATIONAL PREPAREDNESS MONTH, SEPTEMBER 2012

WHEREAS, “National Preparedness Month” creates an important opportunity for every resident of James City County to prepare their homes, businesses and communities for any type of emergency including natural disasters and potential terrorist attacks; and

WHEREAS, investing in preparing ourselves, our families, businesses, and communities can reduce fatalities and economic devastation in our communities and in our nation; and

WHEREAS, the Federal Emergency Management Agency’s (FEMA) *Ready* Campaign, the Ready Virginia outreach program sponsored by the Virginia Department of Emergency Management, and other Federal, State, local, tribal, territorial, private, and volunteer agencies are working to increase public activities in preparing for emergencies and to educate individuals on how to take action; and

WHEREAS, emergency preparedness is the responsibility of every citizen of James City County and all citizens are urged to make preparedness a priority and work together as a team to ensure that individuals, families, and communities are prepared for disasters and emergencies of any type; and

WHEREAS, all citizens of James City County are encouraged to participate in citizen preparedness activities and asked to review the *Ready* campaign’s websites at Ready.gov or Listo.gov (in Spanish) and ReadyVirginia.gov and ListoVirginia.gov and become more prepared.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby proclaims September 2012, National Preparedness Month in the County of James City, Virginia, and encourages all citizens and businesses to develop their own emergency preparedness plan and work together toward creating a more prepared society.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

NPrepareMth_res

MEMORANDUM COVER

Subject: ZO-0014-2011. Exterior Signage

Action Requested: Shall the Board adopt the originally proposed exterior signage ordinance amendments or remand the revised ordinance amendment to the Planning Commission?

Summary: At its meeting on June 12, 2012, the Board of Supervisors expressed several concerns with the proposed exterior signage ordinance related to potential size of freestanding sign mounting structure area and sign-mounted lighting in Community Character Areas and Corridors. This ordinance section has been deferred several times to give adequate time to address these concerns and develop options for consideration.

As a result of research, staff has proposed two versions of the ordinance. The first version is in line with the original ordinance amendments reviewed by the Board in June. The second version includes amendments related to setting sign structure ratio limits. As the second version proposes amendments to sections that were not previously advertised, the County Attorney has determined that if the Board opts to pursue this version, it will have to be re-advertised and reconsidered by the Planning Commission.

Staff recommends that the Board adopt the amended exterior sign ordinance as originally proposed in June (Attachment 4) and keep sign mounted lighting in Community Character Corridors as permitted. If the Board wishes to pursue the sign structure ratio cap, staff recommends that the alternative ordinance (Attachment 5) be remanded back to the Planning Commission for a recommendation and then be brought back to the Board at the November 13 meeting for consideration.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. Sign mounted lighting photos
3. Sign structure ratio example photos
4. Original ordinance without sign structure ratio changes
5. Alternative ordinance with sign structure ratio changes

Agenda Item No.: I-1

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Leanne Reidenbach, Senior Planner II

SUBJECT: ZO-0014-2011. Exterior Signage

At its meeting on June 12, 2012, the Board of Supervisors expressed several concerns with the proposed exterior signage ordinance related to potential size of freestanding sign mounting structure area and sign-mounted lighting in Community Character Areas and Corridors. Since that time, the Board has deferred consideration of the sign ordinance so that this request could be accommodated.

Sign-Mounted Lighting:

The amendment for sign-mounted lighting may have been misrepresented to the Board at its June meeting. Sign-mounted lighting is already permitted along Community Character Corridors (CCC) and in Community Character Areas (CCA) and the proposed amendment would not change this. The proposed ordinance change is to clarify the section for applicants rather than to allow a new type of sign lighting. Examples of existing sign-mounted lighting along CCCs and in CCAs can be seen at Carter Cat and Climatrol in GreenMount (along Pocahontas Trail), New Town entrance signage (along Monticello Avenue), and the Williamsburg Pottery (along Route 60). Photos are in Attachment 1. Staff recommends that sign-mounted lighting be left in the ordinance as an option in CCCs and CCAs as currently written. If the Board wishes to place additional controls on sign-mounted lighting, an option may be to permit it subject to approval by the Planning Director. This is similar to how internally illuminated signs in CCCs and CCAs are handled. If the Board opts to make this change, the County Attorney's office has determined that it is significant enough that the Planning Commission would need to reconsider this part of the ordinance before it could be adopted by the Board.

Freestanding Sign Structure Size:

Staff has researched the request by contacting both surrounding localities in Virginia and more than 11 other localities nationwide in an attempt to find a model for such an ordinance. Staff contacted one locality in Wilmette, Illinois that included sign structure as part of the sign surface area calculation. Upon following up with a staff member from the locality, staff was informed that they were in the process of amending the ordinance to eliminate this requirement as it was too restrictive. Instead, they were moving toward a height restriction to limit the mass of monument signage. No other ordinances included a ratio or maximum cap on the overall size of signage. Sign mass was largely restricted through height limitations or minimum widths for sign supports.

As a result, staff does not believe that having an overall cap on the size of a sign structure is a best practice for sign regulations and recommends that the Board adopt the originally proposed sign ordinance amendments (Attachment 3). The sign ordinance already has regulations that limit the overall height of freestanding signs between eight feet and 15 feet depending on the sign. This maximum height includes the sign structure and the base of the sign in the calculation. Additionally, staff does not typically receive dimensional information for sign structures, particularly for residential monument signs that are designed as part of a larger site entrance feature. Usually, the sign permit will include the part of the sign with text that is counted as the "gross sign area" by the current ordinance and an indication of the proposed overall height of the sign (including sign structure). The structure is usually designed and built by a separate contractor. By adding a cap on the structure size, applicants would then be required to submit additional details about the design for

the total sign (text area plus structure area).

Staff also pulled a sample of actual sign permits for both existing residential and commercial signs to determine whether there is a pattern in structure size or the ratio of the text area to the structure. Pictures of some of these signs and their corresponding measurements are in Attachment 2. Generally, there was a wide variety of text area to structure area and the smaller the sign structure ratio, the larger the sign structure was. Additionally, the larger sign structures tended to be for residential subdivision entrance features rather than commercial signs. The sign structure ratio (sign text area/overall sign area) for the sign cited as a concern at the June Board meeting fell in line with many other existing signs in the County.

If the Board wishes to pursue limits on sign structure sizes, staff would recommend including a provision that the sign structure ratio must be greater than 14 percent for both commercial and residential subdivision identification signs. This sets a limit while making few existing signs nonconforming. As part of the alternative ordinance drafted by staff (Attachment 4), the following other items were amended or included:

- additional submittal guidelines including a requirement that the sign structure and applicable measurements have to be provided,
- a definition of sign structure ratio and how its measured (both verbal and graphic); and
- a procedure for Planning Director exceptions to the sign structure ratio when the sign is mounted to certain types of walls or fences and criteria for when the exception may be granted.

The County Attorney's office has determined that if the Board wishes to proceed with the sign structure ratio additions, the change is significant enough that the ordinance should be reconsidered by the Planning Commission. Additionally, since new sections are proposed to be amended, it is necessary to publish an advertisement supplement covering the new items. If the Board opts to consider the original ordinance, no additional advertisements are required and the Board may take action at this meeting.

In summary, staff recommends that the Board adopt the amended exterior sign ordinance as originally proposed in June (Attachment 3) and keep sign-mounted lighting in CCCs as permitted. If the Board wishes to pursue the sign structure ratio cap, staff recommends that the alternative ordinance (Attachment 4) be remanded back to the Planning Commission for a recommendation and then be brought back to the Board at the November 13 meeting for consideration.

Leanne Reidenbach

CONCUR:

Allen J. Murphy, Jr.

LR/gb

ZO-14-11ESignage_mem

Attachments:

1. Sign-mounted lighting photos
2. Sign structure ratio example photos
3. Original ordinance without sign structure ratio changes
4. Alternative ordinance with sign structure ratio changes

Attachment 1: Sign Mounted Lighting in Community Character Corridors



Attachment 2: Pictures of sample signs used in ordinance amendment analysis



Stonehouse

Sign text area: 32 SF

Area of text + mounting structure: 1,650 SF

Sign structure ratio: 1.9%

Williamsburg Landing

Sign text area: 24 SF

Area of text + mounting structure: 163 SF

Sign structure ratio: 14.7%



Liberty Ridge

Sign text area: 31.3 SF

Area of text + mounting structure: 186 SF *(excludes eagle statue)*

Sign structure ratio: 16.8%





Monticello Marketplace

Sign text area: 24.37 SF

Area of text + mounting
structure: 142.8 SF

Sign structure ratio: 17.1%

Ford's Colony Entrance

Sign text area: 30 SF

Area of text + mounting
structure: 106 SF

Sign structure ratio: 28.3%



Ford's Colony Business Center

Sign text area: 32 SF

Area of text + mounting
structure: 103 SF

Sign structure ratio: 31%



TPMG Building

Sign text area: 12 SF

Area of text + mounting
structure: 30.25 SF

Sign structure ratio: 39.7%





Zaxby's Chicken

Sign text area: 32 SF

Area of text + mounting
structure: 57 SF

Sign structure ratio: 56%

Mega Auto Spa

Sign text area: 32 SF

Area of text + mounting
structure: 51 SF

Sign structure ratio: 62.7%



RBC Bank

Sign text area: 29 SF

Area of text + mounting
structure: 36 SF

Sign structure ratio: 80%



La Petite

Sign text area: 32 SF

Area of text + mounting
structure: 35.5 SF

Sign structure ratio: 90%



ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, BY AMENDING SECTION 24-65, STATEMENT OF INTENT; SECTION 24-66, DEFINITIONS; SECTION 24-70, FREESTANDING SIGNS; SECTION 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS; SECTION 24-77, EXCEPTIONS; AND BY AMENDING AND RENAMING SECTION 24-79, VIOLATIONS AND PENALTIES WITH NEW NAME VIOLATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 3, Exterior Signs, by amending Section 24-65, Statement of intent; Section 24-66, Definitions; Section 24-70, Freestanding signs; Section 24-73, Special regulations for certain signs; Section 24-77, Exceptions, and Section 24-79, Violations.

Chapter 24. Zoning

ARTICLE II. SPECIAL REGULATIONS

DIVISION 3. EXTERIOR SIGNS

Sec. 24-65. Statement of intent.

The purpose of this article is to regulate exterior signs so as to protect the health, safety, and general welfare of the community; to protect property values; to protect the historic and natural character of the community; to protect the safety of the traveling public and pedestrians; to promote the creation of an attractive and harmonious community; and to ensure the equitable distribution of public space for the purpose of communication.

Sec. 24-66. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Back-lit or channeled lettered sign. Any sign in which only the letters, characters, or figures are internally lighted. The background of the sign shall be opaque and shall not be internally illuminated. ~~The development review committee shall review and approve all back lit or channeled lettered signs that are proposed within 150 feet of the existing or proposed right of way of a community character corridor or within a community character area.~~

Blade sign. A two-sided flat sign that projects more than 18 inches from, and that is mounted perpendicularly to, a vertical building wall. Such sign may be suspended from an arm or bracket, or may be directly mounted to a building wall or the underside of a canopy or awning.

Building face sign. Any sign attached to and erected parallel to the face of or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 18 inches from the building wall.

Double-faced sign. A sign with two parallel or nearly parallel faces, back-to-back, and located not more than 24 inches from each other.

Flashing sign. An illuminated sign on which the artificial or reflected light is not maintained stationary or constant in intensity and/or color at all times when in use, and whose intermittent or sequential lights are used primarily to attract attention. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. Signs which display only the time of day and temperature *or changeable LED signage used to advertise a single gas price* shall not be considered a flashing sign *when the message is changed fewer than four times in a 24 hour period.*

Freestanding sign. A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall, not a part of a building, shall be considered a freestanding sign.

Gross sign area. That area within a line including the outer extremities of all letters, figures, characters and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in a sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of signs with more than two faces shall be computed by multiplying one-half the circumference of the footprint of the sign by the height of the sign. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

Figures 1a through 1d: How to measure gross sign area:

 = Gross Sign Area

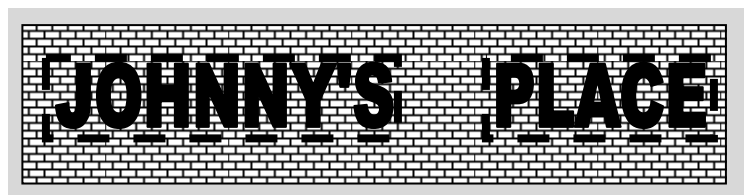
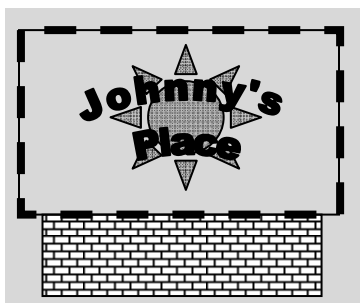
Figure 1a- Building mounted signs where letters are mounted individually and the sign uses external illumination or internally illuminated channel letters

Figure 1b- Building mounted signs where the entire sign area is internally illuminated



Figure 1c- Freestanding sign where letters/logos are mounted as a connected group

Figure 1d: Freestanding sign where letters are mounted individually



Illuminated sign. Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

Indirectly illuminated sign. A sign which does not produce artificial light from within itself, but which is opaque and backlighted or illuminated by spotlights or floodlights not a part of or attached to the sign itself.

Internally illuminated sign. A sign of translucent or transparent material with the source of illumination, exposed or shielded, enclosed within the face or supporting structure of the sign. This term shall not apply to a sign in which only the letters, characters, or figures are internally lighted and the background of the sign is opaque.

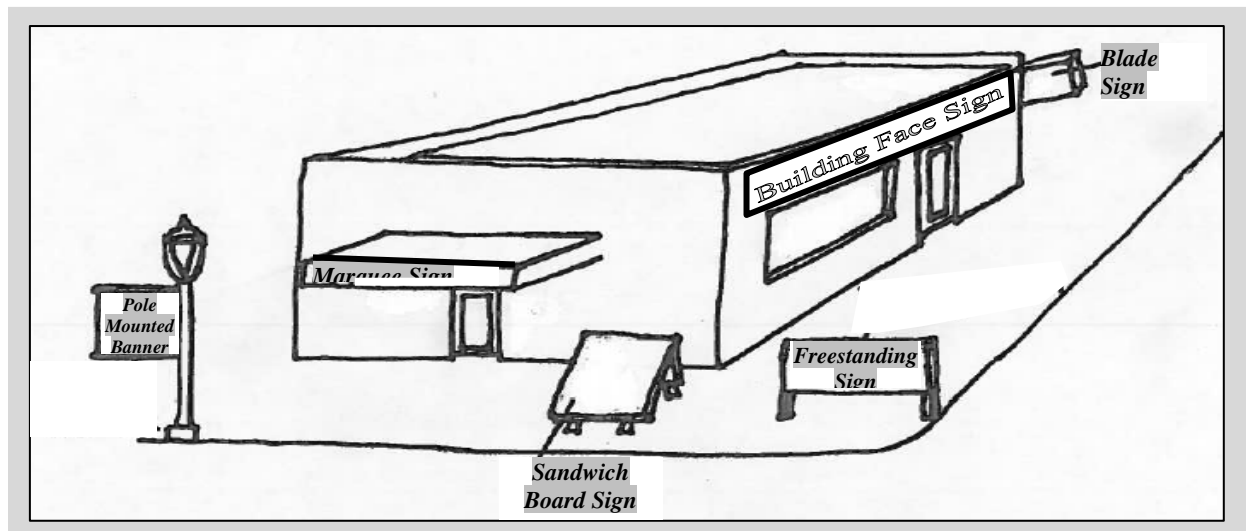
Marquee sign. Any sign attached to or hung from a marquee. For the purpose of this article, a "marquee" is a covered structure projecting from and supported by a building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against the weather.

Projecting sign. A sign which is attached to and projects more than 18 inches from the face of a wall of a building. The term "projecting sign" includes a marquee sign.

Shopping center. A group of ~~three~~^{four} or more commercial establishments having a minimum combined total square footage of 25,000 square feet, planned, constructed, and/or managed as a single entity, with customer and employee parking provided onsite, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

Sign. A structure, display or device that is arranged, intended, designed or used as an advertisement, announcement, identification, description, information or direction.

Figure 2- Types of signs



Sec. 24-67. Permits.

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this chapter:

- (1) *Required application; inspection of signs.* No sign, unless herein exempted, shall be erected, constructed, structurally altered or relocated, except as provided in this article and in these regulations, until a permit has been issued by the administrator or his designee. Before any permit is issued, an application provided by the administrator or his designee shall be filed together with two sets of drawings and specifications, one to be returned to the applicant, as such may be necessary to advise and acquaint the administrator or his designee fully with the location in relation to adjacent buildings, construction, materials, manner of illuminating or securing or fastening, and number of signs applied for and the wording of the sign or advertisement to be carried on the sign.
- (2) *Electrical permit.* All signs which require electricity or are electrically illuminated shall require a separate electrical permit and an inspection.

- (3) *Permit time limit.* All signs shall be erected on or before the expiration of six months from the date of issuance of the permit, otherwise the permit shall become null and void and a new permit shall be required.
- (4) *Permit number.* Each sign requiring a permit shall be clearly marked with the permit number and the name of the person or firm placing the sign on the premises.
- (5) *Fees required.* For all sign permits, fees shall be required in accordance with section 24-7 of this chapter.

Sec. 24-68. Content of signs.

No exterior sign shall advertise a product, service, business activity or institution which occurs or is generally conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is located. The content or advertising message carried by signs hereafter erected shall be limited to one or more of the following:

- (1) The identification of a building or its owners or occupants of the premises.
- (2) Information concerning any lawful business-related activities on the premises and/or goods or services offered in connection therewith, or information concerning any lawful, nonbusiness, nonservice-related activities or messages on or off the premises.
- (3) Information concerning the sale, rental or lease of the premises.
- (4) Information on directional signs as prescribed in section 24-73 (e).

Sec. 24-69. Residential subdivision signs.

(a) *Requirements.* For identification of residential subdivisions, no sign intended to be read from any public right-of-way adjoining the district shall be permitted except for:

- (1) An identification sign, not exceeding 32 square feet in area, for each principal entrance. Such sign shall be bound by all other provisions of this section and shall also conform with the following criteria:

- a. If freestanding, such sign shall not exceed a height of 15 feet above natural grade.
 - b. If illuminated and ground-mounted, the sign shall be illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights. The ground-mounted lights shall be concealed by landscaping. In no case, shall the lamps or bulbs from any type of lighting be visible nor shall glare be cast upon any adjacent property, or public or private right-of-way.
 - c. If the sign is located at the corner of two rights-of-way, the sign may be placed no closer than ten feet to the corner property lines.
- (2) Two identification signs for each principal entrance whereby the cumulative size of the signs at each entrance does not exceed 32 square feet in area. The signs shall be placed on each side of the principal entrance and shall also conform to the following criteria:
- a. Each sign shall not exceed a height of eight feet above natural grade.
 - b. If illuminated and ground-mounted, the sign shall be illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights. The ground-mounted lights shall be concealed by landscaping. In no case, shall the lamps or bulbs from any type of lighting be visible nor shall glare be cast upon any adjacent property, or public or private right-of-way.
 - c. If the signs are located at the corner of two rights-of-way, the signs may be placed no closer than ten feet to the corner property lines.
- (b) *Special requirements for subdivision identification signs located within community character areas or along community character corridors.* The planning director shall review and approve residential subdivision signs, supporting structures, and entrance features to be placed within a community character area or along roads designated as community character corridors as identified by the James City County Comprehensive Plan. An applicant may appeal the decision of the planning director to the Development Review Committee (DRC). The appeal shall be in writing and shall document the reasons and justifications for such request. The

DRC shall approve, deny, or conditionally approve the applicant's request based on the review criteria outlined in this section.

Plans indicating the location of the sign(s), supporting structure(s), location and type of landscaping, and entrance features relative to surrounding streets, lots, and other features of the subdivision shall be provided to the administrator or his designee along with the application and drawings as specified in section 24-67 (1).

In reviewing the plans for subdivision signs, supporting structures, and entrance features, the following criteria shall be considered in deciding whether to approve the residential subdivision sign application:

- (1) *Scale.* The scale of the sign(s), supporting structure(s), and entrance features shall be consistent with, and complement, the adjacent properties and the road(s) on which the subdivision is located.
- (2) *Materials, colors, and construction.* The materials, colors, and construction of the sign(s), supporting structure(s), and entrance features shall complement the character of the road on which the subdivision is located and shall not detract from the aesthetics of adjacent properties.
- (3) *Landscaping.* An appropriate mix of deciduous and evergreen trees and/or shrubs shall be provided that enhance the appearance of the sign(s), supporting structure(s), and associated entrance features.
- (4) *Safety.* The sign(s) and entrance features shall be located in such a manner that they do not impair the safety of motorists, pedestrians, or bicyclists.
- (c) *Content of residential identification signs.* Aside from identifying the name of the subdivision, additional information pertaining to the subdivision such as marketing and sales information may be included on the sign. The information shall be an integral part of the sign(s) and in no case shall the size of the sign(s) exceed the size permitted by section 24-69 (a)(1) and (2).

Sec. 24-70. Freestanding signs.

Freestanding signs shall only be permitted on properties having street frontage and shall be in compliance with the following regulations:

(a) ~~Sign location and setbacks.~~ One freestanding sign shall be permitted on each street frontage- *if in compliance with the following regulations:*

(1) ~~Sign location and setbacks.~~ Such signs may only be placed on the property within ~~the~~ required ~~yard~~ ~~sign setbacks.~~ ~~and~~ Sign setbacks ~~and~~ shall be located at least five feet from any property line.

~~(b)~~ (2) *Sign area.* Such signs shall not exceed:

- ~~(1)~~ a. 32 square feet per face if located less than 75 feet from the road right-of-way;
- ~~(2)~~ b. 50 square feet per face if located 75 to 150 feet from the road right-of-way; or
- ~~(3)~~ c. 60 square feet per face if located more than 150 feet from the road right-of-way.

~~(c)~~ (3) *Sign height.* Such signs shall not exceed an overall height of 15 feet above natural grade.

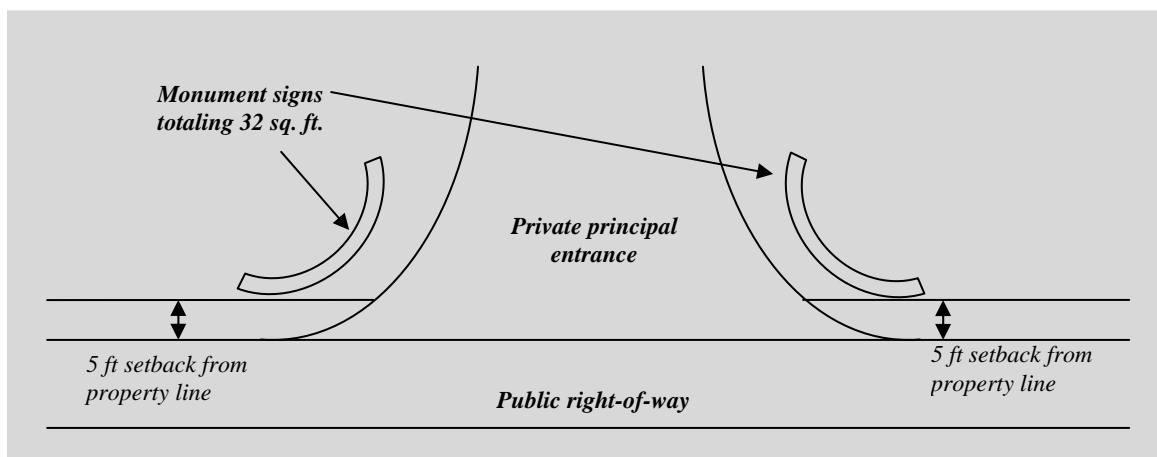
(b) *Two freestanding monument-style identification signs shall be permitted on each street frontage if in compliance with the following regulations:*

(1) *Sign location and setbacks.* The signs shall be placed on each side of the principal entrance. Such signs may only be placed on the property within the required sign setbacks. Sign setbacks shall be located at least five feet from any property line. If the signs are located at the corner of two rights-of-way, the signs may be placed no closer than ten feet to the corner property lines.

(2) *Sign area.* The cumulative size of the signs at each entrance shall not exceed 32 square feet in area.

(3) *Sign height.* Each sign shall not exceed an overall height of eight feet above natural grade.

Figure 3- Two freestanding signs placed at a principal entrance



~~(d)~~(c) *Sign lighting.*

- (1) Internally illuminated signs shall be prohibited in the following cases:
 - a. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or
 - b. When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.
- (2) Illuminated signs within community character areas and along community character corridors, as defined above in ~~(d)~~(c)(1) a. and b. are permitted ~~so~~ *as* long as they comply with the following:
 - a. composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72 except that changeable digital displays or LED displays used specifically for indication of gas pricing on the premises are exempt from this requirement ~~so~~ *as* long as they are constructed in accordance with section 24-73(m). An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or
 - b. externally illuminated by *either sign-mounted lighting or* ground-mounted horizontal light bars, light strips, or spotlights, which shall be concealed by landscaping or by sign-mounted lighting. With either ground-mounted or sign-mounted lighting, *the* bulbs, lenses, and globes shall not be visible from the road right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.

Figure 4- Options for sign mounted lighting

Figure 4a- Sign mounted lighting (side view)

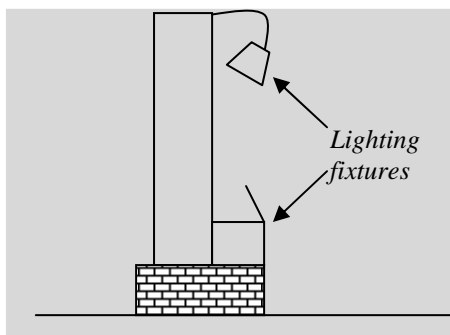
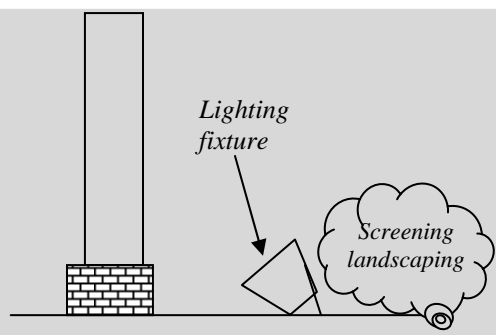


Figure 4b- ground mounted lighting (side view)



(3) Signs shall cast no glare upon any adjacent property or public or private right-of-way.

~~(c)~~(d) *Signs for individual stores, businesses or professions on the same property.* Individual stores, businesses or professions on the same property, exclusive of shopping centers, shall combine signs on a single standard and the square footage of the combined signs shall not exceed 32 square feet per face.

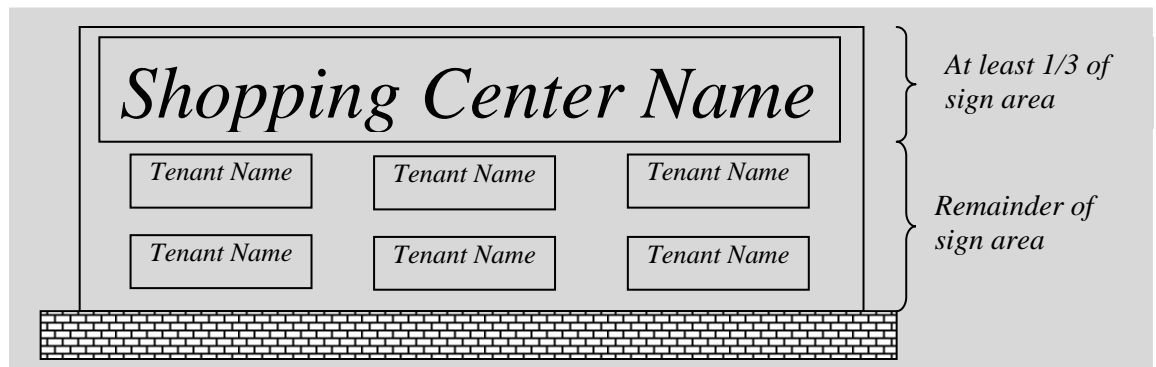
~~(c)~~(e) *Shopping center signs.* Shopping centers shall be permitted ~~one~~ **up to two** freestanding signs per major street frontage **as permitted above in (a) and (b).** A freestanding shopping center sign shall display only the shopping center name. Individual shops and businesses in shopping centers may have building face signs as provided for in section 24-71 or specially designed signs consistent with the overall development plan for the shopping center and approved as a part thereof by the planning commission.

(f) *Alternative shopping center sign. In lieu of (e) above, shopping centers may be permitted one maximum 42 square foot freestanding sign per primary entrance which indicates individual stores and includes the shopping center name if in compliance with the following regulations:*

- (1) *The shopping center is located in a mixed-use zoning district and on property designated as mixed use on the James City County Comprehensive Plan;*
- (2) *The property is regulated by a design review board with approved architectural and design standards;*

- (3) *The property is guided by a master plan of development approved by the board of supervisors; and*
- (4) *The signs are consistent with the overall development plan and approved by the planning director or his designee as part of a comprehensive signage plan for the entire shopping center.*
- (5) *Sign location and setbacks. Such signs may only be placed on the property within required sign setbacks. Sign setbacks shall be located at least five feet from any property line.*
- (6) *Sign height. Such signs shall not exceed an overall height of 15 feet above natural grade.*
- (7) *Assignment of space. The shopping center name shall comprise at least 1/3 of the sign area. The remaining area of the sign may be used for individual tenants located internal to the shopping center.*

Figure 5- Alternative shopping center sign



Sec. 24-71. Building face signs.

In zones where business or manufacturing is permitted, a building face sign shall also be permitted. The signs shall be in compliance with the following regulations:

- (a) *Sign location and area.* The building face sign(s) shall be placed on the front facade of the building, except in cases outlined below in subsections (d) and (g). The area devoted to such signs shall not exceed one square foot of sign area for each linear foot of the building's or unit's front facade or 60 square feet, whichever is smaller. The front facade of the building shall be considered the side that has the main public entrance.

For industrial uses in the M-1, M-2, PUD-C, and RT Zoning Districts, the applicant may request an exception from the planning director to allow the building face sign(s) to exceed 60 square feet. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in this section. For the purposes of this section, industrial uses shall mean any industrial use that involves the manufacture and/or assembly of products or components/parts for products. In addition to the submittal requirements outlined in section 24-67, the applicant shall provide scale drawings of the building elevation(s) and proposed sign(s). A conceptual plan shall also be submitted which shows the location of the sign relative to the existing and proposed landscaping, sight lines, distances from right-of-ways, and other pertinent site features.

In reviewing an exception request, the following criteria shall be considered in deciding whether to approve the request.

- (1) *Scale and proportion.* The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public right-of-ways. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure, with additional size aimed primarily at making the use identifiable from an adjoining public road. In no case shall the size of the sign exceed ten percent of the building's wall surface upon which the sign is placed.
- (2) *Materials, lighting, colors, and construction.* The materials, lighting, and colors of the sign shall not negatively impact adjacent properties or the aesthetics of the adjacent public roads. No exceptions will be granted for signs located within 150 feet of the road right-of-way of roads designated community character corridors.
- (b) *Sign mounting.* Such signs shall be mounted flat against the building on the side measured above.

(c) *Sign lighting.*

(1) Internally illuminated signs shall be prohibited in the following cases:

- a. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or
- b. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.

(2) Illuminated signs within community character areas and along community character corridors, as defined above in (c)(1)a. and b., shall be signs composed of:

- a. back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or
- b. shall be externally illuminated in such a way that bulbs, lenses, or globes shall not be visible from the right-of-way.

(3) Signs shall cast no glare upon any adjacent property or public or private right-of-way.

(d) *Additional signs for buildings facing onto public rights-of-way or parking lots.* When the same building faces onto a public right-of-way or parking lot on the rear or side of the building, an additional sign may be erected at the public entrance on that side. The area devoted to such sign(s) shall not exceed one square foot of sign area for each linear foot of the building's side upon which the sign is placed or 60 square feet, whichever is smaller. Such sign must be mounted flat against the building.

(e) *Additional signs for buildings in excess of 40,000 square feet.* If the footprint of an individual store exceeds 40,000 square feet in size and contains major retail departments (i.e. bakery, restaurant, pharmacy, etc.), four additional building face signs advertising these retail departments, in addition to the main identification sign, may be permitted. The size of these individual sign(s) shall not exceed one square foot of sign area for each linear foot of the retail department's interior facade or 75 percent of the size of the main building face sign, whichever is smaller.

(f) *Exterior signs for stores within an enclosed shopping mall.* If there are individual stores located within an enclosed shopping mall and the stores are not directly accessible from the outside, each of the interior stores shall be allowed to display one exterior wall sign in accordance with the following regulations:

(1) The area devoted to such signs shall not exceed one square foot of sign area for each linear foot of the unit's front facade or 60 square feet, whichever is smaller.

(2) The sign shall be mounted flat against the building at one of the mall's public entrances.

(g) *An option for building face signs.* An owner may elect to relocate the building face sign, which would typically be placed above the building's main public entrance, on the side of the building that faces the public road right-of-way or parking lot. This provision would only apply if the side of the building facing the public road right-of-way or parking lot has no public entrance. This provision would not allow for additional building face signs beyond the maximum number permitted by section 24-71; it only provides the applicant an option on which side of the building to place the building face sign. The area devoted to such sign(s) shall not exceed one square foot of sign area for each linear foot of the building's side upon which the sign is placed or 60 square feet, whichever is smaller. Such sign must be mounted flat against the building.

Sec. 24-72. Review criteria for back-lit/channeled lettered signs within community character areas and along community character corridors.

In reviewing applications for signs containing back-lit or channeled letters, the following criteria shall be used in deciding whether to approve the application.

(a) *Scale and proportion.* The scale of the sign and proportion of lettering, characters, and figures shall be of a scale, size, and character in keeping with the historic and/or rural ambience of the county and Williamsburg.

(b) *Materials, colors, and construction.* The materials, colors, and construction shall complement the character of surrounding development and shall be in keeping with the historic and/or rural ambience of the county and Williamsburg.

(c) *Intensity and quantity of lighting.* The area of the sign that is lit shall be a small proportion of the overall size of the sign. The lighting used shall be of a subdued nature and shall not dominate the streetscape.

Sec. 24-73. Special regulations for certain signs.

(a) *Logos, trademarks, murals, etc.* Any logo, trademark, mural, copyright or recognizable symbol pertaining to the use or business contained within the building painted on any face of the building shall be treated as a building face sign.

(b) *Flags as signs.* Flags used as signs shall be allowed by permit, provided that the same are installed in a permanent fashion, are maintained in good repair and will not constitute a hazard to vehicular or pedestrian traffic.

(c) *Signs on entrance marquees or canopies.* Signs on entrance marquees or canopies shall be allowed, provided that the total area of such signs if constructed alone or in combination with other building signs does not exceed the maximum allowable dimensions and square footage as set forth in section 24-71 (a) above.

(d) *Signs on corner lots.* Except for those provided for under section 24-69 ~~and 24-70~~, signs on corner lots shall not be closer than 50 feet to the corner of the lot. In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate ~~site~~ *sight* distance and good visibility is maintained for all motorists and pedestrians traveling the intersection, the administrator or his designee may permit setbacks of less than 50 feet.

(e) *Directional signs.* Directional signs may be allowed upon the determination of the administrator or his designee that the sign(s):

- (1) Are necessary to permit vehicular traffic to locate distinctive places of historical significance, businesses, campgrounds, industries, ~~and~~ residential areas, or other activities which are located off the state primary roads;
- (2) Show only the name and/or logo, mileage and direction; and
- (3) Do not exceed ten square feet in size *or seven feet in height*.

(f) *Freestanding signs on properties adjacent to and visible from residential districts.* On properties adjacent to residential districts, any freestanding sign, visible from an adjacent residential district, shall be limited to 32 square feet in area. The top of the freestanding sign shall not exceed 15 feet above grade. If illuminated, freestanding signs within these areas shall be signs composed of:

- (1) Back-lit or lighted channeled letters; or
- (2) Shall be externally illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights in such a way that bulbs, lenses, or globes shall not be visible from the right-of-way. The ground-mounted lights shall be concealed by landscaping.

In either case, there shall be no glare cast upon any adjacent property or public or private right-of-way. The freestanding sign shall be lit only during the normal operating hours of the associated use.

(g) *Signs for new commercial, industrial, and institutional construction projects.* Temporary nonilluminated signs may be erected in connection with new commercial, industrial, and institutional development and displayed on the premises during such time as the actual construction work is in progress. The signs shall also conform with the following criteria:

- (1) The maximum number and size of signs shall be:
 - a. A maximum of three signs with a cumulative sign area not to exceed 24 square feet; or,
 - b. A maximum of one sign with a sign area not to exceed 32 square feet.

- (2) The sign(s) shall only be placed along one of the property's street frontages.
- (h) *Home occupation signs.* Reference section 24-74 (10).
- (i) *Setback reductions in mixed-used districts.* In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate sight distance, and good visibility is maintained for all motorists and pedestrians traveling the intersection, the zoning administrator or his designee may permit setbacks of less than ~~five~~ feet on any lot in a mixed-used district.
- (j) *Blade signs in mixed-use districts.* Blade signs are permitted in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the board of supervisors. Blade signs must adhere to the following limitations and requirements:
 - (1) There shall be no more than one sign per public entrance to any given building;
 - (2) The sign(s) shall be positioned at the public entrance(s) of the building;
 - (3) An individual blade sign shall be no more than 12 square feet in area;
 - (4) The sign shall be mounted such that the bottom edge of the sign is not less than eight feet from the finished grade directly underneath it;
 - (5) Blade signs shall be unlit, or externally illuminated in such a way that bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;
 - (6) Blade signs that extend over a public right-of-way are subject to the prior approval of the controlling public entity. If approved, the developer shall provide positive proof of insurance for each sign mounted over the public right-of-way, or an alternate liability instrument deemed suitable by the controlling public entity;
 - (7) All blade signs shall obtain the prior approval of the design review board for the mixed-use project before they are installed.

(k) *Pedestrian-scale directional signs in mixed-use districts.* Small, free-standing signs designed to direct pedestrian traffic to locations of interest within the development may be placed in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the board of supervisors. Pedestrian-scale directional signs must adhere to the following limitations and requirements:

- (1) Such individual signs shall be no more than 24 square feet in total area, and may not have more than two faces. Only one side of a double-faced sign shall be included in a computation of sign area;
- (2) The top edge of a pedestrian-scale directional sign shall be no more than seven feet above finished grade;
- (3) Any lighting that is used shall be externally mounted and either supported solely from the sign structure, or ground-mounted. The ground-mounted lights shall be concealed by landscaping. Lighting shall be directed only onto the sign's face. Bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;
- (4) Signs shall generally include elements such as the name and logo of the overall development, maps, and the business names, logos, and directional information for businesses that are located within the development;
- (5) The number, relative positioning, and placement of each sign in a given mixed-used development shall be subject to the prior approval of the design review board and the planning director, or his designee.

(l) *Pole-mounted banners.* Seasonal and/or holiday banners that are affixed to light poles that generally identify a season and/or holiday and advertise or promote the development as a whole (by including only the development name and/or logo), rather than individual enterprises, are permitted, subject to the prior approval of the zoning administrator, or his designee. Banners shall be mounted such that the bottom edge of any

given

banner is not less than eight feet from the finished grade directly beneath it. Banners are permitted only in shopping centers, (as defined in section 24-66), or in mixed-use districts.

(m) *Digital or LED signage.* Digital or LED signage advertising gas price in ~~Community Character~~ ~~Corridors and Community Character~~ ~~Areas~~ must adhere to the following requirements:

- (1) Signs shall only advertise gas pricing on premises;
- (2) Sign shall be of monument style and of a brick or stone foundation;
- (3) Digital/LED displays shall be limited to advertising a single gas price and each digital character may not exceed one square foot and may not accommodate more than 50 percent of the total sign area;
- (4) Digital/LED lighting shall be of one color that does not mimic emergency services lighting;
- (5) There shall be no trespass of light onto adjacent properties from the sign. Light trespass shall be defined as more than 0.1 footcandles as measured at the property line. An iso-footcandle diagram may be required with permit submission;
- (6) Sign copy neither flashes nor scrolls;
- (7) Any portion of the sign other than the gas pricing component requires the review and approval of the planning director in accordance with section 24-70;
- (8) Signage must otherwise comply with the provisions of this chapter.

(n) *Sandwich board signs.* Sandwich board signs may be permitted in areas designated for commercial use located in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved Master Plan of development, all of which shall be approved by the board of supervisors. Alternatively, such signs may be located in other areas where there exists approved design guidelines adopted by the board of supervisors when such signs comply with said guidelines.

Sandwich board signs must adhere to the following requirements:

- (1) One sandwich board sign displaying menu items or daily specials on the premises shall be permitted at each public entrance of a business location.
- (2) Such sign(s) shall not exceed 12 square feet in area and five feet in height.
- (3) Sign(s) shall be located on premises or no more than ten feet from the seating area or access door and shall not block the flow of pedestrian traffic.
- (4) Any such sign shall be removed at close of business each day.

Sec. 24-74. Exemptions.

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code:

- (1) Official traffic signs, historical markers, provisional warning signs or sign structures when erected or required to be erected by a governmental agency and temporary signs indicating danger;
- (2) Traffic signs authorized by the Virginia Department of Transportation to be placed on a street right-of-way;
- (3) Changing of the copy on a bulletin board, poster board, display encasement, reader board or billboard;
- (4) Temporary nonilluminated signs, not more than six square feet in area, advertising residential real estate for sale or lease and located on the premises, one such sign for each street frontage;
- (5) Temporary nonilluminated signs, not more than six square feet in area, advertising commercial real estate for sale or lease and located on the premises, provided such signs conform to the following regulations:
 - a. One sign is permitted for each street frontage per parcel.
 - b. The maximum height of the sign shall not exceed eight feet.
 - c. The sign shall be erected in such a manner that it does not obstruct views of existing signs.

- (6) Temporary nonilluminated signs, not more than ten square feet in area, erected in connection with new single-family residential construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each parcel. Reference section 24-73 (g) for construction signs for commercial, industrial, and institutional projects;
- (7) Nonilluminated signs warning trespassers or announcing property as posted, not to exceed two square feet per sign in residential, commercial and industrial areas, and four square feet per sign in agricultural areas;
- (8) Sign on a truck, bus or other vehicle, while in use in a normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle (to which signs are attached) in designated customer or employee parking at the place of business.
- (9) Mailboxes and similarly located signs identifying a private residence;
- (10) Home occupation signs not to exceed four square feet. Such signs shall:
 - a. Not be illuminated.
 - b. Be attached to the dwelling.
- (11) Signs within a business or manufacturing district or within a nonresidential development in any zoning district which are not visible from a public road or abutting property line;
- (12) Signs not to exceed six square feet in area, within a business or manufacturing district, which state the name or number of a building, to be located on the rear or sides of a building on a parcel containing four or more buildings;
- (13) Signs placed upon the exterior of a structure indicating the location of restrooms, bathhouses, entrances or exits;
- (14) Signs not to exceed six square feet in area indicating the entrance or exit from a parking lot, potable water supply, sewage station for recreational vehicles or other notices related to public health or safety. Such signs shall be adjacent to the facility;

- (15) Temporary signs not to exceed 12 square feet per face erected for a period of up to 60 days, advertising seasonal agricultural products for sale within the general agricultural district;
- (16) One special notice placard, not to exceed four square feet in size, attached to a building or to a freestanding sign indicating credit cards which are accepted on the premises; group affiliations of which the business is a member or clubs or groups which utilize, recommend, inspect or approve the business for use by its members;
- (17) Signs conveying political, ideological, religious, social or governmental messages unrelated to businesses, services or manufacturing activities or the goods connected therewith; provided such signs shall not exceed 32 square feet in size; and provided, that any such signs related to or connected with political campaigns shall not be maintained for longer than 90 days and shall be removed within ten days after the election to which they pertain.
- (18) Off-premises, directional, temporary, and generic open-house realty signs may be erected in any zoning district in accordance with the following regulations:
 - a. The function of such signs shall be limited to directional purposes, as opposed to the advertisement of an individual realtor or realty firm. The signs shall be generic in style and color. No specific realtor or realty firm name(s) shall appear on such signs provided; however, the registered trademark of the National Association of Realtors, the equal housing opportunity logo, and identification as provided for in (19) h. below shall be permitted.
 - b. Such signs shall refer only to real estate open houses whose purpose is to sell, lease, or rent residential property.
 - c. No such sign shall exceed three square feet in area and three feet in height.
 - d. Such signs shall be located only at intersections where a turning movement is indicated, and only at intersections where at least one of the streets is within the residential area in which the subject property for sale, lease or rent is located.

- e. No more than two such signs shall be located at any one intersection, nor shall such signs at the same intersection point in the same direction.
- f. Such signs shall be temporarily displayed only when the residential unit is open for public viewing under the direction of an on-site representative of the owner.
- g. Such signs shall be placed only on private property and only with the express consent of the owner of said property.
- h. Each sign shall have an identification tag either attached or permanently affixed to the signs which contains the name, address, and phone number of the sign's owner. The identification tag shall not exceed four square inches in area.

Sec. 24-75. Prohibited signs.

The following signs are specifically prohibited:

- (1) Off-premise signs or off-premise billboards, unless otherwise permitted by section 24-73 (e) or specifically exempted by section 24-74.
- (2) Flashing, animated and rotating signs or appurtenances to signs which are nonstationary.
- (3) Displays of intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger, such as are customarily used by police, fire or ambulance vehicles or for navigation or traffic-control purposes.
- (4) Signs so located and so illuminated as to provide a background of colored lights blending with traffic signal lights that might reasonably confuse a motorist when viewed from a normal approach position of a vehicle at a distance of up to 300 feet.
- (5) Internally illuminated signs shall be prohibited in the following cases:
 - a. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or

- b. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.
- (6) Signs which are not an integral part of the building design but fastened to and supported by or on the roof of a building or projecting over or above the roof line or parapet wall of a building, except as otherwise provided herein.
- (7) Signs placed or located to conflict with the vision clearance or other requirements of applicable traffic ordinances.
- (8) Signs attached to trees, utility poles or other unapproved supporting structure.
- (9) Signs which are portable or otherwise designed to be relocated or are constructed on a chassis or carriage with permanent or removable wheels, except for those permitted by section 24-74 (18).
- (10) Signs attached, painted on, or affixed to vehicles used primarily for display and/or advertising purposes parked in designated customer or employee parking at the place of business.
- (11) Pennants, banners, flags and other displays used for marketing or advertising except as provided in sections 24-73 (b) and 24-73 (l).

Sec. 24-76. Temporary signs.

The administrator or his designee, upon application, may issue temporary permits for the following signs and displays when in his opinion the use of such signs and displays would be in the public interest and would not result in damage to private property. Such permits shall be valid for a period of up to 30 days following issuance:

- (1) Signs or banners of not more than 32 square feet advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting sponsored by a governmental, charitable or nonprofit organization.

- (2) Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes.
- (3) Special decorative displays used for purposes of advertising the opening of a new store, business or profession.

Sec. 24-77. Exceptions.

(a) Upon application, the administrator or his designee may grant an on-premises sign limitation waiver which may allow:

- (1) One freestanding sign not to exceed 60 square feet per face;
- (2) One building face sign not to exceed an area equal to one square foot multiplied by the length or width of the building in industrial zones, provided that the face on which the sign shall be mounted is at least 500 feet from any road or street right-of-way;
- (3) One freestanding sign not to exceed 32 square feet per face and not to exceed 30 feet in height;
- (4) One sign to be placed on the roof of the building not to exceed one square foot of sign area for each linear foot of the building's or unit's front facade or 60 square feet, whichever is smaller; ~~or~~
- (5) A second freestanding sign not to exceed 32 square feet on parcels which contain more than 400 feet of road frontage and more than one main entrance, provided that such lot is not a corner lot; ~~or~~
- (6) One additional building face sign not to exceed the building unit's front façade or 60 square feet, whichever is smaller, when the unit is located in a ~~Mixed-Use~~ district and an area designated for commercial uses on the binding master plan as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved binding master plan of development, all of which shall be approved by the board of supervisors. The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public

rights-of-way. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure.

(b) Such on-premises sign limitation waivers shall only be granted in unusual circumstances where it can be demonstrated to the administrator or his designee that:

- (1) Unusual topography, vegetation, distance of the business or parcel from the road right-of-way, distance between driveways, separation of grade or the location of the driveway in relation to the location of the business and traffic patterns would impose a substantial hardship upon the business by making the advertising signs unreadable from vehicles on the adjoining roadway; or
- (2) The waiver would allow the business to post signs that are consistent with the majority of other businesses located on the same parcel; or
- (3) In addition to the provisions for granting sign limitation waivers under (b)(1) and (2) of this subsection, if the facade of the building is so designed that a building face sign cannot be placed upon it, and a roof sign would be the only reasonable and practical solution consistent with good design, a sign consistent with subsection (a)(4) above shall be permitted, provided that the sign is not within 200 feet of residentially zoned property; and
- (4) That in subsections (b)(1), (2), and (3) above such waiver is consistent with traffic safety and all other provisions of this article.

Sec. 24-78. Abandoned signs.

A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. Such sign, if not removed within 30 days from the termination of occupancy by such business, shall be considered to be in violation of this chapter, and shall be removed at the owner's expense.

If the owner shall fail to comply with this requirement, then written notice shall be given by the administrator to the owner advising of the violation. If such signs are then not removed within ten days, the administrator shall cause such removal and charge the cost to the owner of the premises.

Sec. 24-79. Violations ~~and penalties.~~

Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days' written notice of the violation to the owner, ~~tenant or lessee~~ of the property. ~~The violation of any provision of this article concerning the posting of a sign on public property or public right of ways is a misdemeanor subject to punishment pursuant to section 24-22. The violation of any other provisions of this article is subject to a civil penalty under section 24-22. In addition, if such violation is not corrected within five days after receipt of the notice of violation, except violations involving portable signs, the administrator or his designee may remove or cause to be removed at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate.~~ If the violation involves a portable sign *or any advertisement affixed to any object*, such sign *or advertisement* shall be removed immediately, and if not, the administrator or his designee may remove or cause to be removed at the owner's or tenant's expense such sign *or advertisement* and/or institute such other action as may be appropriate. Removal of a sign *or advertisement* shall not affect any proceedings instituted prior to removal of such sign. *Removal of signs in VDOT right-of-way or advertisements affixed to any objects within VDOT right-of-way and prosecution of violations for signs or advertisements located in VDOT right-of-way shall be in accordance with the procedures set forth by agreement between the county and VDOT.*

Secs. 24-80 - 24-85. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ZO14-11ESignage_ord

Attachment 4: Alternative Ordinance

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 3, EXTERIOR SIGNS, BY AMENDING SECTION 24-65, STATEMENT OF INTENT; SECTION 24-66, DEFINITIONS; SECTION 24-67, PERMITS; SECTION 24-69, RESIDENTIAL SUBDIVISION SIGNS; SECTION 24-70, FREESTANDING SIGNS; SECTION 24-73, SPECIAL REGULATIONS FOR CERTAIN SIGNS; SECTION 24-77, EXCEPTIONS; AND BY AMENDING AND RENAMING SECTION 24-79, VIOLATIONS AND PENALTIES WITH NEW NAME VIOLATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 3, Exterior Signs, by amending Section 24-65, Statement of intent; Section 24-66, Definitions; Section 24-67, Permits; Section 24-69, Residential subdivision signs; Section 24-70, Freestanding signs; Section 24-73, Special regulations for certain signs; Section 24-77, Exceptions, and Section 24-79, Violations.

Chapter 24. Zoning

ARTICLE II. SPECIAL REGULATIONS

DIVISION 3. EXTERIOR SIGNS

Sec. 24-65. Statement of intent.

The purpose of this article is to regulate exterior signs so as to protect the health, safety, and general welfare of the community; to protect property values; to protect the historic and natural character of the community; to protect the safety of the traveling public and pedestrians; to promote the creation of an attractive and harmonious community; and to ensure the equitable distribution of public space for the purpose of communication.

Sec. 24-66. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Back-lit or channeled lettered sign. Any sign in which only the letters, characters, or figures are internally lighted. The background of the sign shall be opaque and shall not be internally illuminated. ~~The development review committee shall review and approve all back lit or channeled lettered signs that are proposed within 150 feet of the existing or proposed right of way of a community character corridor or within a community character area.~~

Blade sign. A two-sided flat sign that projects more than 18 inches from, and that is mounted perpendicularly to, a vertical building wall. Such sign may be suspended from an arm or bracket, or may be directly mounted to a building wall or the underside of a canopy or awning.

Building face sign. Any sign attached to and erected parallel to the face of or erected or painted on the outside wall of a building and supported throughout its length by such wall or building and not extending more than 18 inches from the building wall.

Double-faced sign. A sign with two parallel or nearly parallel faces, back-to-back, and located not more than 24 inches from each other.

Flashing sign. An illuminated sign on which the artificial or reflected light is not maintained stationary or constant in intensity and/or color at all times when in use, and whose intermittent or sequential lights are used primarily to attract attention. Any sign which revolves or moves, whether illuminated or not, shall be considered a flashing sign. Signs which display only the time of day and temperature *or changeable LED signage used to advertise a single gas price* shall not be considered a flashing sign *when the message is changed fewer than four times in a 24 hour period.*

Freestanding sign. A sign not attached to or painted on a building, but which is affixed to the ground. A sign attached to a flat surface such as a fence or wall, not a part of a building, shall be considered a freestanding sign.

Gross sign area. That area within a line including the outer extremities of all letters, figures, characters and delineations, or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in a sign area. Only one side of a double-faced sign shall be included in a computation of sign area. The area of signs with more than two faces shall be computed by multiplying one-half the circumference of the footprint of the sign by the height of the sign. The area of a cylindrical sign shall be computed by multiplying one-half of the circumference by the height of the sign.

Figures 1a through 1d: How to measure gross sign area:

 = Gross Sign Area

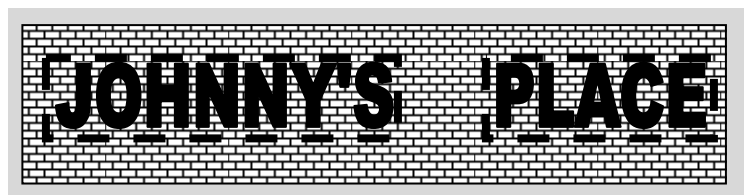
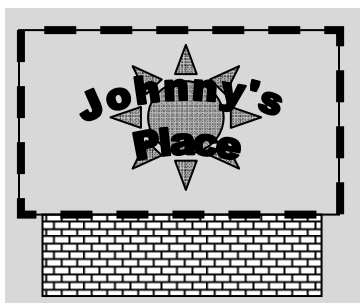
Figure 1a- Building mounted signs where letters are mounted individually and the sign uses external illumination or internally illuminated channel letters

Figure 1b- Building mounted signs where the entire sign area is internally illuminated



Figure 1c- Freestanding sign where letters/logos are mounted as a connected group

Figure 1d: Freestanding sign where letters are mounted individually



Illuminated sign. Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected for the purpose of providing light for the sign.

Indirectly illuminated sign. A sign which does not produce artificial light from within itself, but which is opaque and backlighted or illuminated by spotlights or floodlights not a part of or attached to the sign itself.

Internally illuminated sign. A sign of translucent or transparent material with the source of illumination, exposed or shielded, enclosed within the face or supporting structure of the sign. This term shall not apply to a sign in which only the letters, characters, or figures are internally lighted and the background of the sign is opaque.

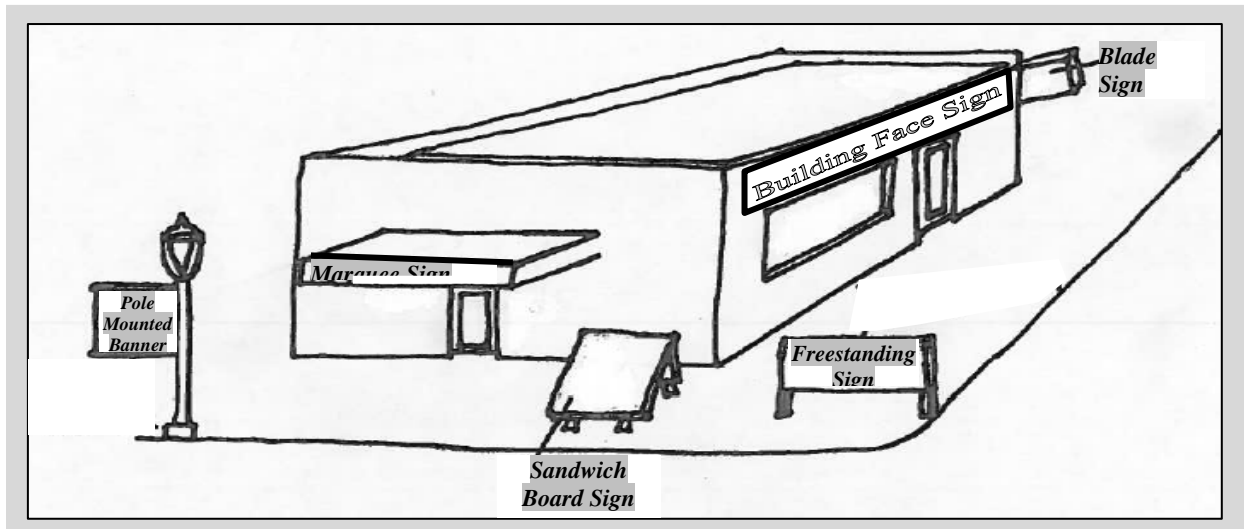
Marquee sign. Any sign attached to or hung from a marquee. For the purpose of this article, a "marquee" is a covered structure projecting from and supported by a building with independent roof and drainage provisions and which is erected over a doorway or doorways as protection against the weather.

Projecting sign. A sign which is attached to and projects more than 18 inches from the face of a wall of a building. The term "projecting sign" includes a marquee sign.

Shopping center. A group of ~~three~~^{four} or more commercial establishments having a minimum combined total square footage of 25,000 square feet, planned, constructed, and/or managed as a single entity, with customer and employee parking provided onsite, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

Sign. A structure, display or device that is arranged, intended, designed or used as an advertisement, announcement, identification, description, information or direction.

Figure 2- Types of signs



Sign structure ratio. The ratio of gross sign area to the total sign area including the sign supporting structure. The sign structure ratio is determined by dividing the gross sign area by the total area of the sign supporting structure (including the gross sign area).

Figure 3- Sign structure area



Sec. 24-67. Permits.

The following regulations apply generally to all signs and are in addition to the regulations contained elsewhere in this chapter:

- (1) *Required application; inspection of signs.* No sign, unless herein exempted, shall be erected, constructed, structurally altered or relocated, except as provided in this article and in these regulations, until a permit has been issued by the administrator or his designee. Before any permit is issued, an application provided by the administrator or his designee shall be filed together with two sets of drawings and specifications, one to be returned to the applicant, as such may be necessary to

advise and acquaint the administrator or his designee fully with the location in relation to adjacent buildings, construction, materials, manner of illuminating or securing or fastening, and number of signs applied for and the wording of the sign or advertisement to be carried on the sign. *Drawings and specifications for freestanding signs shall include measurements and design details for the supporting structure on which the sign will be affixed including any pedestals, pylons, columns, walls and fences. The application shall include the total square footage of the sign, square footage of the supporting structure and the sign structure ratio.*

- (2) *Electrical permit.* All signs which require electricity or are electrically illuminated shall require a separate electrical permit and an inspection.
- (3) *Permit time limit.* All signs shall be erected on or before the expiration of six months from the date of issuance of the permit, otherwise the permit shall become null and void and a new permit shall be required.
- (4) *Permit number.* Each sign requiring a permit shall be clearly marked with the permit number and the name of the person or firm placing the sign on the premises.
- (5) *Fees required.* For all sign permits, fees shall be required in accordance with section 24-7 of this chapter.

Sec. 24-68. Content of signs.

No exterior sign shall advertise a product, service, business activity or institution which occurs or is generally conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is located. The content or advertising message carried by signs hereafter erected shall be limited to one or more of the following:

- (1) The identification of a building or its owners or occupants of the premises.

- (2) Information concerning any lawful business-related activities on the premises and/or goods or services offered in connection therewith, or information concerning any lawful, nonbusiness, nonservice-related activities or messages on or off the premises.
- (3) Information concerning the sale, rental or lease of the premises.
- (4) Information on directional signs as prescribed in section 24-73 (e).

Sec. 24-69. Residential subdivision signs.

(a) *Requirements.* For identification of residential subdivisions, no sign intended to be read from any public right-of-way adjoining the district shall be permitted except for:

- (1) An identification sign, not exceeding 32 square feet in area, for each principal entrance. Such sign shall be bound by all other provisions of this section and shall also conform with the following criteria:
 - a. If freestanding, such sign shall not exceed a height of 15 feet above natural grade, *including the sign supporting structure area.*
 - b. If illuminated and ground-mounted, the sign shall be illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights. The ground-mounted lights shall be concealed by landscaping. In no case, shall the lamps or bulbs from any type of lighting be visible nor shall glare be cast upon any adjacent property, or public or private right-of-way.
 - c. If the sign is located at the corner of two rights-of-way, the sign may be placed no closer than ten feet to the corner property lines.
- (2) Two identification signs for each principal entrance whereby the cumulative size of the signs at each entrance does not exceed 32 square feet in area. The signs shall be placed on each side of the principal entrance and shall also conform to the following criteria:
 - a. Each sign shall not exceed a height of eight feet above natural grade, *including the sign supporting structure area.*

- b. If illuminated and ground-mounted, the sign shall be illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights. The ground-mounted lights shall be concealed by landscaping. In no case, shall the lamps or bulbs from any type of lighting be visible nor shall glare be cast upon any adjacent property, or public or private right-of-way.
- c. If the signs are located at the corner of two rights-of-way, the signs may be placed no closer than ten feet to the corner property lines.

(3) The sign structure ratio shall be greater than 14%. An applicant may request an exception to the sign structure ratio from the planning director if the sign is mounted to a wall or fence. The exception shall be in writing and shall document the reasons and justifications for such request. The planning director shall approve, deny, or conditionally approve the applicant's request and may consider the following:

- a. The wall serves a structural purpose, such as a retaining wall, and would be constructed with or without the proposed signage; or*
- b. The wall or fence is a required element for the purposes of screening or buffering the property from adjacent properties and extends the entire length of the property's frontage; or*
- c. The scale, materials, colors and landscaping of the wall or fence are consistent with, and complement, the adjacent properties and the road(s) on which the subdivision is located.*

In the event the planning director disapproves the sign structure ratio exception request or recommends modifications that are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward any recommendation to the planning commission.

- (b) *Special requirements for subdivision identification signs located within community character areas or along community character corridors.* The planning director shall review and approve residential subdivision signs, supporting structures, and entrance features to be placed within a community character area or along

roads designated as community character corridors as identified by the James City County Comprehensive Plan. An applicant may appeal the decision of the planning director to the Development Review Committee (DRC). The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's request based on the review criteria outlined in this section.

Plans indicating the location of the sign(s), supporting structure(s), location and type of landscaping, and entrance features relative to surrounding streets, lots, and other features of the subdivision shall be provided to the administrator or his designee along with the application and drawings as specified in section 24-67 (1).

In reviewing the plans for subdivision signs, supporting structures, and entrance features, the following criteria shall be considered in deciding whether to approve the residential subdivision sign application:

- (1) *Scale.* The scale of the sign(s), supporting structure(s), and entrance features shall be consistent with, and complement, the adjacent properties and the road(s) on which the subdivision is located.
 - (2) *Materials, colors, and construction.* The materials, colors, and construction of the sign(s), supporting structure(s), and entrance features shall complement the character of the road on which the subdivision is located and shall not detract from the aesthetics of adjacent properties.
 - (3) *Landscaping.* An appropriate mix of deciduous and evergreen trees and/or shrubs shall be provided that enhance the appearance of the sign(s), supporting structure(s), and associated entrance features.
 - (4) *Safety.* The sign(s) and entrance features shall be located in such a manner that they do not impair the safety of motorists, pedestrians, or bicyclists.
- (c) *Content of residential identification signs.* Aside from identifying the name of the subdivision, additional information pertaining to the subdivision such as marketing and sales information may be included on the sign. The information shall be an integral part of the sign(s) and in no case shall the size of the sign(s) exceed the size permitted by section 24-69 (a)(1) and (2).

Sec. 24-70. Freestanding signs.

Freestanding signs shall only be permitted on properties having street frontage and shall be in compliance with the following regulations:

(a) ~~Sign location and setbacks.~~ One freestanding sign shall be permitted on each street frontage ~~if in compliance with the following regulations:~~

~~(1) Sign location and setbacks.~~ Such signs may only be placed on the property within ~~the~~ required ~~yard~~ ~~sign setbacks.~~ ~~and~~ Sign setbacks ~~and~~ shall be located at least five feet from any property line.

~~(b)~~ (2) Sign area. ~~The sign structure ratio shall be greater than 14%. Exceptions to the sign structure ratio may be granted by the planning director in accordance with 24-70(g).~~ ~~Such~~ The gross signs area shall not exceed:

~~(1)~~ a. 32 square feet per face if located less than 75 feet from the road right-of-way;

~~(2)~~ b. 50 square feet per face if located 75 to 150 feet from the road right-of-way; or

~~(3)~~ c. 60 square feet per face if located more than 150 feet from the road right-of-way.

~~(c)~~ (3) Sign height. Such signs shall not exceed an overall height of 15 feet above natural grade, ~~including the sign supporting structure area.~~

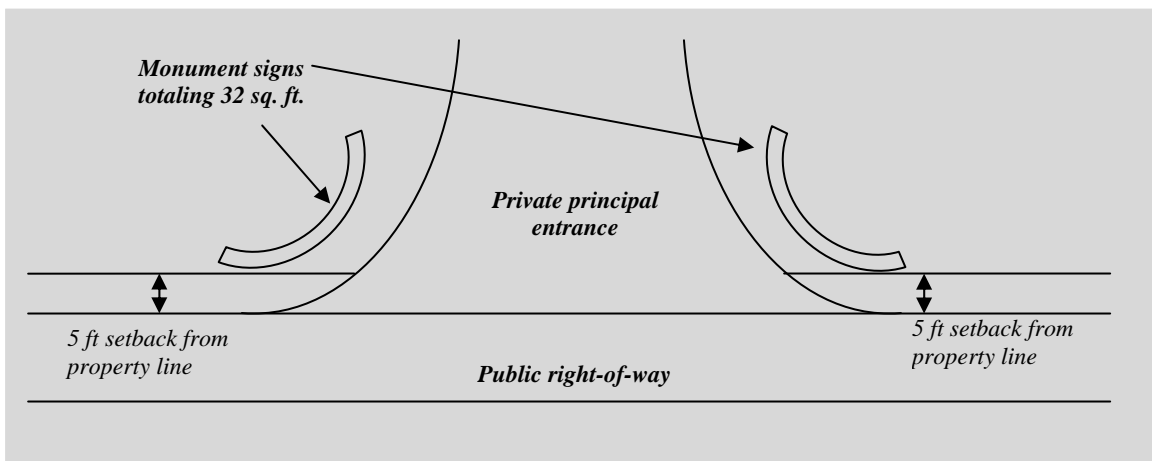
(b) Two freestanding monument-style identification signs shall be permitted on each street frontage if in compliance with the following regulations:

(1) Sign location and setbacks. The signs shall be placed on each side of the principal entrance. Such signs may only be placed on the property within the required sign setbacks. Sign setbacks shall be located at least five feet from any property line. If the signs are located at the corner of two rights-of-way, the signs may be placed no closer than ten feet to the corner property lines.

(2) Sign area. The cumulative size of the signs at each entrance shall not exceed 32 square feet in area. The sign structure ratio for each sign shall be greater than 14%. Exceptions to the sign structure ratio may be granted by the planning director in accordance with 24-70(g).

- (3) *Sign height. Each sign shall not exceed an overall height of eight feet above natural grade, including the sign supporting structure area.*

Figure 3- Two freestanding signs placed at a principal entrance



~~(d)~~(c) *Sign lighting.*

- (1) Internally illuminated signs shall be prohibited in the following cases:
- When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or
 - When such signs are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.
- (2) Illuminated signs within community character areas and along community character corridors, as defined above in ~~(d)~~(c)(1) a. and b. are permitted ~~so~~ **as** long as they comply with the following:
- composed of back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72 except that changeable digital displays or LED displays used specifically for indication of gas pricing on the premises are exempt from this requirement ~~so~~ **as** long as they are constructed in accordance with section 24-73(m). An

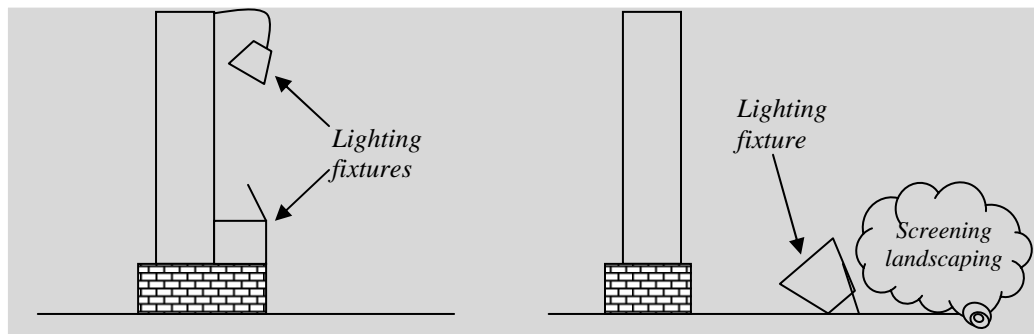
applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or

- b. externally illuminated by *either sign-mounted lighting or* ground-mounted horizontal light bars, light strips, or spotlights, which shall be concealed by landscaping ~~or by sign-mounted lighting~~. With either ground-mounted or sign-mounted lighting, *the* bulbs, lenses, and globes shall not be visible from the road right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians.

Figure 4- Options for sign mounted lighting

Figure 4a- Sign mounted lighting (side view)

Figure 4b- ground mounted lighting (side view)



- (3) Signs shall cast no glare upon any adjacent property or public or private right-of-way.

~~(e)~~(d) *Signs for individual stores, businesses or professions on the same property.* Individual stores, businesses or professions on the same property, exclusive of shopping centers, shall combine signs on a single standard and the square footage of the combined signs shall not exceed 32 square feet per face.

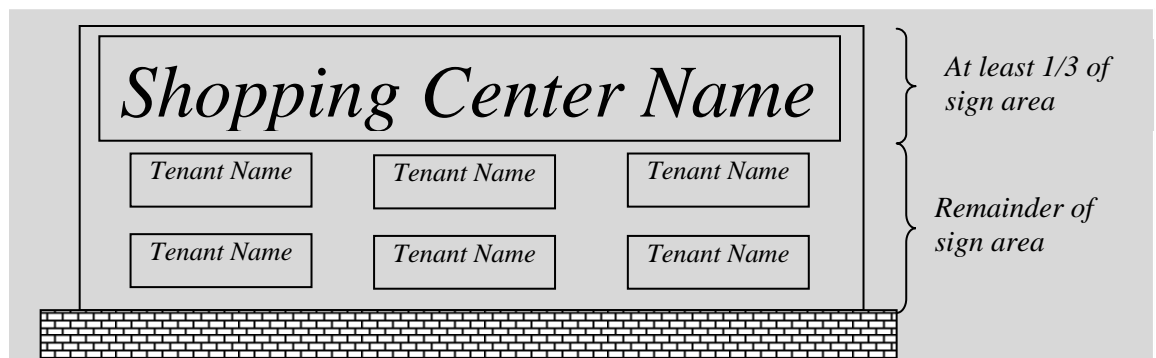
~~(f)~~(e) *Shopping center signs.* Shopping centers shall be permitted ~~one~~ *up to two* freestanding signs per major street frontage *as permitted above in (a) and (b)*. A freestanding shopping center sign shall display only the shopping center name. Individual shops and businesses in shopping centers may have building face

signs as provided for in section 24-71 or specially designed signs consistent with the overall development plan for the shopping center and approved as a part thereof by the planning commission.

(f) Alternative shopping center sign. In lieu of (e) above, shopping centers may be permitted one maximum 42 square foot freestanding sign per primary entrance which indicates individual stores and includes the shopping center name. The sign structure ratio shall be greater than 14%. Exceptions to the sign structure ratio may be granted by the planning director in accordance with 24-70(g). Such signs shall be in compliance with the following regulations:

- (1) The shopping center is located in a mixed-use zoning district and on property designated as mixed use on the James City County Comprehensive Plan;*
- (2) The property is regulated by a design review board with approved architectural and design standards;*
- (3) The property is guided by a master plan of development approved by the board of supervisors; and*
- (4) The signs are consistent with the overall development plan and approved by the planning director or his designee as part of a comprehensive signage plan for the entire shopping center.*
- (5) Sign location and setbacks. Such signs may only be placed on the property within required sign setbacks. Sign setbacks shall be located at least five feet from any property line.*
- (6) Sign height. Such signs shall not exceed an overall height of 15 feet above natural grade, including the sign supporting structure area.*
- (7) Assignment of space. The shopping center name shall comprise at least 1/3 of the sign area. The remaining area of the sign may be used for individual tenants located internal to the shopping center.*

Figure 5- Alternative shopping center sign



(g) An applicant may request an exception to the sign structure ratio from the planning director if the sign is mounted to a wall or fence. The exception shall be in writing and shall document the reasons and justifications for such request. The planning director shall approve, deny, or conditionally approve the applicant's request and may consider the following:

- (1) The wall serves a structural purpose, such as a retaining wall, and would be constructed with or without the proposed signage.*
- (2) The wall or fence is a required element for the purposes of screening or buffering the property from adjacent properties and extends the entire length of the property's frontage.*
- (3) The scale, materials, colors and landscaping of the wall or fence are consistent with, and complement, the adjacent properties and the road(s) on which the property is located.*

In the event the planning director disapproves the sign structure ratio exception request or recommends modifications that are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward any recommendation to the planning commission.

Sec. 24-71. Building face signs.

In zones where business or manufacturing is permitted, a building face sign shall also be permitted. The signs shall be in compliance with the following regulations:

(a) *Sign location and area.* The building face sign(s) shall be placed on the front facade of the building, except in cases outlined below in subsections (d) and (g). The area devoted to such signs shall not exceed one square foot of sign area for each linear foot of the building's or unit's front facade or 60 square feet, whichever is smaller. The front facade of the building shall be considered the side that has the main public entrance.

For industrial uses in the M-1, M-2, PUD-C, and RT Zoning Districts, the applicant may request an exception from the planning director to allow the building face sign(s) to exceed 60 square feet. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall

document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in this section. For the purposes of this section, industrial uses shall mean any industrial use that involves the manufacture and/or assembly of products or components/parts for products. In addition to the submittal requirements outlined in section 24-67, the applicant shall provide scale drawings of the building elevation(s) and proposed sign(s). A conceptual plan shall also be submitted which shows the location of the sign relative to the existing and proposed landscaping, sight lines, distances from right-of-ways, and other pertinent site features.

In reviewing an exception request, the following criteria shall be considered in deciding whether to approve the request.

- (1) *Scale and proportion.* The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public right-of-ways. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure, with additional size aimed primarily at making the use identifiable from an adjoining public road. In no case shall the size of the sign exceed ten percent of the building's wall surface upon which the sign is placed.
- (2) *Materials, lighting, colors, and construction.* The materials, lighting, and colors of the sign shall not negatively impact adjacent properties or the aesthetics of the adjacent public roads. No exceptions will be granted for signs located within 150 feet of the road right-of-way of roads designated community character corridors.
- (b) *Sign mounting.* Such signs shall be mounted flat against the building on the side measured above.
- (c) *Sign lighting.*
 - (1) Internally illuminated signs shall be prohibited in the following cases:

- a. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or
 - b. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.
- (2) Illuminated signs within community character areas and along community character corridors, as defined above in (c)(1)a. and b., shall be signs composed of:
- a. back-lit or lighted channeled letters as approved by the planning director in accordance with the criteria outlined in section 24-72. An applicant may appeal the decision of the planning director to the DRC. The appeal shall be in writing and shall document the reasons and justifications for such request. The DRC shall approve, deny, or conditionally approve the applicant's exception request based on the review criteria outlined in section 24-72; or
 - b. shall be externally illuminated in such a way that bulbs, lenses, or globes shall not be visible from the right-of-way.
- (3) Signs shall cast no glare upon any adjacent property or public or private right-of-way.
- (d) *Additional signs for buildings facing onto public rights-of-way or parking lots.* When the same building faces onto a public right-of-way or parking lot on the rear or side of the building, an additional sign may be erected at the public entrance on that side. The area devoted to such sign(s) shall not exceed one square foot of sign area for each linear foot of the building's side upon which the sign is placed or 60 square feet, whichever is smaller. Such sign must be mounted flat against the building.
- (e) *Additional signs for buildings in excess of 40,000 square feet.* If the footprint of an individual store exceeds 40,000 square feet in size and contains major retail departments (i.e. bakery, restaurant, pharmacy, etc.), four additional building face signs advertising these retail departments, in addition to the main

identification sign, may be permitted. The size of these individual sign(s) shall not exceed one square foot of sign area for each linear foot of the retail department's interior facade or 75 percent of the size of the main building face sign, whichever is smaller.

(f) *Exterior signs for stores within an enclosed shopping mall.* If there are individual stores located within an enclosed shopping mall and the stores are not directly accessible from the outside, each of the interior stores shall be allowed to display one exterior wall sign in accordance with the following regulations:

- (1) The area devoted to such signs shall not exceed one square foot of sign area for each linear foot of the unit's front facade or 60 square feet, whichever is smaller.
- (2) The sign shall be mounted flat against the building at one of the mall's public entrances.

(g) *An option for building face signs.* An owner may elect to relocate the building face sign, which would typically be placed above the building's main public entrance, on the side of the building that faces the public road right-of-way or parking lot. This provision would only apply if the side of the building facing the public road right-of-way or parking lot has no public entrance. This provision would not allow for additional building face signs beyond the maximum number permitted by section 24-71; it only provides the applicant an option on which side of the building to place the building face sign. The area devoted to such sign(s) shall not exceed one square foot of sign area for each linear foot of the building's side upon which the sign is placed or 60 square feet, whichever is smaller. Such sign must be mounted flat against the building.

Sec. 24-72. Review criteria for back-lit/channeled lettered signs within community character areas and along community character corridors.

In reviewing applications for signs containing back-lit or channeled letters, the following criteria shall be used in deciding whether to approve the application.

(a) *Scale and proportion.* The scale of the sign and proportion of lettering, characters, and figures shall be of a scale, size, and character in keeping with the historic and/or rural ambience of the county and Williamsburg.

(b) *Materials, colors, and construction.* The materials, colors, and construction shall complement the character of surrounding development and shall be in keeping with the historic and/or rural ambience of the county and Williamsburg.

(c) *Intensity and quantity of lighting.* The area of the sign that is lit shall be a small proportion of the overall size of the sign. The lighting used shall be of a subdued nature and shall not dominate the streetscape.

Sec. 24-73. Special regulations for certain signs.

(a) *Logos, trademarks, murals, etc.* Any logo, trademark, mural, copyright or recognizable symbol pertaining to the use or business contained within the building painted on any face of the building shall be treated as a building face sign.

(b) *Flags as signs.* Flags used as signs shall be allowed by permit, provided that the same are installed in a permanent fashion, are maintained in good repair and will not constitute a hazard to vehicular or pedestrian traffic.

(c) *Signs on entrance marquees or canopies.* Signs on entrance marquees or canopies shall be allowed, provided that the total area of such signs if constructed alone or in combination with other building signs does not exceed the maximum allowable dimensions and square footage as set forth in section 24-71 (a) above.

(d) *Signs on corner lots.* Except for those provided for under section 24-69 ~~and 24-70~~, signs on corner lots shall not be closer than 50 feet to the corner of the lot. In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate ~~site~~ **sight** distance and good visibility is maintained for all motorists and pedestrians traveling the intersection, the administrator or his designee may permit setbacks of less than 50 feet.

(e) *Directional signs.* Directional signs may be allowed upon the determination of the administrator or his designee that the sign(s):

- (1) Are necessary to permit vehicular traffic to locate distinctive places of historical significance, businesses, campgrounds, industries, ~~and~~ residential areas, or other activities which are located off the state primary roads;
- (2) Show only the name and/or logo, mileage and direction; and
- (3) Do not exceed ten square feet in size *or seven feet in height*.

(f) *Freestanding signs on properties adjacent to and visible from residential districts.* On properties adjacent to residential districts, any freestanding sign, visible from an adjacent residential district, shall be limited to 32 square feet in area. The top of the freestanding sign shall not exceed 15 feet above *natural* grade, *including the sign supporting structure area*. If illuminated, freestanding signs within these areas shall be signs composed of:

- (1) Back-lit or lighted channeled letters; or
- (2) Shall be externally illuminated by ground-mounted horizontal light bars/strips or ground-mounted spotlights in such a way that bulbs, lenses, or globes shall not be visible from the right-of-way. The ground-mounted lights shall be concealed by landscaping.

In either case, there shall be no glare cast upon any adjacent property or public or private right-of-way. The freestanding sign shall be lit only during the normal operating hours of the associated use.

(g) *Signs for new commercial, industrial, and institutional construction projects.* Temporary nonilluminated signs may be erected in connection with new commercial, industrial, and institutional development and displayed on the premises during such time as the actual construction work is in progress.

The signs shall also conform with the following criteria:

- (1) The maximum number and size of signs shall be:
 - a. A maximum of three signs with a cumulative sign area not to exceed 24 square feet; or,
 - b. A maximum of one sign with a sign area not to exceed 32 square feet.
- (2) The sign(s) shall only be placed along one of the property's street frontages.

- (h) *Home occupation signs.* Reference section 24-74 (10).
- (i) *Setback reductions in mixed-used districts.* In cases where the applicant can demonstrate that the location of a sign does not obstruct adequate sight distance, and good visibility is maintained for all motorists and pedestrians traveling the intersection, the zoning administrator or his designee may permit setbacks of less than ~~5~~*five* feet on any lot in a mixed-used district.
- (j) *Blade signs in mixed-use districts.* Blade signs are permitted in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the board of supervisors. Blade signs must adhere to the following limitations and requirements:
 - (1) There shall be no more than one sign per public entrance to any given building;
 - (2) The sign(s) shall be positioned at the public entrance(s) of the building;
 - (3) An individual blade sign shall be no more than 12 square feet in area;
 - (4) The sign shall be mounted such that the bottom edge of the sign is not less than eight feet from the finished grade directly underneath it;
 - (5) Blade signs shall be unlit, or externally illuminated in such a way that bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;
 - (6) Blade signs that extend over a public right-of-way are subject to the prior approval of the controlling public entity. If approved, the developer shall provide positive proof of insurance for each sign mounted over the public right-of-way, or an alternate liability instrument deemed suitable by the controlling public entity;
 - (7) All blade signs shall obtain the prior approval of the design review board for the mixed-use project before they are installed.
- (k) *Pedestrian-scale directional signs in mixed-use districts.* Small, free-standing signs designed to direct

pedestrian traffic to locations of interest within the development may be placed in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved master plan of development, all of which shall be approved by the board of supervisors. Pedestrian-scale directional signs must adhere to the following limitations and requirements:

- (1) Such individual signs shall be no more than 24 square feet in total area, and may not have more than two faces. Only one side of a double-faced sign shall be included in a computation of sign area;
- (2) The top edge of a pedestrian-scale directional sign shall be no more than seven feet above finished grade;
- (3) Any lighting that is used shall be externally mounted and either supported solely from the sign structure, or ground-mounted. The ground-mounted lights shall be concealed by landscaping. Lighting shall be directed only onto the sign's face. Bulbs, lenses, and globes shall not be visible from the right-of-way, and light shall not be directed in such a way as to cause glare for passing motorists or pedestrians;
- (4) Signs shall generally include elements such as the name and logo of the overall development, maps, and the business names, logos, and directional information for businesses that are located within the development;
- (5) The number, relative positioning, and placement of each sign in a given mixed-used development shall be subject to the prior approval of the design review board and the planning director, or his designee.
 - (l) *Pole-mounted banners.* Seasonal and/or holiday banners that are affixed to light poles that generally identify a season and/or holiday and advertise or promote the development as a whole (by including only the development name and/or logo), rather than individual enterprises, are permitted, subject to the prior approval of the zoning administrator, or his designee. Banners shall be mounted such that the bottom edge of any given banner is not less than eight feet from the finished grade directly beneath it. Banners are permitted only

in shopping centers, (as defined in section 24-66), or in mixed-use districts.

(m) *Digital or LED signage.* Digital or LED signage advertising gas price in Community Character Corridors and Community Character Areas must adhere to the following requirements:

- (1) Signs shall only advertise gas pricing on premises;
- (2) Sign shall be of monument style and of a brick or stone foundation;
- (3) Digital/LED displays shall be limited to advertising a single gas price and each digital character may not exceed one square foot and may not accommodate more than 50 percent of the total sign area;
- (4) Digital/LED lighting shall be of one color that does not mimic emergency services lighting;
- (5) There shall be no trespass of light onto adjacent properties from the sign. Light trespass shall be defined as more than 0.1 footcandles as measured at the property line. An iso-footcandle diagram may be required with permit submission;
- (6) Sign copy neither flashes nor scrolls;
- (7) Any portion of the sign other than the gas pricing component requires the review and approval of the planning director in accordance with section 24-70;
- (8) Signage must otherwise comply with the provisions of this chapter.

(n) *Sandwich board signs.* Sandwich board signs may be permitted in areas designated for commercial use located in mixed-use districts, as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved Master Plan of development, all of which shall be approved by the board of supervisors. Alternatively, such signs may be located in other areas where there exists approved design guidelines adopted by the board of supervisors when such signs comply with said guidelines.

Sandwich board signs must adhere to the following requirements:

- (1) One sandwich board sign displaying menu items or daily specials on the premises shall be permitted at each public entrance of a business location.

- (2) Such sign(s) shall not exceed 12 square feet in area and five feet in height.
- (3) Sign(s) shall be located on premises or no more than ten feet from the seating area or access door and shall not block the flow of pedestrian traffic.
- (4) Any such sign shall be removed at close of business each day.

Sec. 24-74. Exemptions.

The following signs are exempted from the provisions of these regulations and may be erected or constructed without a permit but in accordance with the structural and safety requirements of the building code:

- (1) Official traffic signs, historical markers, provisional warning signs or sign structures when erected or required to be erected by a governmental agency and temporary signs indicating danger;
- (2) Traffic signs authorized by the Virginia Department of Transportation to be placed on a street right-of-way;
- (3) Changing of the copy on a bulletin board, poster board, display encasement, reader board or billboard;
- (4) Temporary nonilluminated signs, not more than six square feet in area, advertising residential real estate for sale or lease and located on the premises, one such sign for each street frontage;
- (5) Temporary nonilluminated signs, not more than six square feet in area, advertising commercial real estate for sale or lease and located on the premises, provided such signs conform to the following regulations:
 - a. One sign is permitted for each street frontage per parcel.
 - b. The maximum height of the sign shall not exceed eight feet.
 - c. The sign shall be erected in such a manner that it does not obstruct views of existing signs.
- (6) Temporary nonilluminated signs, not more than ten square feet in area, erected in connection with new single-family residential construction work and displayed on the premises during such time as the actual construction work is in progress, one such sign for each parcel. Reference section 24-73 (g) for construction signs for commercial, industrial, and institutional projects;

- (7) Nonilluminated signs warning trespassers or announcing property as posted, not to exceed two square feet per sign in residential, commercial and industrial areas, and four square feet per sign in agricultural areas;
- (8) Sign on a truck, bus or other vehicle, while in use in a normal course of business. This section should not be interpreted to permit parking for display purposes of a vehicle (to which signs are attached) in designated customer or employee parking at the place of business.
- (9) Mailboxes and similarly located signs identifying a private residence;
- (10) Home occupation signs not to exceed four square feet. Such signs shall:
 - a. Not be illuminated.
 - b. Be attached to the dwelling.
- (11) Signs within a business or manufacturing district or within a nonresidential development in any zoning district which are not visible from a public road or abutting property line;
- (12) Signs not to exceed six square feet in area, within a business or manufacturing district, which state the name or number of a building, to be located on the rear or sides of a building on a parcel containing four or more buildings;
- (13) Signs placed upon the exterior of a structure indicating the location of restrooms, bathhouses, entrances or exits;
- (14) Signs not to exceed six square feet in area indicating the entrance or exit from a parking lot, potable water supply, sewage station for recreational vehicles or other notices related to public health or safety. Such signs shall be adjacent to the facility;
- (15) Temporary signs not to exceed 12 square feet per face erected for a period of up to 60 days, advertising seasonal agricultural products for sale within the general agricultural district;
- (16) One special notice placard, not to exceed four square feet in size, attached to a building or to a freestanding sign indicating credit cards which are accepted on the premises; group affiliations of

which the business is a member or clubs or groups which utilize, recommend, inspect or approve the business for use by its members;

- (17) Signs conveying political, ideological, religious, social or governmental messages unrelated to businesses, services or manufacturing activities or the goods connected therewith; provided such signs shall not exceed 32 square feet in size; and provided, that any such signs related to or connected with political campaigns shall not be maintained for longer than 90 days and shall be removed within ten days after the election to which they pertain.
- (18) Off-premises, directional, temporary, and generic open-house realty signs may be erected in any zoning district in accordance with the following regulations:
- a. The function of such signs shall be limited to directional purposes, as opposed to the advertisement of an individual realtor or realty firm. The signs shall be generic in style and color. No specific realtor or realty firm name(s) shall appear on such signs provided; however, the registered trademark of the National Association of Realtors, the equal housing opportunity logo, and identification as provided for in (19) h. below shall be permitted.
 - b. Such signs shall refer only to real estate open houses whose purpose is to sell, lease, or rent residential property.
 - c. No such sign shall exceed three square feet in area and three feet in height.
 - d. Such signs shall be located only at intersections where a turning movement is indicated, and only at intersections where at least one of the streets is within the residential area in which the subject property for sale, lease or rent is located.
 - e. No more than two such signs shall be located at any one intersection, nor shall such signs at the same intersection point in the same direction.
 - f. Such signs shall be temporarily displayed only when the residential unit is open for public viewing under the direction of an on-site representative of the owner.

- g. Such signs shall be placed only on private property and only with the express consent of the owner of said property.
- h. Each sign shall have an identification tag either attached or permanently affixed to the signs which contains the name, address, and phone number of the sign's owner. The identification tag shall not exceed four square inches in area.

Sec. 24-75. Prohibited signs.

The following signs are specifically prohibited:

- (1) Off-premise signs or off-premise billboards, unless otherwise permitted by section 24-73 (e) or specifically exempted by section 24-74.
- (2) Flashing, animated and rotating signs or appurtenances to signs which are nonstationary.
- (3) Displays of intermittent lights resembling or seeming to resemble the flashing lights customarily associated with danger, such as are customarily used by police, fire or ambulance vehicles or for navigation or traffic-control purposes.
- (4) Signs so located and so illuminated as to provide a background of colored lights blending with traffic signal lights that might reasonably confuse a motorist when viewed from a normal approach position of a vehicle at a distance of up to 300 feet.
- (5) Internally illuminated signs shall be prohibited in the following cases:
 - a. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of primary and secondary roads within a community character area as identified on the James City County Comprehensive Plan Land Use Map; or
 - b. Internally illuminated signs which are visible from and located within 150 feet of the existing or proposed rights-of-way of roads designated as community character corridors by the James City County Comprehensive Plan.

- (6) Signs which are not an integral part of the building design but fastened to and supported by or on the roof of a building or projecting over or above the roof line or parapet wall of a building, except as otherwise provided herein.
- (7) Signs placed or located to conflict with the vision clearance or other requirements of applicable traffic ordinances.
- (8) Signs attached to trees, utility poles or other unapproved supporting structure.
- (9) Signs which are portable or otherwise designed to be relocated or are constructed on a chassis or carriage with permanent or removable wheels, except for those permitted by section 24-74 (18).
- (10) Signs attached, painted on, or affixed to vehicles used primarily for display and/or advertising purposes parked in designated customer or employee parking at the place of business.
- (11) Pennants, banners, flags and other displays used for marketing or advertising except as provided in sections 24-73 (b) and 24-73 (l).

Sec. 24-76. Temporary signs.

The administrator or his designee, upon application, may issue temporary permits for the following signs and displays when in his opinion the use of such signs and displays would be in the public interest and would not result in damage to private property. Such permits shall be valid for a period of up to 30 days following issuance:

- (1) Signs or banners of not more than 32 square feet advertising a special civic or cultural event such as a fair or exposition, play, concert or meeting sponsored by a governmental, charitable or nonprofit organization.
- (2) Special decorative displays used for holidays, public demonstrations or promotion for nonpartisan civic purposes.
- (3) Special decorative displays used for purposes of advertising the opening of a new store, business or profession.

Sec. 24-77. Exceptions.

(a) Upon application, the administrator or his designee may grant an on-premises sign limitation waiver which may allow:

- (1) One freestanding sign not to exceed 60 square feet per face;
- (2) One building face sign not to exceed an area equal to one square foot multiplied by the length or width of the building in industrial zones, provided that the face on which the sign shall be mounted is at least 500 feet from any road or street right-of-way;
- (3) One freestanding sign not to exceed 32 square feet per face and not to exceed 30 feet in height;
- (4) One sign to be placed on the roof of the building not to exceed one square foot of sign area for each linear foot of the building's or unit's front facade or 60 square feet, whichever is smaller; ~~or~~
- (5) A second freestanding sign not to exceed 32 square feet on parcels which contain more than 400 feet of road frontage and more than one main entrance, provided that such lot is not a corner lot; ~~or~~
- (6) One additional building face sign not to exceed the building unit's front façade or 60 square feet, whichever is smaller, when the unit is located in a ~~Mixed-Use~~ district and an area designated for commercial uses on the binding master plan as long as the project is regulated by a design review board, governed by specific architectural and design standards, and guided by an approved binding master plan of development, all of which shall be approved by the board of supervisors. The size and scale of the sign and proportion of lettering, characters, and figures shall complement the design, scale, size, and materials of the building as well as the distance of the building from adjacent public rights-of-way. The scale of the sign in proportion to the building should be balanced so that the sign is not the dominant visual feature of the structure.

(b) Such on-premises sign limitation waivers shall only be granted in unusual circumstances where it can be demonstrated to the administrator or his designee that:

- (1) Unusual topography, vegetation, distance of the business or parcel from the road right-of-way, distance between driveways, separation of grade or the location of the driveway in relation to the location of the business and traffic patterns would impose a substantial hardship upon the business by making the advertising signs unreadable from vehicles on the adjoining roadway; or
- (2) The waiver would allow the business to post signs that are consistent with the majority of other businesses located on the same parcel; or
- (3) In addition to the provisions for granting sign limitation waivers under (b)(1) and (2) of this subsection, if the facade of the building is so designed that a building face sign cannot be placed upon it, and a roof sign would be the only reasonable and practical solution consistent with good design, a sign consistent with subsection (a)(4) above shall be permitted, provided that the sign is not within 200 feet of residentially zoned property; and
- (4) That in subsections (b)(1), (2), and (3) above such waiver is consistent with traffic safety and all other provisions of this article.

Sec. 24-78. Abandoned signs.

A sign, including its supporting structure or brackets, shall be removed by the owner or lessee of the premises upon which the sign is located when the business which it advertises is no longer on the premises. Such sign, if not removed within 30 days from the termination of occupancy by such business, shall be considered to be in violation of this chapter, and shall be removed at the owner's expense.

If the owner shall fail to comply with this requirement, then written notice shall be given by the administrator to the owner advising of the violation. If such signs are then not removed within ten days, the administrator shall cause such removal and charge the cost to the owner of the premises.

Sec. 24-79. Violations and penalties.

Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days' written notice of the violation to the owner, ~~tenant or lessee~~ of the property. ~~The violation of any~~

~~provision of this article concerning the posting of a sign on public property or public right of ways is a misdemeanor subject to punishment pursuant to section 24-22. The violation of any other provisions of this article is subject to a civil penalty under section 24-22. In addition, if such violation is not corrected within five days after receipt of the notice of violation, except violations involving portable signs, the administrator or his designee may remove or cause to be removed at the owner's or tenant's expense such sign and/or institute such other action as may be appropriate.~~ If the violation involves a portable sign *or any advertisement affixed to any object*, such sign *or advertisement* shall be removed immediately, and if not, the administrator or his designee may remove or cause to be removed at the owner's or tenant's expense such sign *or advertisement* and/or institute such other action as may be appropriate. Removal of a sign *or advertisement* shall not affect any proceedings instituted prior to removal of such sign. *Removal of signs in VDOT right-of-way or advertisements affixed to any objects within VDOT right-of-way and prosecution of violations for signs or advertisements located in VDOT right-of-way shall be in accordance with the procedures set forth by agreement between the county and VDOT.*

Secs. 24-80 - 24-85. Reserved.

MEMORANDUM COVER

Subject: Case No. SUP-0012-2011. nTelos Route 199 Wireless Communications Facility

Action Requested: Shall the Board approve a 172-foot tower on the east side of Route 199, north of New Town Sections 7 and 8, adjacent to Eastern State Hospital?

Summary: Ms. Gloria Freye has applied for a Special Use Permit to allow the construction of a 172-foot (170-foot tower with a 2-foot lighting rod) Wireless Communication Facility (WCF) to be located on the east side of Route 199, north of New Town Sections 7 and 8, adjacent to Eastern State Hospital. The proposed WCF would be a “slick stick” with no visible external antennas.

On July 11, 2012, the Planning Commission voted 4-3 to recommend denial of the application. Staff recommends that the Board deny the application.

Should the Board approve of the application, staff suggests such approval be contingent upon the conditions listed in 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. Resolution (denial)
3. Resolution (approval)
4. Location map
5. Balloon test photos dated June 13, 2012
6. Conceptual site plan titled “Telecommunications Facility NTELOS Site NR-6422” dated March 29, 2012
7. Board adopted “Performance Standards for Wireless Communications Facilities That Require a Special Use Permit” policy
8. Unapproved July 11, 2012, Planning Commission minutes
9. New Town Cell Tower Impact Study by Hopke & Associates submitted by New Town Associates dated August 22, 2012
 - a) Partial Site Plan
 - b) Section A - View from New Town Recreation Center
 - c) Section B - View from Main Entry Road of Sec. 8
 - d) Section C - Cross section view from Route 199
10. Illustrative Map of New Town with Proposed Tower and Photo Simulation Locations
11. Staff generated illustrative 172-foot tower simulation at 750 feet
12. Staff generated illustrative 172-foot tower simulation at 1,500 feet
13. Letter from Lawrence Salzman, New Town Associates

Agenda Item No.: I-2

Date: September 11, 2012

**SPECIAL USE PERMIT-0012-2011. nTelos Route 199 Wireless Communications Facility
Staff Report for the September 11, 2012, Board of Supervisors Public Hearing**

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:
Board of Supervisors:

Building F Board Room; County Government Complex

July 11, 2012, 7:00 p.m.
September 11, 2012, 7:00 p.m.

SUMMARY FACTS

Applicant: Gloria Freye, McGuire Woods

Land Owner: RCS Williamsburg Holding, LLC

Proposal: To allow the construction of a 172-foot (170-foot tower with a 2-foot lighting rod) "slick stick" Wireless Communications Facility (WCF) on the subject property.

Location: East side of Route 199, north of New Town Sections 7 and 8, adjacent to Eastern State Hospital

Tax Map/Parcel No.: 3820100005

Parcel Size: 8.2 acres

Zoning: R-4, Residential Planned Community

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

Due to the proposed height of the tower, which is significantly higher than the adjacent tree canopy, the proposed tower will be highly visible from eastbound Route 199 adjacent to Ford's Colony and Eastern State Hospital. The proposed WCF will also be partially visible from Heritage Pointe within Ford's Colony. Accordingly, the application is not in compliance with the Comprehensive Plan and does not meet the Board of Supervisors adopted Performance Standards for Wireless Communications Facilities.

Staff recommends that the Board deny the application. Should the Board approve of the application, staff suggests such approval be contingent upon the conditions listed in the attached resolution.

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

On July 11, 2012, the Planning Commission voted 4-3 to recommend denial of the application. Additionally, the Commission recommended the applicant furnish a computer generated image illustrating the view of the tower from the future New Town Section 8 for Board consideration.

Proposed Changes Made Since Planning Commission Meeting

Staff has generated photo simulations of the proposed tower to illustrate its likely visibility from future New Town Section 8 (Attachment Nos. 10 and 11). To date, the applicant has not provided any photo simulations per the recommendation of the Planning Commission.

In an attempt to replicate the visibility of the proposed tower from the Section 8 access road, staff identified an existing residential subdivision with a similar tree canopy height and houses along the road with a simulated a 172-foot tower (Attachment Nos. 10 and 11). The two photo simulations roughly correspond to the two identified intersections on Attachment No. 9 which are approximately 750 and 1,500 feet away from the proposed tower. The photo simulations were taken on Montpelier Drive in Scott's Pond. The trees at the end of the road on Montpelier Drive are approximately 85 feet to 100 feet tall depending on the topography. Staff's simulation illustrates a 172-foot tower would be highly visible above any tree canopy and along the proposed main road in Section 8.

PROJECT DESCRIPTION

Ms. Gloria Freye, on behalf on nTelos, has applied for a Special Use Permit (SUP) to allow the construction of a 172-foot (170-foot tower with a 2-foot lighting rod) WCF to be located on the east side of Route 199 north of New Town Sections 7 and 8, adjacent to Eastern State Hospital (Attachment No. 3). Tower mounted communication facilities with a designation other than residential on a Board adopted master plan in the R-4, Residential Planned Community, district require an SUP. The proposed WCF would be a "slick stick" with no visible external antennas. An illustration of the proposed tower is provided in Attachment No. 5. This proposal is an alternative location proposed by nTelos to provide service in the Ford's Colony/New Town vicinity after the proposed Hospice House tower application (Case No. SUP-0022-2009) was withdrawn subsequent to a Planning Commission recommendation of denial.

PUBLIC IMPACTS

Environmental

Watershed: Powhatan Creek

Staff Comments: The Engineering and Resource Protection Division has no comments on the SUP application at this time. Any site development issues will be dealt with at the site plan level.

Public Utilities and Transportation

The proposed WCF would not generate additional needs for the use of public utilities or significant additional vehicular trips in the area. The Commonwealth Transportation Board issued a Limited Access Control Change (LACC) to permit access to the property off Route 199 for the purpose of tower maintenance/construction. The request for the LACC was endorsed by the Board of Supervisors.

VISUAL IMPACTS

The proposed tower site is located within a highly wooded area between undeveloped portions of Eastern State Hospital and New Town adjacent to Route 199. The property is a remnant parcel part of Ford's Colony that was created by the construction of Route 199. The proposed tower is approximately 600 feet from the closest home in Ford's Colony and over 1,800 feet from existing homes in New Town.

Based on a publicly advertised balloon test on June 13, 2012, the proposed tower would be highly visible from eastbound Route 199 between Ford's Colony and Eastern State Hospital (Attachment No. 4). The proposed WCF would be partially visible through the trees at a few locations along Heritage Pointe within Ford's Colony. Staff notes that the balloon test took place in June when the deciduous trees in Ford's Colony had a thick canopy. Previous balloon tests in January indicated that the tower would be more visible during the winter months along Heritage Pointe, but minimally noticeable to the casual observer. Attachment No. 3

illustrates documented locations where staff was able to view the balloon during the June height simulation. Staff was unable to see the balloon from any existing locations within New Town; however, it is likely that the proposed tower would be highly visible to future residential development in New Town Section 8. The adopted New Town master plan for Sections 7 and 8 illustrates a road into Section 8 that would point directly at the proposed tower site (an illustrative map is provided in Attachment No. 9). New Town has provided their own illustrations of the proposed tower shown in Attachment No. 8.

At 172 feet, the proposed tower is higher than other recent WCF applications submitted in developed areas of the County. The recently approved Ingram Road tower, which was also adjacent to a Community Character Corridor (CCC), was approved at 124 feet. Approving applications for higher towers may encourage future applicants to request higher tower heights than necessary. Staff has found that towers that are only minimally visible above the tree line are often able to satisfy the coverage needs of wireless providers. Figure 1 in the Performance Standards is an example of a well buffered slick stick with minimal intrusion and an example of tower visibility preferred by staff.

COMPREHENSIVE PLAN

The Comprehensive Plan recognizes Route 199 as a CCC and a gateway to the Historic Triangle. The Plan also mentions the County's desire to minimize the impacts of newly approved WCFs. The proposed height would make the tower the dominant visual feature along a portion of Route 199 as shown in Attachment No. 4. Staff finds the proposal to not be in compliance with the Comprehensive Plan.

PERFORMANCE STANDARDS

The James City County Board of Supervisors adopted several performance criteria for WCFs (Attachment No. 6). In general, it is expected that all facilities should substantially meet the provisions of these performance standards.

These performance criteria note that tower mounted WCFs should be located and designated 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.

While all standards support the goals outlined in the Comprehensive Plan, 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 an SUP and a case that meets a majority of the standards may or may not be recommended for approval. To date, towers granted an SUP have substantially met these standards, including those pertaining to visibility.

A. Co-location and Alternative Analysis

Standard A1 encourages co-location. The applicant has provided documentation that discusses failed collocation attempts and offers justification for the proposed location.

Standard A2 pertains to the demonstration of a need for the proposal and the examination of alternatives, including increases in transmission power and other options. With regard to demonstrating the necessity for the tower, the applicant submitted propagation maps showing data coverage in the vicinity as unreliable. The applicant has explored alternative locations (such as the Hospice House), but claims this site as the last viable option.

Standard A3 recommends that the site be able to contain at least two towers on-site to minimize the need for additional towers elsewhere. Though it appears structurally possible to locate an additional tower on site, a second tower on the site would make the WCF even more noticeable to drivers on Route 199.

Standard A4 regarding allowance of future service providers to co-locate on the tower extension is addressed at the site plan stage through requirements in the Zoning Ordinance.

B. Location and Design

Performance Standard B1 states that towers and tower sites should be consistent with existing and future surrounding development and the Comprehensive Plan. More specifically, towers should be compatible with the use, scale, height, size, design, and character of surrounding existing and future uses. The proposed tower is highly visible eastbound on Route 199 adjacent to Ford's Colony and Eastern State Hospital as it is taller than any other structure. Additionally, it is likely to have significant visual impacts to future residential development, particularly in New Town Section 8. Staff finds this performance standard has not been met.

Performance Standard B2(a) states that towers should be located in a manner that use a camouflaged design or have minimal intrusion onto residential areas, historic and scenic resources areas or roads in such areas, or scenic resource corridors. The proposed tower is not a camouflaged tower, as it is significantly visible above the tree line. The base of the tower, along with any utility structures housed at ground level, will not be visible. Though the proposed tower would have very minimal visual impacts to Heritage Pointe within Ford's Colony, the tower would have a significant impact on Route 199. Staff finds the application does not meet this performance standard.

Performance Standard B3 states that towers should be less than 200 feet to avoid lighting. This application meets this standard.

Performance Standard B4 states that towers should be freestanding and not supported by guy wires. This application meets this standard.

C. Buffering

The Performance Standards state that towers should be placed on a site in a manner that maximizes buffering from existing trees, including a recommended 100-foot-wide wooded buffer around the base of the tower, and that the access drive should be designed in a manner that provides no off-site view of the tower base or related facilities.

The tower site is situated in a heavily wooded area roughly 190 feet back from Route 199. The mature trees would screen the base of the tower; however, given the excessive height compared to the surrounding trees, staff finds the site inadequate to buffer the proposed tower from view along Route 199. The performance standard has not been met.

RECOMMENDATION

Due to the proposed height of the tower, which is significantly higher than the adjacent tree canopy, the proposed tower will be highly visible from eastbound Route 199 adjacent to Ford's Colony and Eastern State Hospital. The proposed WCF will also be partially visible from Heritage Pointe within Ford's Colony. Accordingly, the application is not in compliance with the Comprehensive Plan and does not meet the Board of Supervisors adopted Performance Standards for Wireless Communications Facilities.

On July 11, 2012, the Planning Commission voted 4-3 to recommend denial of the application. Additionally, the Commission recommended the applicant furnish a computer generated image illustrating the view of the tower from the future New Town Section 8 for Board consideration.

Staff recommends that the Board deny the application. Should the Board approve of the application, staff suggests such approval be contingent upon the conditions listed in the attached resolution.

Luke Vinciguerra

CONCUR:

Allen J. Murphy, Jr.

LV/gb
SUP-12-11nTelos.doc

ATTACHMENTS:

1. Resolution (denial)
2. Resolution (approval)
3. Location map
4. Balloon test photos dated June 13, 2012
5. Conceptual site plan titled "Telecommunications Facility NTELOS Site NR-6422" dated March 29, 2012
6. Board adopted "Performance Standards for Wireless Communications Facilities That Require a Special Use Permit" policy
7. Unapproved July 11, 2012, Planning Commission minutes
8. New Town Cell Tower Impact Study by Hopke & Associates submitted by New Town Associates dated August 22, 2012
 - a) Partial Site Plan
 - b) Section A - View from New Town Recreation Center
 - c) Section B - View from Main Entry Road of Sec. 8
 - d) Section C - Cross section view from Route 199
9. Illustrative Map of New Town with Proposed Tower and Photo Simulation Locations
10. Staff generated illustrative 172-foot tower simulation at 750 feet
11. Staff generated illustrative 172-foot tower simulation at 1,500 feet
12. Letter from Lawrence Salzman, New Town Associates

RESOLUTION

CASE NO. SUP-0012-2012. NTELOS, ROUTE 199 WIRELESS COMMUNICATION FACILITY

- WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and
- WHEREAS, Ms. Gloria Freye has applied on behalf of nTelos for an SUP to allow for the construction of a wireless communications facility on a parcel of land zoned R-4, Residential Planned Community; and
- WHEREAS, the property can be identified as James City County Real Estate Tax Map Parcel No. 3820100005; and
- WHEREAS, the Planning Commission, following its public hearing on July 11, 2012, voted 4-3, to recommend denial of this application due to its high visibility from Route 199, a Community Character Corridor; and
- WHEREAS, the Comprehensive Plan acknowledges the County's desire to minimize the impacts of newly approved wireless communication facilities; and
- WHEREAS, the Board of Supervisors of James City County, Virginia, ("the Board") finds the proposed tower inconsistent with the Comprehensive Plan and Performance Standards For Wireless Communications Facilities That Require A Special Use Permit policy ("the Policy") as the proposed height would make the tower the dominant visual feature along a portion of Route 199 as evidenced by a June 13, 2012 tower simulation; and
- WHEREAS, based upon the document titled "*Partial Site Plan New Town Cell Tower Impact Study*" prepared by Hopke & Associates dated August 22, 2012, the Board finds the proposed tower inconsistent with the Impact Criteria of the Policy because the tower will be highly visible from New Town Section 8.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby denies the issuance of SUP-0012-2012 and recommends the consideration of alternative sites that have less visual impacts to adjacent roadways and properties.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of Septebmer, 2012.

SUP-12-11nTelos-Den_res

RESOLUTION

CASE NO. SUP-0012-2012. NTELOS, ROUTE 199 WIRELESS COMMUNICATION FACILITY

WHEREAS, the Board of Supervisors of James City County has adopted by ordinance specific land uses that shall be subjected to a Special Use Permit (SUP) process; and

WHEREAS, Ms. Gloria Freye has applied on behalf of nTelos for an SUP to allow for the construction of a wireless communications facility on a parcel of land zoned R-4, Residential Planned Community; and

WHEREAS, the property can be identified as James City County Real Estate Tax Map Parcel No. 3820100005; and

WHEREAS, the Planning Commission, following its public hearing on July 11, 2012, voted 4-3, to recommend denial of this application due to its high visibility from Route 199, a Community Character Corridor; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the issuance of SUP-0012-2012 as described herein with the following conditions:

1. **Term of Validity:** This SUP shall be valid for a total of one wireless communications facility at a total height of 172 feet including all appurtenances on the property as depicted on Sheet 3 of 3 of the Special Use Permit application site plan titled "*Telecommunications facility NTELOS site NR-6422 Route 199 Williamsburg VA 23188,*" prepared by Jeffery Cronin, and dated March, 29, 2012.
2. **Time Limit:** Final approval shall be obtained within two (2) years of approval of this SUP, or the permit shall become void.
3. **Structural and Safety Requirements:** Before final building approval, certification by the manufacturer, or an engineering report by a structural engineer licensed to practice in the Commonwealth of Virginia, shall be filed by the applicant indicating the tower height, design, structure, installation, and total anticipated capacity of the tower, including the total number and type of antennas which may be accommodated on the tower, demonstrating to the satisfaction of the County Building Official that all structural requirements and other safety considerations set forth in the 2000 International Building Code, or any amendment thereof, have been met.
4. **Tower Color:** The tower color shall be gray. Any alternative color used shall be approved by the Planning Director, or his designee, prior to final site plan approval.
5. **Advertisements:** No advertising material or signs shall be placed on the tower.

6. **Additional User Accommodations:** The tower shall be designed and constructed for at least three (3) users and shall be certified to that effect by an engineering report prior to the site plan approval.
7. **Guy Wires:** The tower shall be freestanding and shall not use guy wires for support.
8. **Enclosure:** The fencing used to enclose the area shall be vinyl-coated and shall be dark green or black in color, or shall be another fencing material of similar or superior aesthetic quality as approved by the Planning Director. Any fencing shall be reviewed and approved by the Director of Planning prior to final site plan approval.
9. **Tree Buffer:** A minimum buffer of 100 feet in width of existing mature trees shall be maintained between the tower, adjacent contiguous parcels and Route 199. This buffer shall remain undisturbed except for the access drive and necessary utilities that accompany the operation of the tower.
10. **Access:** Access to the site shall be from Route 199 per the Limited Access Control Change approved by the Commonwealth Transportation Board on July 20, 2011. The access shall be designed and constructed to the commercial entrance standards in Appendix F of the Road Design Manual.
11. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

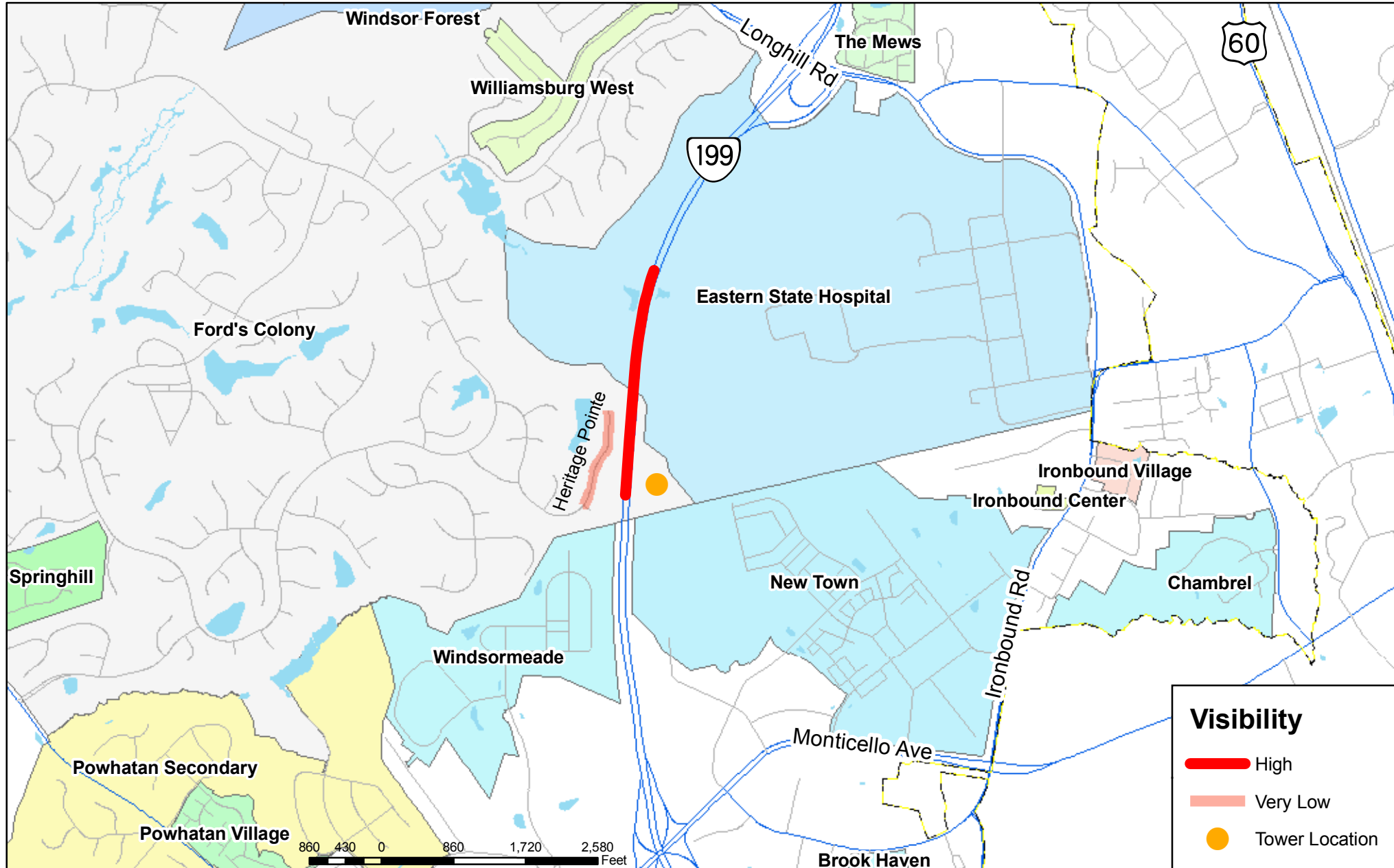
	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

SUP-12-11inTelos-App_res

SUP-0012-2011

nTelos Route 199 WCF



Attachment 4: Balloon test photos, eastbound Route 199



**PERFORMANCE STANDARDS FOR WIRELESS COMMUNICATIONS FACILITIES
THAT REQUIRE A SPECIAL USE PERMIT**

January 10, 2012

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, 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 WCFs and potential alternative mounting structures 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 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 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 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 would be located; and (2) WCFs should be located and designed in a manner that protects the character of the County's Community Character Corridors and historic and scenic resource areas and their view sheds.
2. WCFs should be located and designed consistent with the following criteria:

<i>Proposed Location of 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, a well buffered slickstick, Multi-Antenna system, or have a minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or community character corridors.</i>
<i>b. Near a historic or scenic resource area or on a Community Character Corridor</i>	<i>Use a camouflaged design or slicksticks that have minimal intrusion on to residential areas, historic and scenic resources areas or 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 well buffered monopole, a camouflaged design, or other design that has minimal intrusion on to residential areas, or community character corridors.</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, well buffered monopole, or other design that has minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or 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 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* will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such *WCF* 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* 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* from residential areas and public roads are very limited. At a minimum, *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. *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 *WCFs* base or related facilities.



Figure 1: Example of a well buffered slickstick with minimal intrusion

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 community character corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100 feet wide should be provided around the tower.
 - 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.

SUP-0012-2011 Ntelos Rt. 199 Wireless Communication Facility

Mr. Luke Vinciguerra stated Ms. Gloria Frye, on behalf of Ntelos, has applied for special use permit to allow the construction of a 172' wireless communications facility located on the east side of Route 199, north of New Town Section 7 & 8, and adjacent to Eastern State Hospital. Due to the height of the tower, which is significantly higher than the adjacent tree canopy, the applicant is not in compliance with Wireless Communication Facility performance standards. Staff recommends denial of the application.

Mr. Drummond asked if there are different standards for camouflaged towers.

Mr. Vinciguerra stated there is a higher criteria for camouflaged towers, but that this tower is not camouflaged. He stated camouflaged towers have vigorous standards and cannot be seen by the casual observer.

Mr. Drummond asked if a camouflaged tower could be disguised as a tree.

Mr. Vinciguerra stated that was an option. He stated camouflaged towers are often by-right.

Mr. Woods asked if the case were approved, would the applicant agree with the eleven conditions.

Mr. Vinciguerra stated the applicant agrees with the conditions, but asked staff to examine the conditions that discuss collocation. He stated the applicant had better wording they would like to propose. Staff will consider that language after the meeting.

Mr. O'Connor asked how close the tower is to nearest residence in Section 8.

Mr. Vinciguerra stated the development plans for that section are not in yet. He stated there is a master plan, but there is no specific number. Theoretically, a house could be 50' away from the New Town property line. The tower is over 600' from the nearest Ford's Colony house.

Mr. O'Connor asked how far the proposed tower was from the property line.

Mr. Vinciguerra stated it was 300' from the New Town property line.

Mr. O'Connor asked if it would be 350' from the rear property line of future New Town houses.

Mr. Vinciguerra stated it could be 350' as a worst case scenario.

Mr. Maddocks asked what height would be satisfactory to staff.

Mr. Vinciguerra stated staff reviewed the application at 172'. He stated he cannot say what height would be approval by staff should a tower come in at a lower height, reviewed against the performance standards.

Mr. Maddocks asked if there was a standard.

Mr. Vinciguerra stated staff cannot say it will approve something at a certain height.

Mr. Johnson stated similar towers have been reviewed along community character corridors. He stated when the initial balloon test for this site was flown, it was 200', with later tests at 150', 172' and 130'. Staff informed the applicant that 130' would be the maximum height that staff would be willing to support at this location. The applicant then changed their application from 200' to 172'.

Mr. O'Connor asked if the applicant wanted to discuss collocation.

Mr. Vinciguerra stated the applicant will submit alternative language to staff after the meeting. He stated this language has not been discussed with the Planning Director or County Attorney.

Mr. Bledsoe asked if the section of New Town that can view the tower was approved prior to this application, and was a part of Comprehensive Plan and New Town master plan.

Mr. Vinciguerra stated it has been rezoned, but development plans showing individual homes and roads are not in yet.

Mr. Drummond asked if the visibility was only from Rt. 199.

Mr. Vinciguerra stated staff was able to see the balloon from Rt. 199 and through the trees from one road in Ford's Colony. He stated the highest visibility would be from Rt. 199.

Mr. Johnson stated the balloon was only visible while traveling eastbound on Rt. 199. He stated it will be highly visible from New Town Section 8 when the trees finally come down.

Mr. O'Connor stated he had spoken with Ms. Frye shortly after the balloon test.

Mr. Basic stated he had also spoken with Ms. Frye after the balloon test.

Mr. Drummond stated he had also spoken Ms. Frye.

Ms. Gloria Frye, representing the applicant, made her presentation. She stated Ntelos needs a tower to serve the nearby area from Longhill Road to the north, Monticello Avenue to the south, Rt. 199 to the east, and Ford's Colony to the west. The search ring is only three-quarters of a mile in diameter. Ntelos indoor service is unreliable in these areas. A 172' tower would serve most of the area but would still leave some gaps on the propagation map. Ntelos has been spent years looking for a site in this area, including a collocation site, reviewing 15 sites. The application site is outside the search ring and only achieves 70% of wanted service improvements, but it represents a reasonable compromise. The site itself will allow it to achieve County performance standards and will minimize impacts. The tower is only visible for 13 seconds eastbound on Rt. 199, from one street in Ford's Colony during the winter, and may or may not visible be from future New Town development. Because no homes or streets exist there today, there is no substantial evidence the pole would or would not be visible above the tree canopy. The 1996 Telecommunications Act requires any decision regarding wireless communications to be support by substantial evidence. Visibility depends on many factors: angle, grade, distance, and vegetation, all of which will not be known until New Town decides to develop. A slick stick tower would

not detract from Rt. 199's character. Reducing the tower height to 130' reduces the service improvements to 45% and reduces collocation opportunities.

Mr. Maddocks asked what diameter was a slick stick.

Ms. Frye stated they taper to 24" at the top. She stated standard arrays are 12' in width.

Mr. O'Connor asked if the propagation maps focused on voice or data.

Mr. Frye stated Ntelos is trying to improve in home data service. She stated the tower must be taller further from its search ring. It is difficult to find sites that service homes that homes don't see.

Mr. O'Connor asked about current New Town coverage.

Ms. Frye said it was adequate, with a site at Berkeley Middle School.

Mr. O'Connor asked about service improvements with a 150' tower.

Ms. Frye stated it would be between 50% and 60%.

Mr. Krapf asked Ms. Frye to clarify the definition of service objective, and whether that included collocations.

Ms. Frye stated the service objective is to get the signal into as many homes as possible. She stated the ability to collocate is one of the goals of the jurisdiction to reduce the number of towers. Collocation also helps defer the cost of the facilities.

Mr. Woods stated the community made it known during the 2009 Comprehensive Plan that they wanted the issue of cell towers reined in. He stated the Commission recently reviewed a tower ordinance that was both advanced technologically and respected the interests of citizens. This is inconsistent with that ordinance.

Ms. Frye stated Ntelos addressed the performance standards. She stated it comes down to a degree of visibility which is somewhat subjective. The homes that will be served will have no negative impact.

Mr. Woods stated the Rt. 199 corridor was established as sensitive.

Ms. Frye stated the County has done an excellent job keeping the corridor wooded. She stated there are other utilities visible along the corridor. This is a utility to serve the public. Ntelos will provide three times the recommended screen on its property to help keep a wood community corridor.

Ms. Bledsoe stated New Town Section 8 will be developed into a residential area at some point. She stated if the section had been built, those people would be here. There are some issues with the placement. A tower cannot be compared to a phone or water line that serves the whole community, as opposed to Ntelos customers.

Ms. Frye stated it can bring other providers in. She stated the service level the public expects is a public interest. It is a private utility to serve people with the least amount of impact.

Ms. Bledsoe asked if going down to 130' was no longer an option for Ntelos.

Ms. Frye stated the applicant never discussed going down to 130', but it did at that height service levels would be reduced to 40% and that may not be a viable business decision. A second pole would still be needed.

Mr. O'Connor asked if collocation possibilities have been exhausted.

Ms. Frye stated there are already antennae on the four nearby towers.

Mr. O'Connor asked if the Hospice House application had been withdrawn.

Ms. Frye stated yes. She stated moving that tower further away to serve more people just doesn't work.

Mr. O'Connor asked if the tower was 135', would the applicant ask for an external array.

Ms. Frye stated that at that height, external antennae would strengthen the signal somewhat. She stated it would make it easier to swap out new or improved technology.

Mr. O'Connor asked if the 135' 40% service level was with the external array.

Ms. Frye stated yes.

Mr. Krapf asked if Ntelos looked into a lower slick stick and alternate technology.

Ms. Frye stated DAS was not a suitable alternative for this service area because of the distance and the infrastructure that would be needed. She stated DAS works better in small, defined areas.

Mr. O'Connor asked if there was anywhere on the site further north and west of New Town for the tower to be located.

Ms. Frye stated the tower cannot be shifted due to wetlands and the collapse radius. She stated its location maximizes the buffer towards Eastern State and New Town. There is no evidence to support future visibility from New Town.

Mr. O'Connor opened the public hearing.

Mr. Larry Salzman, president of New Town Associates, stated New Town was opposed to a tower of this size at this location. He stated the tower will be visible from future sections of New Town residences. A tower could be placed behind WindosrMeade Marketplace. The tower would restrict future New Town flexibility and marketability within sight of the tower.

Mr. O'Connor asked how many homes are proposed for New Town Section 8.

Mr. Salzman stated did not know. He stated with the reworking of density, he anticipates around 400 housing units in Section 7 and 8. West of the Archaeological Park and behind Settler's Market, there will be around 300 units.

Mr. O'Connor asked why placing a tower behind WindsorMeade Marketplace would be a better location.

Mr. Salzman stated it was physically further away, in view of fewer homes, and the use is more compatible with the shopping center.

Mr. O'Connor closed the public hearing.

Mr. Krapf stated that based on community feedback and the Comprehensive Plan, the Board adopted a set of guidelines that applications must meet. He stated the community character corridor low-visibility condition is not being met. The Commission must be concerned with precedent, with higher and higher towers being placed. Because it conflicts with the wireless communications and precedent, he would not support the application.

Mr. Basic stated adding an additional eyesore to Rt. 199 does not seem to be a reasonable approach. He stated the tower would be a visual terminus to Section 8. He would not support the application.

Mr. Woods stated he felt prohibited from supporting it because citizens have spoken so vividly their concerns over the subject.

Mr. O'Connor stated while not completely compatible, slick sticks are preferable to arrays. He stated consumers want more while there is less space. He could support the application due to its ability to collocate and was a slick stick. The tower may be more visible placing it near WindsorMeade.

Mr. Maddocks stated that we're a growing community that needs infrastructure. He stated a 24" slick stick was not that obtrusive. He would support the application.

Mr. Drummond asked how close were other New Town towers to Section 8.

Mr. O'Connor stated across Monticello and behind Courthouse Commons.

Mr. Johnson stated that many of the towers on the spreadsheet provided by staff predate the Wireless Communications Facilities ordinance, performance standards, and Comprehensive Plan.

Mr. Drummond asked about the community benefitting from the tower.

Mr. Johnson stated the propagation map showed an area almost exclusively west of Rt. 199, including Ford's Colony and Powhatan Secondary.

Mr. Drummond stated it may be more of a benefit for those communities.

Mr. Johnson stated the applicant's maps do not show the propagation extending east of Rt. 199 onto any portion of New Town.

Mr. Drummond stated he had mixed feelings, but one would have to have an eagle eye to notice it. He stated he would be inclined to support it.

Mr. Bledsoe stated the visibility from Rt. 199 did not concern her as much as future homes being built in New Town. She stated the tower was not in compliance with performance standards or Comprehensive Plan. She would not support it.

Mr. Rogers stated the Commission had heard from Ms. Frye that her claim was based on substantial evidence criteria of the Telecommunications Act. He stated part of that is based on a projection of what approved housing would have to see. Substantial evidence could be requested by the Commission, such as a computer projection. If the application was rejected, part of her claim would be that the Commission did not have substantial evidence. To help, the Commission should request an image of the tower showing approved housing built. The County should have a factual background behind the performance standards for any court.

Ms. Bledsoe stated she amended to her objections to include only the reference to the Comprehensive Plan.

Mr. Krapf stated it would make sense for the applicant to have a computer-generated image when it goes before the Board.

Mr. O'Connor asked if Mr. Rogers had a recommendation for whether the Commission should make a condition or ask the applicant to provide that.

Mr. Rogers stated it is entirely up to the Commission. He stated there are legal criteria if it goes to the Board and it if the Commission thinks it's important to know the projection for the tower would look like with approved housing, that may be a substantial issue for the Commission and the Board. The Commission could add a condition to its recommendation or defer the case and ask the applicant to provide it if it was going to change any votes of any Commissioners.

Mr. Krapf stated he was still relying on the Comprehensive Plan and the performance standards for his decision. He stated a computer image may be more important to the Board since they design these guidelines. He would not recommend deferral.

Mr. Woods stated the Commission could forward either recommendation to the Board along with the suggested illustration.

Mr. O'Connor asked if Ntelos would be willing to bring forward that recommendation to the Board.

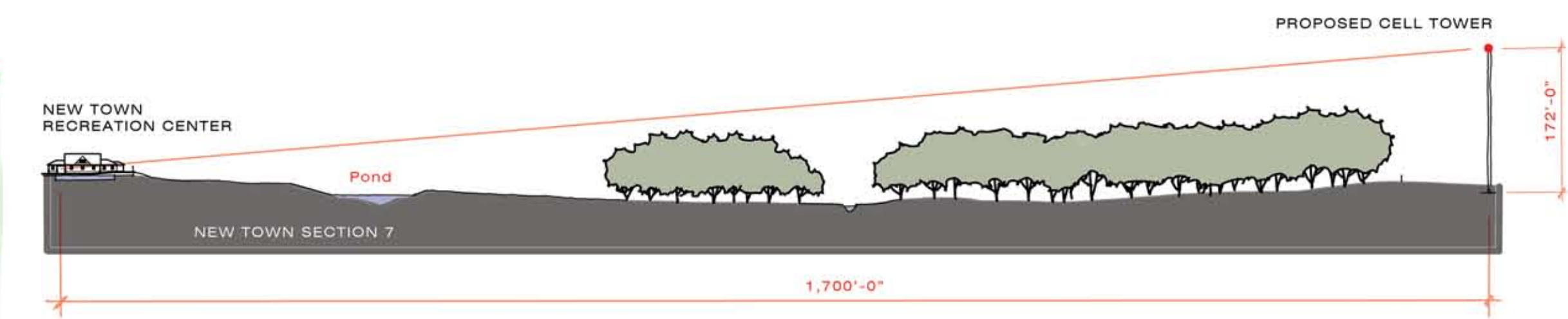
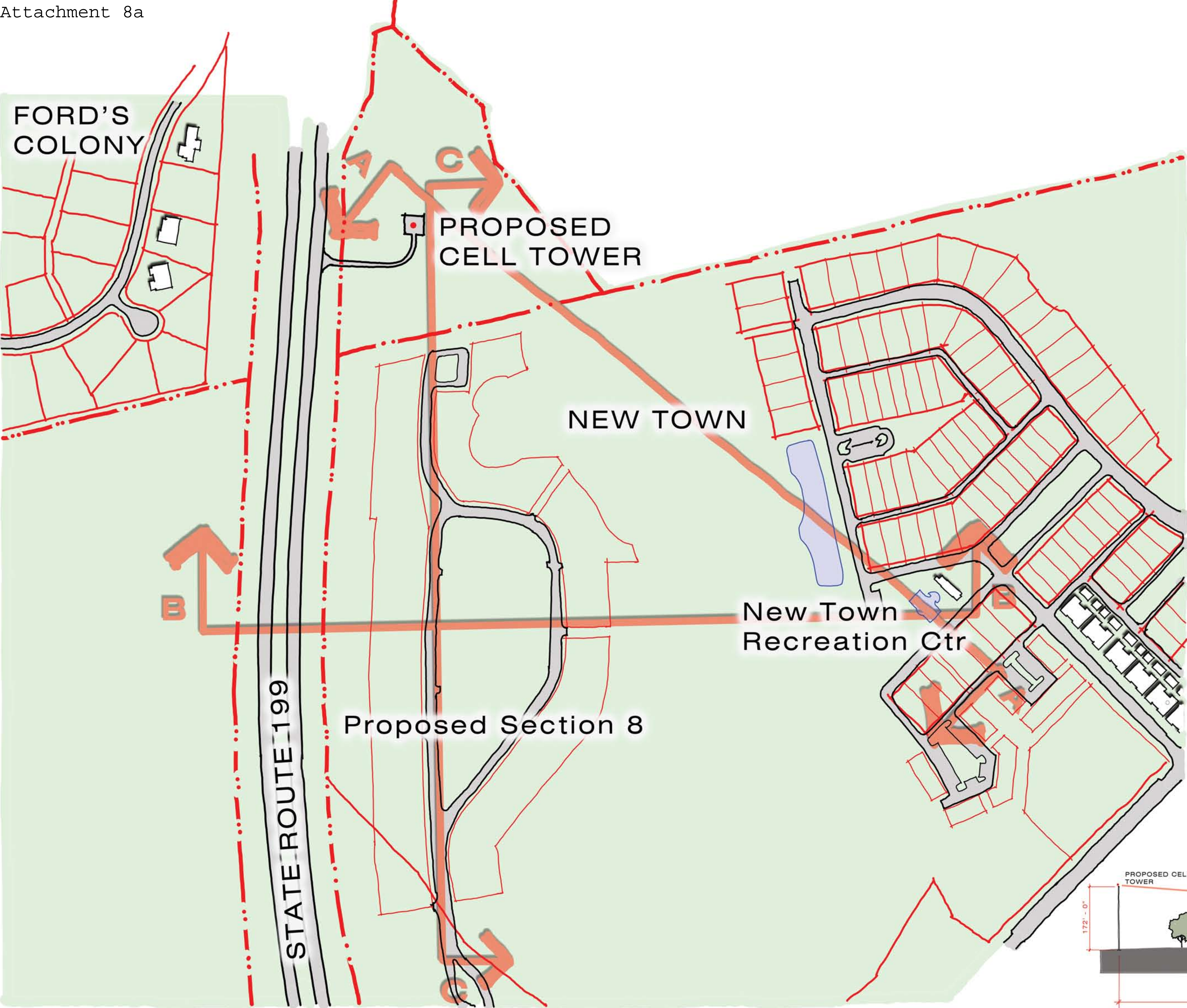
Mr. Frye stated yes, but Ntelos would need additional information from both the County and New Town property owners and would need full cooperation to create the image.

Mr. O'Connor asked Mr. Salzman if that was acceptable.

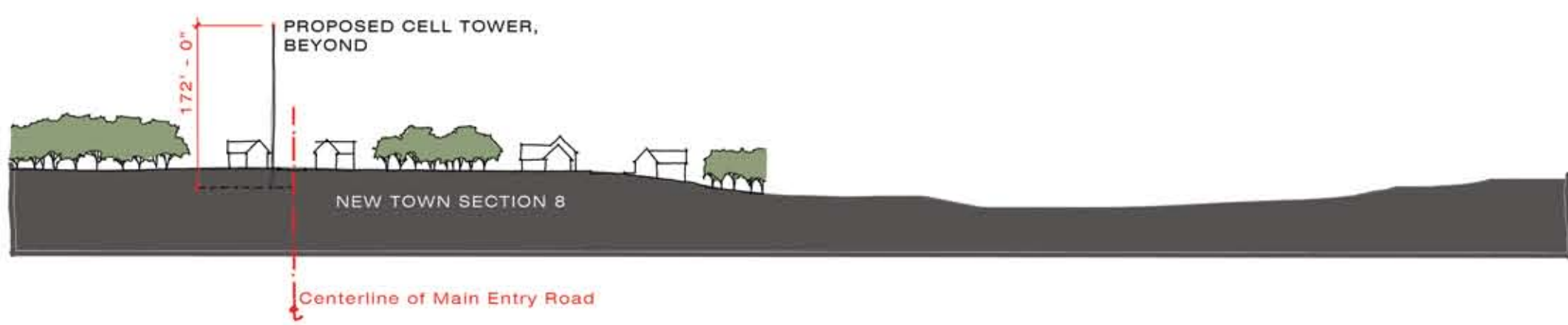
Mr. Salzman stated yes. He stated New Town has preliminary drawings it could furnish.

Mr. Krapf moved for denial of the application with the recommendation that staff provide the additional information to the Board.

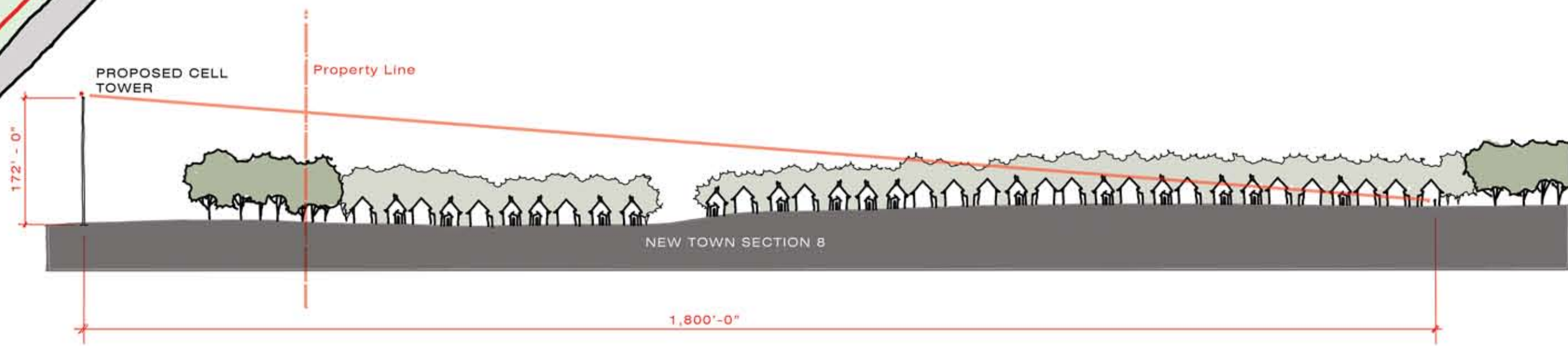
In a roll call vote, the Commission recommended denial (Yes: Basic, Bledsoe, Krapf, Woods; No: Drummond, Maddocks, O'Connor).



SECTION A



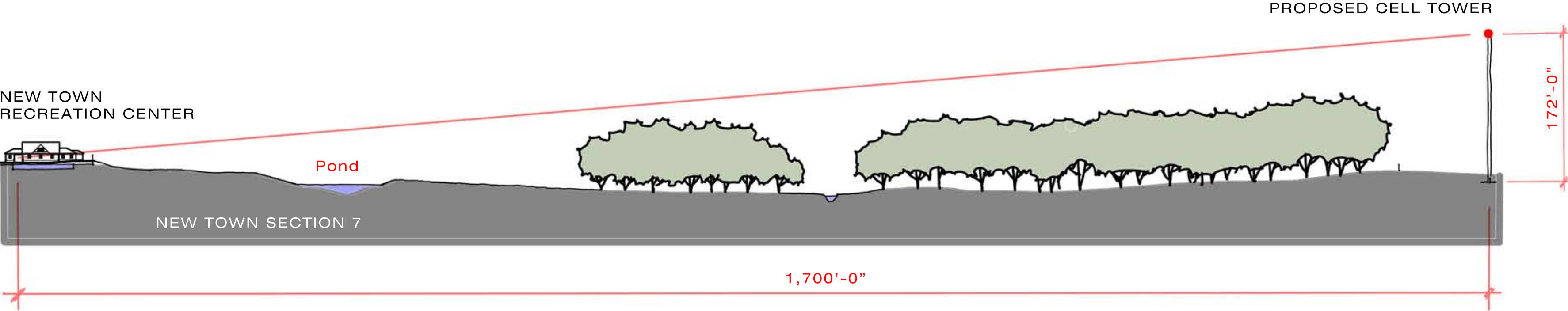
SECTION B



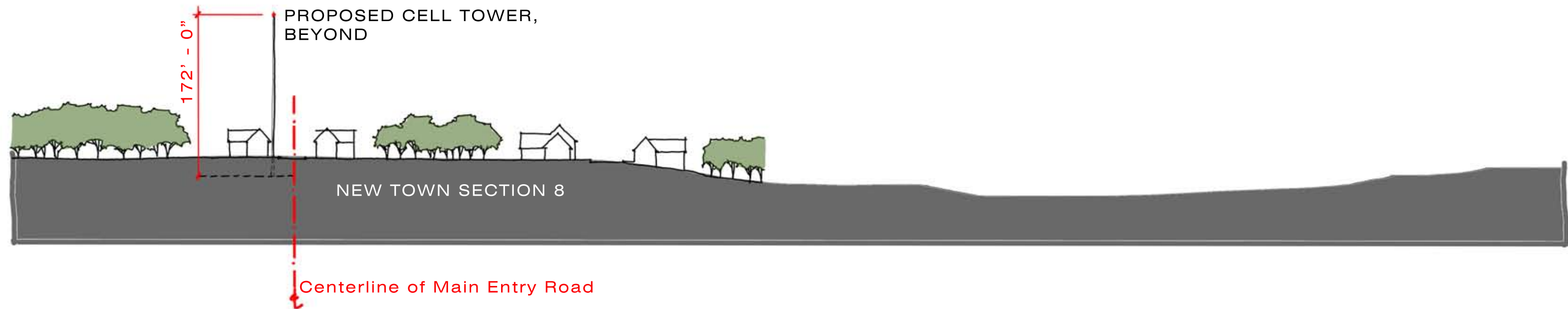
SECTION C

PARTIAL SITE PLAN

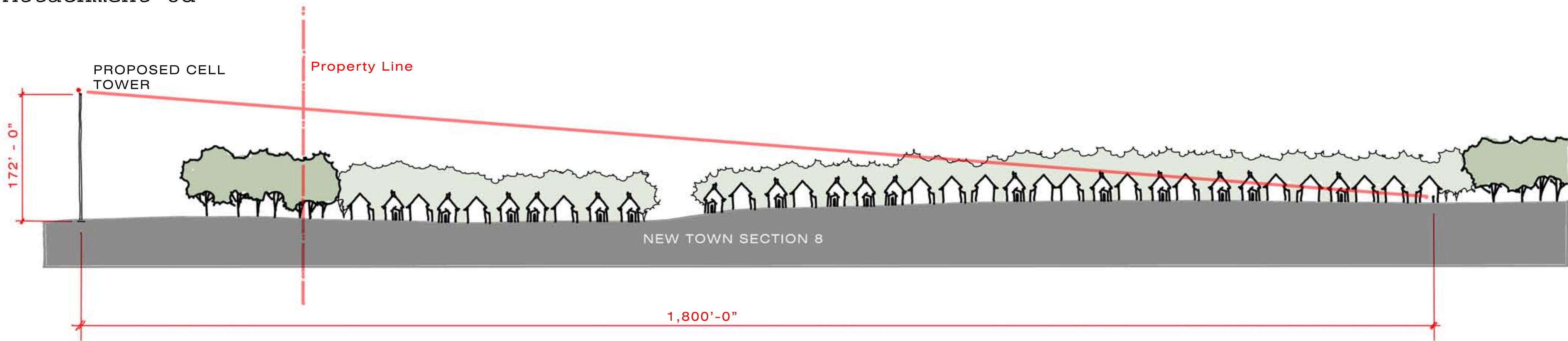
Attachment 8b



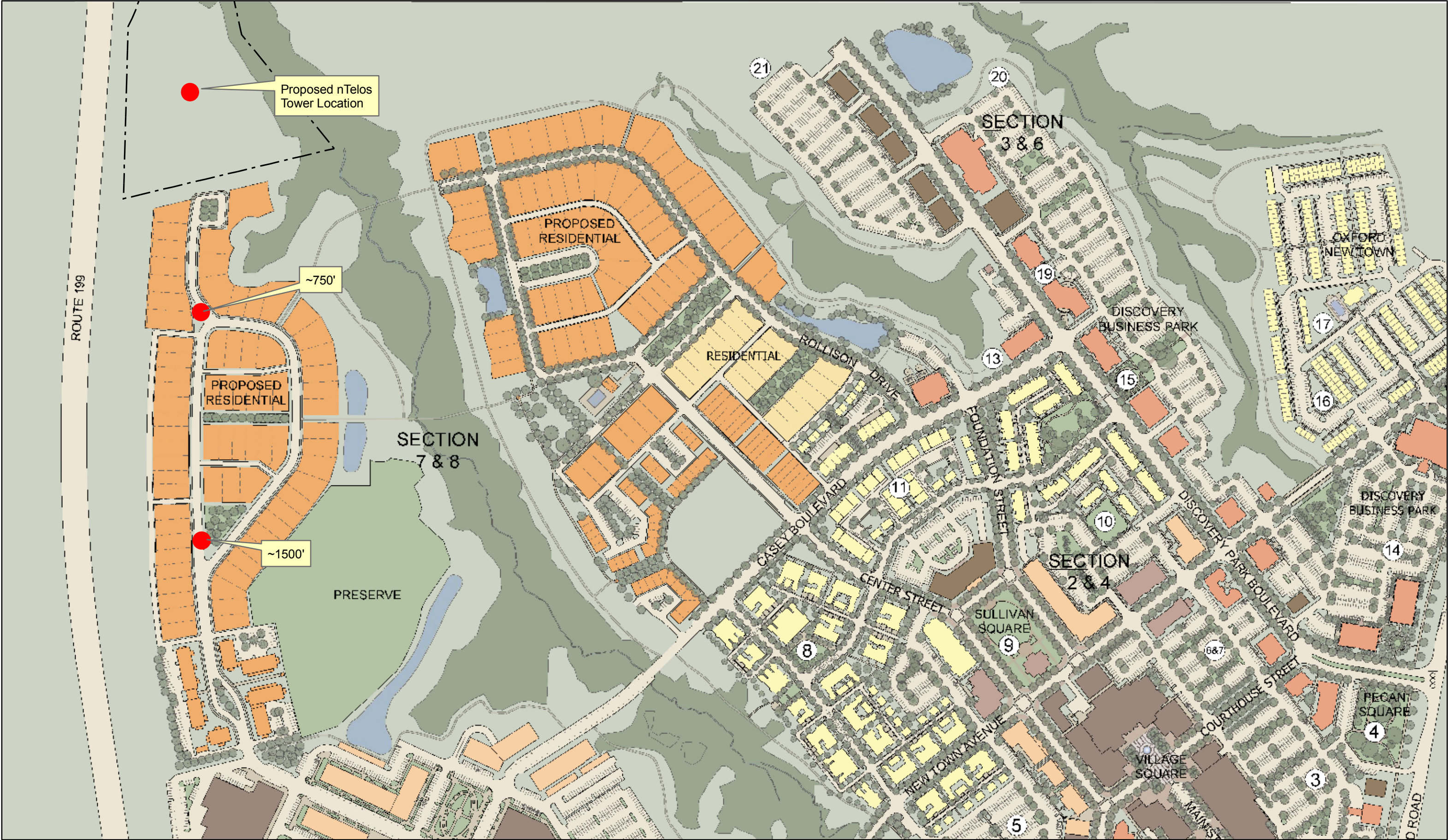
Attachment 8c



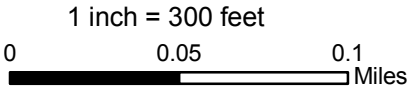
Attachment 8d



Illustrative Map of New Town with Proposed Tower and Photo Simulation Locations



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



Staff Generated Illustrative 172' Tower Simulation at 750 Feet



- - - Average Tree Canopy Height 85 feet
| 172' Monopole WCF Simulation

Staff Generated Illustrative 172' Tower Simulation at 1500 Feet



--- Average Tree Canopy Height 85 feet
| 172' Monopole WCF Simulation



August 22, 2012

RECEIVED

AUG 24 2012

Board of Supervisors

The Honorable Mr. James O. Icenhour, Jr.
P.O. Box 8784
Williamsburg, VA 23187-8784

RE: SUP-0012-2011. nTelos, Route 199, Wireless Communication Facility

Dear Mr. Icenhour:

I write on behalf of New Town Associates LLC, the land developer of New Town, and on behalf of the New Town Commercial Association and New Town Residential Association to strongly oppose the above referenced cell tower application. We strongly believe that this tower would have a substantial negative impact on New Town and that there are other viable less intrusive alternative locations.

The proposed cell tower would be located approximately 300 feet from the property line of New Town Section 8, an area master planned since 1997 for around 400 homes as a part of the widely successful New Town mixed use community. We believe that the approval of this application will greatly impact the viewsheds and corresponding quality of life for our existing residents as well as our ability to develop and market the homes planned for New Town Sections 7 and 8, some of the final components of the New Town community planned for over 15 years.

We believe this application should be denied for the following reasons:

1. Inconsistent with the 2009 Comp Plan. The 2009 James City County Comprehensive Plan states the County's desires to "[k]eep the number of wireless communication facility sites to a minimum" and to "[m]inimize the impacts of newly approved wireless communications facilities." Despite the applicant's claim that the proposed site is the last option, throughout the review of this application, New Town and other neighboring property owners have raised multiple suggestions of alternative locations and the ability to collocate the nTelos facilities at other existing tower sites, including the WMBG Radio Tower and property available behind Monticello Marketplace. These alternatives have not been proven by the applicant to be materially unsuitable.

Further, the Comprehensive Plan recognizes Route 199 as a Community Character Corridor, which serves as a first impression of the quality and character of the County for many visitors. According to the Comprehensive Plan, the intended effect of a "Wooded Community Character Corridor", such as Route 199, is "to maintain the wooded and natural character of the County." Given a proposed height of 172 feet, the tower cannot be effectively buffered and as the County Planning Staff has suggested, this tower will be

A. Collocation and Alternatives Analysis

"highly visible" from Route 199 and will be a "dominant visual feature" along portions of the corridor.

2. Inconsistent with the County's Wireless Communication Facilities Ordinance. James City County Code Section 24-121 states that the two goals of WCF placement in the County are to "[p]rotect viewsheds and the scenic beauty of James City County" and to "[d]eploy WCFs in a manner that will not adversely impact property values." This application violates both goals by proposing a massive 172 feet tall tower within approximately 300 feet of New Town Section 8, one of the largest concentrations of homes planned in the entire New Town community. Potential homebuyers choose New Town for its unique focus on aesthetics and attractive integration of different uses, but the imposing view of a cell tower simply cannot be disguised. In my opinion, a homesite with a dominant view of a 172-foot tall tower will be less marketable, especially when dealing with new home sales such as those in New Town Section 8. Accordingly, approval of this application would result in a decrease in property values and potential sales prices for homes in New Town Sections 7 and 8, which in turn will affect the overall property values in New Town and ultimately the County.
3. Inconsistency with the County's Performance Standards. Based on strong community input on this topic, the Board of Supervisors adopted "Performance Standards for Wireless Communication Facilities That Require A Special Use Permit" to be used in evaluating SUP applications like the subject application. Below is just a summary of some of the specific Performance Standards and the deficiencies of this application, which have also been identified by County staff.

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 WCFs and potential alternative mounting structures 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 system that uses lower antenna heights than proposed.

-As noted above, throughout the review of this application, numerous additional alternative sites have been suggested, and I am not aware that the applicant has produced verifiable evidence that such sites are not feasible as alternative or collocation sites. Further, I am not aware that the applicant has demonstrated that adequate service coverage cannot be

provided through the use of a camouflaged WCF, alternative mounting structure, or a system that uses lower antenna heights.

B. Location and Design

1. WCFs 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 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 would be located; and (2) WCFs should be located and designed in a manner that protects the character of the County's Community Character Corridors and historic and scenic resource areas and their view sheds.

<i>Proposed Location of 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, a well buffered slickstick, Multi-Antenna system, or have a minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or community character corridors.</i>
<i>b. Near a historic or scenic resource area or on a Community Character Corridor</i>	<i>Use a camouflaged design or slicksticks that have minimal intrusion on to residential areas, historic and scenic resources areas or on community character corridors.</i>

-The proposed site is designated by the 2009 Comprehensive Plan as Low Density Residential (LDR), so the above chart would require "a well buffered slickstick" or that the WCF "have a minimal intrusion on to residential areas...or community character corridors." Even the applicant's simulated photographs show much more than a minimal intrusion onto the viewshed from Route 199. Moreover, the homes proposed for New Town Section 8 are even closer to the tower site than Route 199, so the views from Section 8 will be even worse. Additionally, once the clearing has occurred for the development of Section 8, most of the buffering available to the tower site will be lost, and the tower will likely be more visible from other sections of New Town.

C. Buffering

1. 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 WCFs base or related facilities.

-Based on the extreme height of the tower, only the base of the tower can be buffered from adjacent properties and public roads, and the tower not only will be visible from adjacent properties and public roads, but it will be the dominant visual feature of the viewshed in such areas where visible. Further, much of the "buffering" currently available to the tower site is actually the existing tree cover on the New Town Section 8 property that will be

cleared when Section 8 is developed, which development has received zoning approval and is under active preparation for development. Once New Town Section 8 is built, the tower will be much more visible, not just from within New Town, but from all locations due to this loss of tree cover in New Town currently buffering the proposed tower site.

4. **Burden Without Benefit.** Asking New Town homeowners to bear the burden of the negative impact on their viewshed of a 172 feet tall tower might seem more reasonable if these same homeowners knew that the tower was actually benefitting them with better wireless coverage. However, the applicant's propagation maps provided with the application show that the proposed cell tower is being proposed to serve gaps in nTelos coverage west of Route 199, mainly in the area of Ford's Colony and that the tower ~~would not serve the New Town area. Accordingly, we feel this is a burden that is more~~ appropriately shouldered by alternative locations that will be benefited. Asking New Town to accept the downside impact of a tower that does not benefit new Town, but benefits a nearby neighborhood instead is simply not fair. If this is primarily to benefit a nearby neighborhood it should be located in that neighborhood.
5. **Telecommunications Act of 1996.** This application has generated discussion of the applicant potentially filing a lawsuit against the County based on the Telecommunications Act of 1996, which preserves local zoning authority over decisions regarding the siting of wireless communication facilities, and requires that "[a]ny decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record." 47 U.S.C. §332 (c)(7)(B)(iii) (emph. added). The term "substantial evidence" as used in the context of this law has been defined by the courts as "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." Cellular Telephone Co. v. Town of Oyster Bay 166 F.3d 490, 494 (2d Cir.1999). Fourth Circuit courts have routinely upheld denials of telecommunication facilities denied on the basis of local zoning requirements, comprehensive plans, and reasonably founded community concerns. Several other examples are attached to this letter.

Based on the above stated inconsistencies, we believe this case would be no different and a decision to deny the tower SUP application could be easily upheld based on the deficiencies with respect to the 2009 Comp Plan, James City County Wireless Communications Facility Ordinance, and Wireless Communication Facility Performance Standards.

In summary, we believe this proposed tower

- is inconsistent with the Comprehensive Plan.
- is inconsistent with the County Ordinances.
- is inconsistent with County Performance Standards.
- burdens New Town without any benefit.
- can be denied without violating the Telecommunications Act of 1996.
- should be located near the population it benefits most.

I have been involved with New Town for 15 years. I have never before written to all Members of the Board of Supervisors and have never before sought individual meetings with all of the Members of the Board of Supervisors. I would like to meet personally with you to discuss this matter. I will contact you to schedule an appointment. Thank you.

If I may be of any further assistance in your consideration of this matter, please do not hesitate to contact me.

Sincerely,



New Town Associates LLC
Lawrence Salzman, President

TELECOMMUNICATIONS CASES
2000, 2003, 2010, 2012

- “[A] proposed telecommunications facility’s inconsistency with local zoning requirements can be sufficient to establish substantial evidence supporting the denial of a zoning application.” New Cingular Wireless PCS v. Fairfax County Board of Supervisors, 2010 U.S. Dist. LEXIS 120083 (4th Cir. 2010).
- Evidence that the proposed facility “would be inconsistent with” a county’s “Comprehensive Plan” or “Zoning Ordinance.” 360° Commc’ns Co. of Charlottesville v. Bd. of Sup’rs of Albemarle Cnty., 211 F.3d 79, 84-85 (4th Cir. 2000).
- Denial of an application to build a telecommunications tower found “ample support” in the form of “evidence regarding the proposed tower’s inconsistencies” with “zoning ordinances and guidelines”. USCOC of Va. RSA #3 v. Montgomery Cnty. Bd. of Sup’rs, 343 F.3d 262, 272 (4th Cir. 2003)
- “When considering whether the record contains such relevant evidence that a reasonable mind might accept as adequate to support the Zoning Board’s conclusion, we have explained that ‘a reasonable mind’ should be understood as ‘the mind of a reasonable legislator.’ Under this reasonable-legislator standard, it is not only proper but even expected that a legislature and its members will consider the views of their constituents to be particularly compelling forms of evidence. Hence, if a legislative body denies a permit based on the reasonably-founded concerns of the community, then undoubtedly there is substantial evidence to support the body’s decision.” New Cingular Wireless PCS, LLC v. Fairfax County Bd. of Supervisors, 674 F.3d 270, 274-75 (2012) (internal citations omitted).

MEMORANDUM COVER

Subject: Case No. Z-0004-2012. Walnut Grove Proffer Amendment

Action Requested: Shall the Board of Supervisors approve the Walnut Grove Proffer Amendment and accept the amended proffers?

Summary: Mr. Jay E. Epstein of Health E Community Enterprises has applied to amend the adopted proffers to allow the existing Anderson-Hughes House to be demolished and the construction of a new structure of similar size and scale. The applicant has proffered several items in connection with this re-construction. All other existing proffers would remain unchanged.

At its June 6, 2012, meeting, the Planning Commission voted 5-2 to recommend approval of the proposed proffer amendment.

Since the initial Board of Supervisors review on July 10, 2012, the applicant has added two proffers to the proffer set – commitment to preserving an original tool shed and sign, and commitment to providing the County with \$30,000 for historic preservation purposes.

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. Resolution
3. Minutes of the June 6, 2012, Planning Commission Meeting
4. Location Map
5. Proffers
6. Elevations, Building and Site Layout Sheets
7. Site Summary Submitted by Applicant

Agenda Item No.: I-3

Date: September 11, 2012

REZONING-0004-2012. Walnut Grove Proffer Amendment
Staff Report for the September 11, 2012, Board of Supervisors Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the Planning Commission and Board of Supervisors to assist them in making a recommendation on this application. It may be useful to members of the general public interested in this application.

PUBLIC HEARINGS

Planning Commission:

Building F Board Room; County Government Complex

May 2, 2012, 7:00 p.m. (deferral requested by applicant)

June 6, 2012, 7:00 p.m.

Board of Supervisors:

July 10, 2012, 7:00 p.m. (deferral requested by applicant)

August 14, 2012, 7:00 p.m. (deferral requested by applicant)

September 11, 2012, 7:00 p.m.

SUMMARY FACTS

Applicant:

Mr. Jay E. Epstein of Health E Community Enterprises

Land Owner:

Richmond Norge LLC

Proposal:

Amend the adopted proffers to allow the existing Anderson-Hughes house to be demolished and the construction of a new structure of similar size and scale.

Location:

7375 Richmond Road

Tax Map/Parcel No.:

2320100030x

Parcel Size:

1.156 acres

Existing Zoning:

B-1, General Business, with proffers

Proposed Zoning:

B-1, General Business, with amended proffers

Comprehensive Plan:

Low Density Residential

Primary Service Area:

Inside

STAFF RECOMMENDATION

Staff finds the proposal to be compatible with the surrounding zoning and development and consistent with the 2009 Comprehensive Plan. Staff recommends the Board of Supervisors approve this proposal and accept the amended and restated proffers.

Staff Contact: Ellen Cook, Senior Planner, II

Phone: 253-6685

PLANNING COMMISSION RECOMMENDATION

At its June 6, 2012, meeting, the Planning Commission recommended approval by a vote of 5-2.

Proposed Changes Made Since Planning Commission Meeting

The applicant has proposed and included two new proffers in their proffer set: Proffer 15g with associated Exhibit B, and Proffer 15h. In Proffer 15g, the applicant commits to preserving the original tool shed and farm sign, and relocating these to the front yard of the reconstructed Anderson-Hughes house. The shed, as an outbuilding for the Anderson-Hughes farm, had been identified as a contributing structure at the time that the Norge Historic District was proposed for listing on the National Register of Historic Places (it was not ultimately listed). Upon the applicant's proposal to include the shed in the proffer set, the County's Director of Building Safety and Permits viewed the shed and stated that in his opinion, the shed is in generally good shape and he did not have concerns about the ability to move the shed on-site.

Proffer 15h states that prior to issuance of a Certificate of Occupancy for the reconstructed Anderson-Hughes house, the applicant commits to making a cash contribution of \$30,000 to the County to be used for historic preservation purposes.

Proffers: Are signed and submitted in accordance with the James City County Proffer Policy.

PROJECT DESCRIPTION

The James City County Board of Supervisors approved Case No. Z-0019-2005/MP-0016-2005/SUP-0032-2005, Jennings Way, on April 11, 2006. This development is currently referred to as Walnut Grove. The rezoning included two parcels. The first, 7345 Richmond Road, was rezoned from R-2 to R-2, Cluster, overlay with proffers. The second, 7375 Richmond Road, was rezoned from B-1 to B-1, with proffers. Included on the subject properties was the Anderson-Hughes house which was determined to have some architectural and historical value. For this reason, the applicant proffered to retain and preserve the residential appearance of the structure as part of the commercial development on the B-1 parcel. The existing house was planned to be moved on-site to accommodate the location of the entrance road.

The approved proffers dated March 22, 2006, make reference to the Anderson-Hughes house in Proffer No. 15 which states the following:

15. The Anderson-Hughes house located on the portion of the property zoned B-1 shall be retained in a manner that preserves the existing residential appearance of the building.

Subsequently, in late 2007, the owner commissioned a Property Condition Assessment of the house that determined that it would not be feasible to repair or relocate the building since moisture and materials failure had compromised some, if not all, of the support structure. In 2011, the existing structure has deteriorated to the point that it was deemed by the Building Official to pose a significant threat to public safety and a notice was issued to remove the structure.

Because the house cannot be relocated or refurbished, the applicant has submitted an application to amend the proffers such that the original Anderson-Hughes house may be demolished and a new structure constructed. The new structure would reconstruct the main structure of the Anderson-Hughes house and add some one-story space (approximately 900 square feet) in the rear of the structure that is the approximate size of the attached kitchen that had existed previously and had dated back to the early 1900s.

The applicant has proffered several items in connection with this reconstruction. The applicant proposes:

- To demolish the existing structure within 30 days to address the public safety concerns.
- To build the new structure with green building features that conserve energy and water. A full list is included as an attachment to the proffers.

- To include elements that make the structure more consistent with the house as it existed in the early 1900s time period (the period of greatest historical significance for Norge), based on pictures of the structure. The most prominent element in this regard is a full width porch rather than the portico which is thought to have been built in the 1960s. The applicant has produced building elevations showing the proposed reconstructed house, which are referenced in the proffers. The applicant has also proffered to salvage intact historic elements from the interior of the existing building.
- To limit the possible B-1 uses to a greater degree than the original master plan and proffers. Previously, any permitted commercial use in B-1 would have been allowed. The applicant now proposes to limit the uses to retail, office, or restaurant.

Surrounding Zoning and Land Use

The properties to the north of and across Richmond Road are zoned B-1, General Business. The remainder of the adjacent parcels are zoned R-2, General Residential. The B-1 parcel to the north is developed as a motel structure and the parcel across the street is medical offices. The R-2 properties are mostly developed as single-family homes. When the Walnut Grove development is built, it will include both single-family homes and townhouses.

COMPREHENSIVE PLAN

This site is designated Low Density Residential on the 2009 Comprehensive Plan Land Use Map. Recommended uses include single-family homes, duplexes, accessory units, cluster housing, recreation areas, churches, very limited commercial facilities, timeshares, and retirement and care facilities/communities. The following standards are given for uses such as very limited commercial that are located in Low Density Residential areas:

1. Complement the residential character of the area;
2. Have traffic, noise, lighting, and other impacts similar to surrounding residential uses;
3. Generally be located on collector or arterial roads at intersections; and
4. Provide adequate screening and buffering to protect the character of nearby residential areas.

In terms of complementing the residential character of the area, the applicant proposes constructing a new house modeled on the existing one, with the attached outbuilding area included. As such, the reconstructed building is residential in scale and will complement the residential character of the area, while accommodating a commercial use under the existing B-1, General Business, zoning. The impacts for traffic, noise, and lighting are not anticipated to differ from the impacts of the use as it had been approved previously as a part of the Walnut Grove rezoning. The site is also immediately adjacent to Richmond Road and the beginning of the Walnut Grove entrance road, so traffic is not required to drive through any existing neighborhoods. Finally, when the master plan and proffers were originally developed, the Special Use Permit (SUP) conditions included provisions for enhanced landscaping along Richmond Road and in the perimeter buffers, and fencing and street trees along the entrance road.

Norge is designated as a Community Character Area. The Comprehensive Plan states that the architecture, scale, materials, spacing, and color of buildings should complement the historic character of the area. Retaining and rehabilitating the existing house would more ideally have met this goal. However, the applicant's proposal to model the new house structure on the existing one, with some features that more closely link the house to its original historic appearance, should complement the historic character of the Norge village. Staff has spoken informally to a representative of the College of William and Mary Center for Archaeological Research who has concurred that since the building is to be built anew, making the new structure more consistent with the original appearance is more supportive of the Norge historical area.

Finally, the residential development standards for Low Density Residential includes, under enhanced environmental protection, the idea of adhering to green building measures. The applicant has now included green building measures as part of rebuilding the structure.

The proposal, with the amended proffers, is consistent with the land use designation and community character goals identified in the 2009 Comprehensive Plan.

RECOMMENDATION

Staff finds the proposal to be compatible with the surrounding zoning and development and consistent with the 2009 Comprehensive Plan. Staff recommends the Board of Supervisors approve this proposal and accept the amended and restated proffers.


Ellen Cook

CONCUR:

Allen J. Murphy, Jr.

EC/gb
ZO-04-12WalnutGrovePro.doc

ATTACHMENTS:

1. Resolution
2. Minutes of the June 6, 2012, Planning Commission
3. Location Map
4. Proffers
5. Elevations, Building, and Site Layout Sheets prepared by Bay Design, dated May 18, 2012
6. Site Summary prepared by applicant, date stamped July 2, 2012

RESOLUTION

CASE NO. Z-0004-2012. WALNUT GROVE PROFFER AMENDMENT

WHEREAS, in accordance with 15.2-2204 of the Code of Virginia, 1950, as amended, and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified and a hearing scheduled on Zoning Case No. Z-0004-2012 for amending the existing proffers; and

WHEREAS, the property is located at 7375 Richmond Road, also known as James City County Real Estate Tax Map No. 2320100030; and

WHEREAS, the Planning Commission of James City County, following its hearing on June 6, 2012, recommended approval of Case No. Z-0004-2012, by a vote of 5-2; and

WHEREAS, the Board of Supervisors of James City County, Virginia, finds this use to be consistent with the 2009 Comprehensive Plan Land Use Map designation for this site.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves Case No. Z-0004-2012 as described herein and accept the amended and restated proffers.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ZO-14-12WalnutGrovePro_res

MINUTES OF THE
JUNE 6, 2012 PLANNING COMMISSION MEETING

A. Z-0007-2012, Walnut Grover Proffer Amendment, Anderson-Hughes House

Mr. O'Connor stated this is a continuation from the last public hearing.

Ms. Cook state that Mr. Jay Epstein has applied to amend the Walnut Grove proffers in relation to the existing Anderson-Hughes house. She stated that the existing proffers, put in place in 2006, state that the house shall be retained in a manner that preserves the existing residential appearance of the building.

Ms. Cook stated that a Property Condition Assessment commissioned by the owner in 2007 determined that it would not be feasible to repair or relocate the building since moisture and materials failure had compromised some, if not all of the support structure. She stated that in 2011, the existing structure was deemed by the Building Official to pose a significant threat to public safety, and a notice was issued to remove the structure.

Ms. Cook stated that because the house cannot be relocated or refurbished, the applicant has submitted an application to amend the proffers such that the original Anderson-Hughes house may be demolished, and a new structure constructed. She stated that the applicant has proffered several items in connection with this re-construction, including:

- To demolish the existing structure within thirty days, to address the public safety concerns.
- To build the new structure with green building features that conserve energy and water, among other things.
- To include elements that make the structure more consistent with the house as it existed in the early 1900's time period, based on pictures of the structure. The most prominent element in this regard is a full width porch rather than the portico. The applicant has produced building elevations showing the proposed reconstructed house, which are referenced in the proffers. The applicant has also proffered to salvage intact historic elements from the interior of the existing building.
- To limit the possible B-1 uses to a greater degree than the original master plan and proffers. Previously, any permitted commercial use in B-1 would have been allowed. The applicant now proposes to limit the uses to retail, office or restaurant.

Ms. Cook stated that staff recommends that the Planning Commission recommend approval of this proposal to the BOS with the amended and restated proffers. She stated that staff finds the proposal to be compatible with the surrounding zoning and development and consistent with the 2009 Comprehensive Plan.

Mr. Mike Ware stated he represents the applicant, Mr. Jay Epstein. He stated that this matter has been on-going for several years. He stated that this proffer was initially made when the property was owned by a different party. He stated that during that time the house was

packed with personal belongings from floor to ceiling. He stated that in August 2006, ownership of the property was transferred to Mr. Epstein. He stated that it took a fair amount of time for the previous property owner to move all their belongings. He stated that in October 2007 severe structural damage in the house had been identified. He stated that the house was beyond repair. He provided images of the attic showing damage from a fire. He stated that the house had been added onto in different phases. He stated the house was built using balloon construction. He stated that Bay Designs, engineering firm had been consulted to address the damage and assess repair feasibility. He stated that the applicant wanted to frame the house from the inside though Bay Designs determined that this was not feasible. He stated that the applicant intends on utilizing many components of the older home such as the staircase assemblies and trim work. He stated that the new house will be constructed using hardy plank board with role bead to match the early construction. He stated that the house will have dentil blocks, done in PVC. Mr. Ware provided an image of what the house was going to look like after it was reconstructed as proposed.

Mr. Krapf stated that the proposed restoration is commendable. He stated that he understands that they could not get into the house until 2007, though it is surprising that greater efforts were not made at that time to secure the structure. He stated that in the pictures provided there are holes in the roof but the applicant did not place even a tarp on it. He stated that in 2007 the discovery had been made regarding the damage and then five years elapsed before the applicant brought forward the new proposal. He asked why there were no attempts made to stabilize the condition of the house during the last five years.

Mr. Ware stated that the original proffer was to retain the outward appearance, not full restoration. He stated that there may have been miscommunication regarding the intention of the original proffer. He stated that they had worked with the County Attorney to clarify expectations. He stated that the house being in such poor condition, there was nothing left to preserve even in 2007. He stated that Mr. Epstein earnestly wanted to retain the house and have it be the focal point at the entrance to the neighborhood. He stated that the house was never treated for termites or powderpost beetles and the issues were there. He stated that at one time Jeff Forney, the superintendent had attempted to place a tarp on the roof but the supporting structure was too badly damaged. He stated that as far as the length of time it took to return with a new proposal this can be attributed to the slow market. He stated that all aspects of developing the subdivision were put on hold due to the slowing of the economy.

Mr. Krapf stated that it is understandable that no one would get on the roof to place a tarp but they could have employed the use of a crane. He stated that it would bolster the applicant's cause to have an itemization of all the efforts made up to this point. He stated that having a complete log of consultants brought out and actions taken would be helpful to show that the applicant was actively pursuing solutions.

Mr. Ware stated that from August 2006 thru March 2008 there were a number of actions taken to resolve these issues. He stated that one event of greater significance took place on December 21, 2007; Bay Designs provided an extensive report on many different aspects of the house. He stated that the report indicated that the support structure of the house was badly compromised, making restoration impossible. He stated that Jonathan Frank of Bay Designs

stated that the damage was severe. He stated that this report was given 14 months after acquisition of the property. He stated that the contractor called upon to move the house stated that he would not be willing to do the job. Mr. Ware stated that he understands what Mr. Krapf is objecting to but the lapse of time between 2007 and now is not responsible for the changed course of action.

Mr. Basic asked Mr. Ware to explain why the report made in 2007 did not occur prior to the applicant's proffer agreement.

Mr. Ware stated that prior to 2006 the house was occupied by the prior owner. He stated that there was a contract to buy the property with several conditions attached, one being that Health-E Communities receive approval from the County for Walnut Grove Subdivision. He stated that the applicant for the original proffer agreement was the prior property owner. He stated that the house had a lot of material items in it, for example many TVs. He stated that the house had a brick foundation with no foundation vents. He stated that there was no way to get underneath the house for an inspection.

Mr. Ware showed several pictures of the house.

Mr. Ware explained that at the edge of the chimney was the farthest point of the original house. He stated that the previous owner had added onto the house.

Mr. Basic stated that he understands that additions had been made to the house. He stated he still wants to know what could have prevented the applicant from arriving at this place, unable to fulfill the proffer.

Mr. Ware stated that they did not know the condition of the house when the proffer was made. He stated that the house was packed so full that they could not get to the attic. He stated that the house had no access to the crawl space. He stated that the addition to the kitchen on the back of the house included a stonewall eliminating yet another access point. He stated that there was a root cellar that could be accessed thru the outside of the kitchen. He stated that in the original structure you could not get to the attic nor beneath the house. He stated that there were portions of the interior that you could access, and they did not look badly damaged. He stated that there were large, visible beams that only upon close inspection revealed damage. He stated that in order to replace the beams you would have to tear the house apart. He stated that they did not know the condition of the house but it was not for a lack of trying. He stated that to get to the crawl space a portion of the house had to be removed.

Mr. Ware showed an image of the back of the house. He pointed out how they accessed the crawl space.

Mr. George Drummond stated that he has some experience with house renovations involving homes built at the turn of the century. He stated that there are unanticipated complications involving these older homes due to how they were constructed.

Mr. Ware showed images of where a portion of the building was torn off so they could gain access to the crawl space. He pointed out areas where they found rot.

Mr. Drummond stated that it would appear that these problems would have to have been identified and addressed ten or fifteen years ago to save the structure.

Mr. Ware stated that the engineer said that if the house was constructed differently and the beams were not an intricate part in the supporting structure the house would not be beyond repair. He stated that the termite damage to the beams has made renovation impossible. He stated that the house had never been treated for termites. He stated that Mr. Epstein was overambitious. He stated that they plan to construct the exact same building with even more enhancements to reflect the Norge community.

Ms. Robin Bledsoe asked Mr. Ware what the difference is between Health-E Community Green Building techniques and LEED building techniques.

Mr. Ware stated that he could talk about what is utilized in a Health-E Community building. He stated that most of the buildings have "California corners", which is 2" x 6" instead of 2" x 4" framing on exterior walls. He stated that this is a structural improvement but it also means that all the air handling duct work and equipment is within the insulated wall. He stated that crawl spaces would be in conditioned air space. He stated that the houses are all thermal-imaged post construction to make certain that there is no loss of heat. He stated that at one time Health-E-Community had a partnership agreement with Virginia Power; they would guarantee heating and cooling costs for one of their homes at less than \$75/month.

Mr. O'Connor stated that this is not the equivalent of other industry standards.

Mr. Ware stated that in some cases this is better than industry standards. He stated that homeowners do not pay a fee to have the house certified. He stated that their project in Richmond is another example of their homes exceeding industry standards.

Mr. Woods asked if staff agrees that the building needs to be demolished.

Ms. Cook responded affirmatively. She stated that there was a letter from the Building Inspector to that affect.

Mr. Woods recapped. He stated that the property is in such a condition that it needs to be demolished. He stated, irrespective of our initial intentions to restore, it can no longer be accomplished.

Ms. Cook responded affirmatively.

Mr. Woods stated that the proposed proffer amendment would allow the home to be replicated as opposed to being restored. He stated that the alternative would mean that the County can move forward with having the house demolished but the community would be denied the benefit from having a replica of the house built in its place.

Ms. Cook responded affirmatively.

Mr. Adam Kinsman stated that if the proffer amendment were not approved there would be one of three outcomes; the house could be rebuilt at all costs to comply with the proffer agreement; there could be a comprehensive rezoning to use the property; or do nothing at all. He stated that the Code Official has put out a notice in the newspaper as well as a certified letter under the County's Dangerous Structure Ordinance stating the house is a danger.

Mr. Woods stated that the rezoning application negates the proffer that was previously approved, forcing the County to consider a new proposition.

Mr. Kinsman stated that the condition of the house is such that rebuilding is no longer a viable option. He stated considering the poor condition of the house, the options ultimately become either build a replica or nothing.

Mr. Woods stated that of all the Commissioners, Mr. Krapf may be the most sensitive to the needs of the Toano area. He asked Mr. Krapf from the eyes of the community how do these options sit with him.

Mr. Krapf stated that he is concerned with the message this chosen course of action conveys. He stated that not having heard anything substantive for seven years to show an active effort on the part of the applicant to live up to the proffer is disconcerting. He stated that he appreciates historic preservation efforts taken. He stated that at this point it is apparent that the house is not salvageable. He stated that the proffer agreement is a legally binding contract. He stated that it appears that something was languished rather than proactively pursued.

Mr. Basic asked if there is a lesson learned for staff involving future land use cases with architectural preservation proffers. He asked if it would become routine to have the building inspected prior to acceptance of the proffer agreement.

Mr. Chris Johnson stated that it would be beneficial to have staff attempt to verify the structural integrity of the property prior to accepting or recommending the proffer agreement. He stated that following approval of this case by the BOS in 2006 the applicant did submit a rezoning application to amend the proffers in early 2007. He stated that the applicant recognized the need to move the structure. He stated that it was not until later in 2007 when the report came back determining that it was not possible to move the structure. He stated that during that interim period where the application had been filed there had been questions raised by staff as to whether it was possible to preserve and restore or move. He stated that the initial report came back stating that the structural integrity had been compromised it had to be demolished. He stated that there were questions raised by staff as to whether that was the case. He stated that ultimately that lead to the case being withdrawn. He stated that other properties that Mr. Epstein has been involved in moved forward but this one did not. He stated that the property that is pointed out on the map, labeled as the Anderson-Hughes house is zoned B-1. He stated that Mr. Epstein's intention had always been to retain the residential character of this corridor by keeping the house. He stated that the residential character and feel will be maintained even if the ultimate use of the newly

constructed building deviates from residential. He stated that the property has a very limited amount of typical B-1 uses, primarily retail offices and restaurant. He stated that there was a period of time between when this case was adopted and when the new application was submitted. He stated that there was some effort made by the applicant to attempt to move forward and see if there was any means with which to find some relief from that proffer when it was discovered that the integrity of the structure was compromised.

Mr. O'Connor asked if this property were to go thru a rezoning what other options would be available for B-1 uses, should the property be demolished.

Mr. Johnson stated that the current proffers on the property do not contain a limitation on the uses that would be allowed in B-1. He stated that B-1 has many permitted and specially permitted uses. He stated that the properties on most sides of this structure are residential in nature. He stated that the intent being made by the applicant is not just to produce a residential structure but to produce one through their proffers. He stated that it would not only retain the residential feel but it is more historically accurate to the time and place of many of the other structures in the surrounding community. He stated that this proffer also lends to the amount of commercial uses to that structure to retail office and restaurant rather than the myriad of by-right, B-1 uses that could be placed on the property.

Mr. O'Connor stated Mr. Kinsman had mentioned the possibility of rebuilding the whole house in place and then moving it. He asked Mr. Ware if that is possible.

Mr. Ware stated that the house is not re-buildable. He stated that in his estimation, it was not re-buildable at the time when the original proffer was made. He stated that the determination was made shortly thereafter. He stated that he has a letter that was received by Joel Almquist in October 2007. He quoted from the letter: "the house, walls and foundations have extensive insect and moisture damage which will provide little or no support for steel or other new equipment." He stated that all of this is just part or parcel of what was explored. He stated that the application was submitted with the intention to reconstruct the house but the application was ultimately withdrawn. He stated that the intention was to have Bay Design frame it from the inside and reconstruct the house. He stated that shortly thereafter they received the report indicating that re-building was not an option. He provided more images of the original house. He stated that they had done a lot of research to achieve the best possible outcome. He stated they are very determined to create something that is similar to the character of the surrounding community.

Mr. O'Connor asked if the proffer amendment is not approved what is their intended alternative plan.

Mr. Ware stated that he is not aware of any backup plan on Mr. Epstein's part.

Mr. O'Connor asked if there was anyone that wanted to speak on this application. Hearing and seeing none, Mr. O'Connor closed the public hearing.

Mr. Drummond stated that he has experience with other structures built using balloon construction techniques. He stated that this type of construction complicates re-building. He

stated that it gets to a point where re-building is not feasible. He stated he supports approving the application and made a motion to do so.

Mr. Maddocks stated that he supports approving the application. He stated that re-building is not a viable option and the new construction of a replica would be an attractive feature for the community.

Mr. Krapf stated that he is not advocating that the house be restored. He stated that he has greater consternation over the integrity of the original proffer and the proffer process. He stated that before amending a proffer it is necessary to verify the efforts made to uphold the proffer. He stated that in his opinion that crucial information is missing. He stated that he recommends that when the package goes to the BOS that those elements be put in it. He stated that he does not want to have the message go out that proffer amends are easy to come by for future land use proposals. He stated that he is also bothered by the fact that five years passed since it became evident that there were problems that may prevent the applicant from complying with the proffer and the proposed amendment. He stated that he does not support the application for those reasons.

Mr. Maddocks asked staff if Mr. Drummond's motion should be amended to reflect Mr. Krapf's recommendation.

Mr. Kinsman stated that it is not necessary to have it in the motion. He stated that this message could be conveyed in the minutes.

Mr. Drummond stated that it was his understanding that the previous owners had applied for the proffers.

Mr. O'Connor stated that approval of the proffers was a condition of the sale of the property.

Mr. Kinsman stated that it was a contract purchase of the property. He stated that the signatories of the original proffers were Myrtle H. Jennings and Sandra K. H. Kelly, the two original owners, along with Mr. Epstein.

Mr. O'Connor stated that he drives by this property everyday and currently there is no maintenance being done with this property or the hotel next door. He stated that no one should go into such a venture blindly. He stated that the applicant did not do the necessary research prior to the original proffer proposal and property acquisition. He stated that the Comprehensive Plan indicates that maintaining the Norge/Toano character is of great importance. He stated that destroying the house would not meet the intention of the Comprehensive Plan. He stated that he struggles with this decision. He stated that he does not know how heavily this offering weighed in respect to the approval of the original application. He stated that restoring the house may have been the deciding factor for the original rezoning gaining approval.

Mr. Woods stated that at this time the house is an unsafe structure. He stated that at the point when the house gets demolished the applicant could apply for a rezoning. He stated that the

property is B-1 so there are a myriad of uses that are by-right. He stated that he has a hard time understanding how someone with experience arrives at this position. He stated, on the other hand, there are uses that are less attractive that could potentially occupy the property.

Mr. O'Connor asked how many units are intended for Walnut Grove.

Ms. Cook stated that there would be 85 units, 75 single family and ten townhouses.

Mr. O'Connor stated that there are ten units that are proffered to be affordable or workforce housing. He stated that this is a sizeable amount. He stated that this is a benefit to the community.

Mr. O'Connor stated that Mr. Drummond had made a motion to approve.

In a roll call vote, the motion was approved (5-2; Nay; O'Connor, Krapf).

JCC-Z-00004-2012

Walnut Grove Proffer Amendment



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AMENDED AND RESTATED PROFFERS

THESE AMENDED AND RESTATED PROFFERS are made this 22nd day of May, 2012, by RICHMOND NORGE, LLC, a Virginia limited liability company, successor to Myrtle H. Jennings and Sandra Key H. Kelley (together with its successors and assigns, the "Owner" or "Grantor") for the benefit of JAMES CITY COUNTY, VIRGINIA ("Grantee").

RECITALS

WHEREAS, Richmond Norge, LLC, is the Owner of a tract or parcel of land located in James City County, Virginia, with an address of 7375 Richmond Road, Williamsburg, Virginia, being Tax Parcel 2320100030, and a second address of 7345 Richmond Road, Williamsburg, Virginia, being Tax Parcel 2320100030A (together the "Property"); and

WHEREAS, said property is subject to Proffers dated March 22, 2006 (the "Existing Proffers"); and

WHEREAS, Owner has applied to amend and restate paragraph "15" of Existing Proffers; and

WHEREAS, Owner desires to amend and restate the Existing Proffers in order to offer to the Grantee certain amended conditions on the relocation/reconstruction of the Anderson-Hughes House in the B-1 zoning as set forth in paragraph 15 of the Existing Proffers.

NOW, THEREFORE, for and in consideration of the approval of the requested amendment, and pursuant to Section 15.2-2303 of the Code of Virginia, 1950, as

amended, and the County Zoning Ordinance, Owner agrees that it shall meet and comply with all of the following conditions in developing the Property.

AMENDED PROFFER NO. 15

15. Anderson-Hughes House.

a. Removal. The Anderson-Hughes House located on the property shall be demolished within 30 days of approval of this Proffer Amendment.

b. Reconstruction. A reconstructed building shall be located on the Property in the general location as shown on the drawing entitled "Site Plan Anderson Hughes House," dated May 18, 2012 and prepared by Bay Design. The residential appearance of the reconstructed building shall be consistent with the architectural elevations shown on the drawings entitled "Anderson Hughes House," dated May 18, 2012, prepared by Bay Design (the "Elevations"). Any deviations from the location and/or Elevations shall be approved by the Planning Director so long as the basic character is not altered. Any appeals to the Planning Director's determination shall be made to the Planning Commission.

c. Use of Salvageable Building Elements. The reconstructed building shall include any salvageable building elements from the existing Anderson-Hughes House. Examples could include, but are not limited to, doors, stairway banisters, and window sashes. A list of the elements to be salvaged shall be provided to the Planning Director for review and approval prior to demolition of the existing Anderson-Hughes House.

d. Size. The reconstructed building shall be equal to or less than 2856 square feet.

e. Green building techniques. The reconstructed building shall incorporate the Health-E-Community Green Building techniques set forth in Exhibit A, attached hereto. Upon request from the James City County Proffer Administrator, the owner shall provide to the County written certification that the reconstructed building has, in fact, been built according to these standards or their reasonable equivalent.

f. Use. The reconstructed building may only be used for retail, office and/or restaurant use.

g. Original Tool Shed and Sign. The tool shed and sign on the Property shall be maintained in a manner that preserves each as shown on Exhibit B to these Amended Proffers, which is dated June 24 2012 and titled Original Tool Shed and Sign. The tool shed and sign will be relocated to the front yard of the reconstructed Anderson-Hughes House.

h. Cash Contribution for Historic Preservation. Prior to the issuance of a certificate of occupancy for the reconstructed Anderson-Hughes House, Owner shall make a cash contribution of \$30,000.00 to the County to be used for historic preservation purposes.

ALL OTHER PROFFERS, RECITALS, AND CONDITIONS SHALL REMAIN THE SAME.

[signatures appear on the following page]

WITNESS the following signatures:

RICHMOND NORGE, LLC

By: N Saville
Norman B. Saville, Managing Member

STATE OF VIRGINIA

City/County of Hamover, to wit:

The foregoing instrument was acknowledged this 30th day of ~~May~~ ^{AUGUST}, 2012, by Norman B. Saville, as Managing Member of Richmond Norge, LLC.

Lisa Ann Casker
Notary Public

My commission expires: July 31, 2013
My registration number: 291661



Anderson Hughes House
Date May 18, 2012
Prepared By Bay Design

Anderson Hughes House

Building Size 2856 sq. ft.

33' - 8 1/2"

4' - 7 1/8"

26' - 0"

3' - 1 1/2"

**Main building setback approved by
BZA. All other Building Dimensions
conform with existing setbacks**

**Prepared by Bay Design
May 18th 2012**

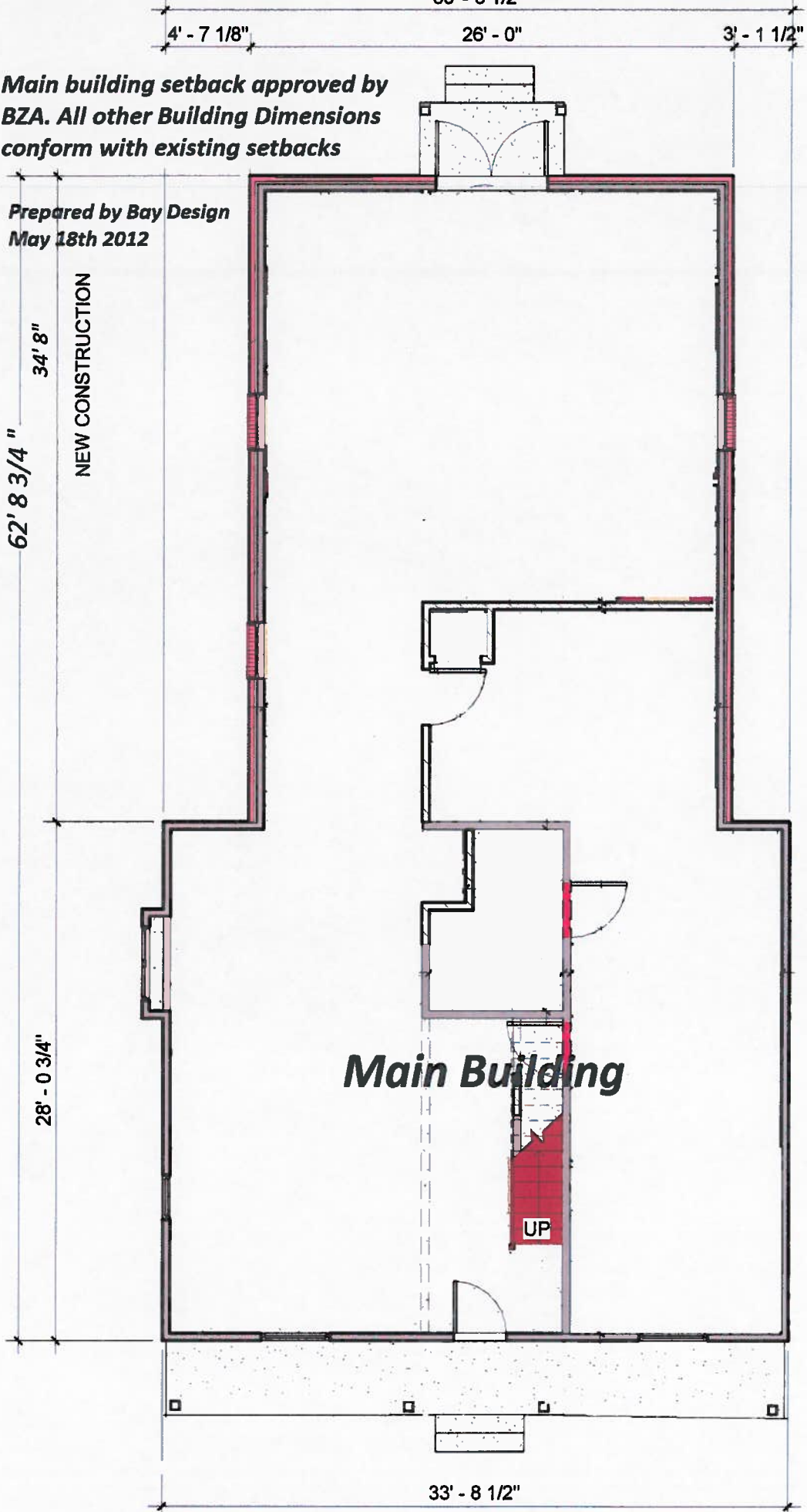
62' 8 3/4" 34' 8" NEW CONSTRUCTION

28' - 0 3/4"

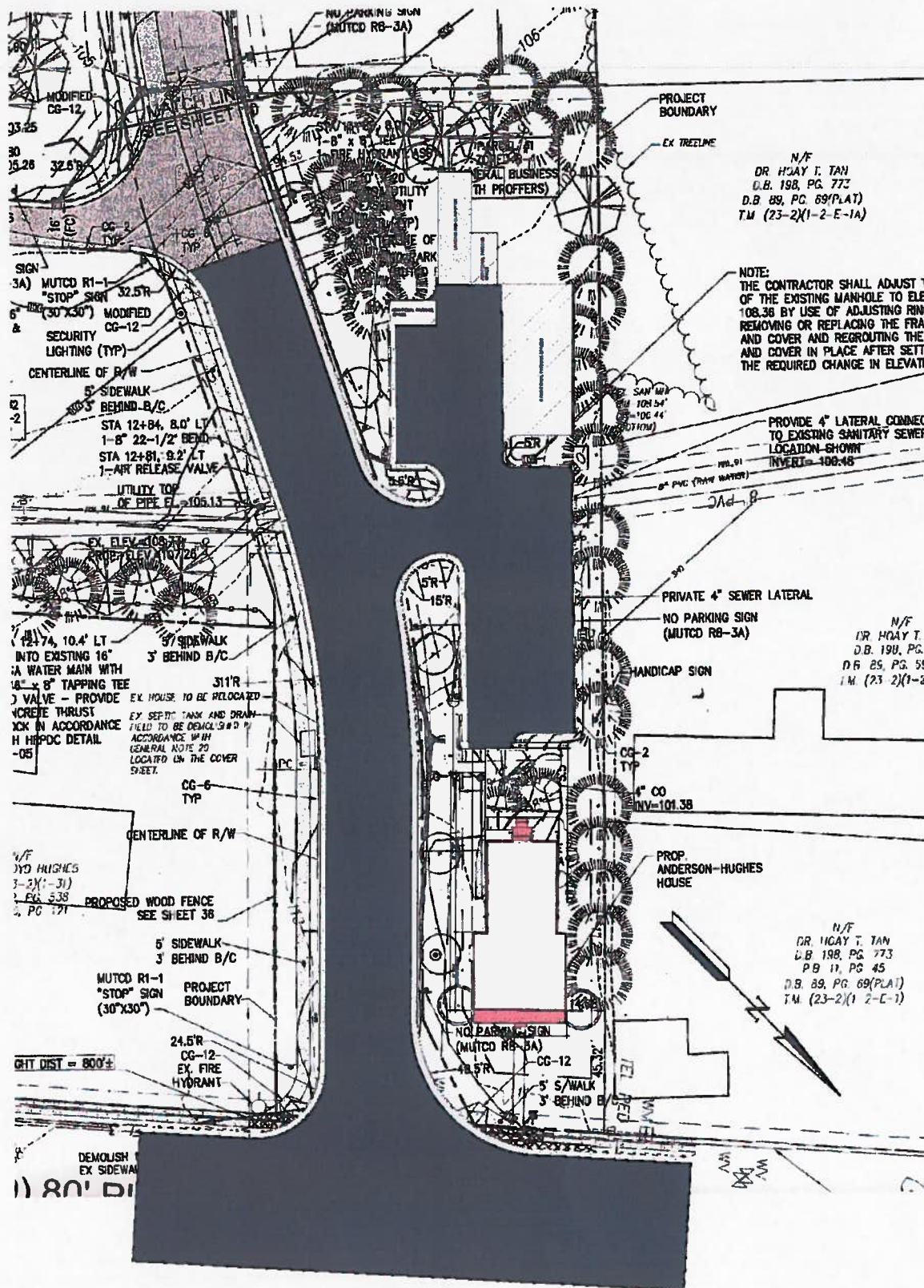
Main Building

UP

33' - 8 1/2"



Prepared by Bay Design



Anderson Hughes House

The Proffer states: #15 Anderson Hughes House. The Anderson-Hughes House located on the portion of the Property zoned B-1 shall be retained in a manner that preserves the existing residential appearance of the building.

The Events

April 6th 2006 Board Approval

August 8th 2006 Purchased Property-Once All personal belongs where removed from storage

November 7th 2006 Removed modern addition to access foundation and crawl to prepare for move and document condition of building

Slide 1 Exterior views of building

Slide 2 Removed building addition to prepare Main Building for Move

Slide 3 Document fire in attic that occurred years prior to purchase

Slide 4 Termite and structural Damage uncovered

Slide 5 Termite and structural damage extensive

Slide 6 Interior condition

Slide 7 Interior condition

2007 Looked at Options

- A. Due to issues identified in November, 2006, began discussions with staff on the interpretation of the proffer and possible methods for moving and restoring the structure. In July 2007 a proffer amendment application was submitted and staff and the applicant identified the need for further investigation of what was possible given the condition of the house.**
- B. Ace movers letter that building could not be moved dated October 23 , 2007**
- C. Bay Design Review of Structure dated December 21, 2007**
- D. Bay Design in its conclusion stated "It physically cannot be relocated without completely rebuilding the structure."**
- E. Mr. Ware stated at the PC meeting that the proffer amendment, and the subdivision as a whole, were not pursued at this time due to the slowdown of the economy"**

Exterior of House when Purchased

Slide 1



Removed Addition in preparation of move
Slide 2



Fire in the attic

Slide 3



Termite and Structural Damage

Slide 4



Termite and Structural Damage

Slide 5



Interior Pictures

Slide 6



Interior Pictures

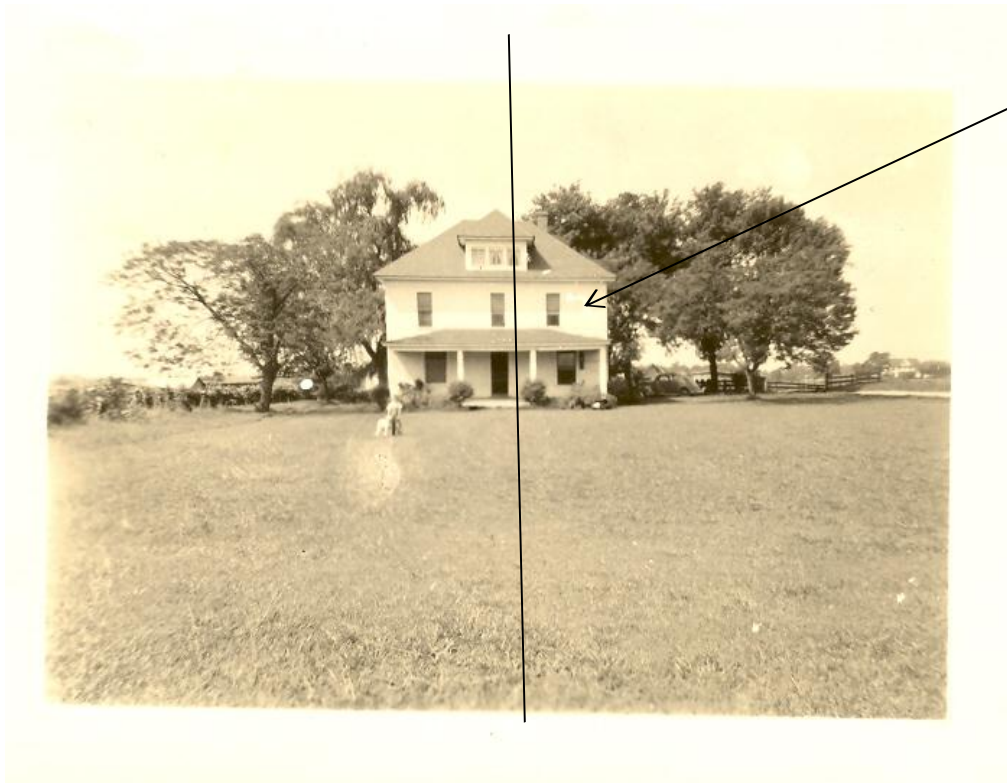
Slide 7



Historical Pictures of the Anderson Hughes House



Original
House



Addition

MEMORANDUM COVER

Subject: Case No. ZO-0002-2012. Definitions

Action Requested: Shall the Board approve the proposed amendments to the definitions ordinance?

Summary: Staff has created final language for Section 24-2, Definitions, of the Zoning Ordinance. The revisions proposed by staff are intended to ensure that terms are clearly defined and reflect changes made to other sections of the ordinance. The proposed amendments to the definition section of the ordinance fall into the following categories: new definitions, revisions to existing definitions, and deletion of existing definitions. Staff is also introducing illustrations to accompany the definitions of a few selected terms.

At an advertised public hearing on July 11, 2012, the Planning Commission recommended approval of the revisions proposed to Section 24-2, Definitions, of the Zoning Ordinance by a vote of 7-0.

Staff recommends that the Board of Supervisors approve the proposed revisions to this section of the ordinance.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Memorandum
2. List of revised definitions
3. Revised Section 24-2 of the Zoning Ordinance
4. Approved minutes of the July 11, 2012, Planning Commission meeting
5. Clean copy of above ordinance (in Reading File)

Agenda Item No.: I-4

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Jose Ribeiro, Senior Planner

SUBJECT: Case No. ZO-0002-2012. Definitions

Staff has drafted final ordinance language for the definitions section of the Zoning Ordinance. The proposed changes are intended to ensure that terms are clearly defined and reflect changes made to other sections of the ordinance. As highlighted in the attached table, revisions fall into the following categories:

1. New definitions
2. Revisions to existing definitions
3. Deletion of existing definitions
4. Illustrations

Initial proposals to some definitions were previously submitted to the Policy Committee for consideration as part of the review of individual districts and sections of the ordinance (e.g., definitions of “portable cellular transmission facility” and “monopole” as part of revisions to the Wireless Communication Facility section of the ordinance). Other definitions such as “workforce housing” and “group home” were recently finalized by staff and are now being introduced together with other revised definitions as part of one single document. The attached materials are associated with Stage III, Final Review of the Definition section.

The definition section is an important part of the ordinance as it offers clarification and understanding of terms that may be confusing or unfamiliar to many readers. This section is also important to professional staff as it provides clarification of meaning and is commonly used as building blocks to better understand and evaluate the nature and impacts of certain uses or activities.

1. New definitions

Staff proposes new definitions in order to explain recent terms in the process of being introduced into the ordinance. For instance, given the importance of senior housing/care in the County, terms such as “assisted living facility,” “independent living facility,” and “continuing care retirement community (CCRC)” are being introduced and clearly defined into the ordinance. Examples of other new definitions for consideration include:

- Certificate of Occupancy (C.O.);
- Developable Area;
- Green building; and
- Pedestrian accommodations

2. Revisions

Some of the revisions proposed by staff are being made to correct grammatical errors. Other definitions are being revised to ensure that the language reflects changes made to the Code of Virginia. However, the majority of the changes proposed by staff are being made in order to improve readability and to clarify the language of existing definitions. For instance, revision to the term “campground” is being made in order to match language found in the Code of Virginia. Revision to the term “camping units” is

proposed in order to accommodate a request from the Outdoor World Williamsburg Campground to allow temporary shelter devices (i.e., travel trailer, motor home, recreational vehicle, etc.) to increase its length of stay in campgrounds. Examples of other amended definitions for consideration include:

- Administrator, zoning administrator;
- Camouflaged structure;
- Dwelling; and
- Timbering

3. Deletions

Few definitions are being marked for deletion from the ordinance. Some are being deleted to avoid redundancy such as the definition of “dish antenna” (currently found as a standalone definition and also under antenna). Others are being deleted because they are no longer relevant (i.e., the term “greenbelt roads” is being replaced by the term “Community Character Corridor”; the definition of “affordable housing” is being substituted for “workforce housing”) or because they have blended with other defined terms (i.e., the terms “townhouse” and “two-family” were absorbed into the new definition for “multi-family.”). Examples of other definitions considered for deletion include:

- Apartment house;
- Condominium;
- Home care facility; and
- Rest home

4. Illustrations

Staff has developed illustrations to further enhance the understanding of selected definitions commonly used by staff and citizens alike. These illustrations were created by staff using two current publications, *The Latest Illustrated Book of Development Definitions* and the American Planning Association (APA) *A Planners Dictionary*, as resources:

- Accessory building or structure;
- Building height;
- Building line;
- Flood plain or flood-prone area; and
- Lot, interior

Changes Made by StaffF the July 11, 2012, Planning Commission Meeting

No changes.

RECOMMENDATION

At an advertised public hearing on July 11, 2012, the Planning Commission recommended approval of the revisions proposed to Section 24-2, Definitions, of the Zoning Ordinance by a vote of 7-0. Staff recommends that the Board of Supervisors approve the above referenced materials as proposed.

Jose Ribeiro

CONCUR:

Allen J. Murphy, Jr.

JR/gb

ZO-2-12Definitions_mem

Attachments:

1. List of revised definitions
2. Revised Section 24-2 of the Zoning Ordinance
3. Approved Minutes of the July 11, 2012, Planning Commission meeting
4. Clean copies of above ordinance (in Reading File)

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-2, DEFINITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions.

Article I. In General

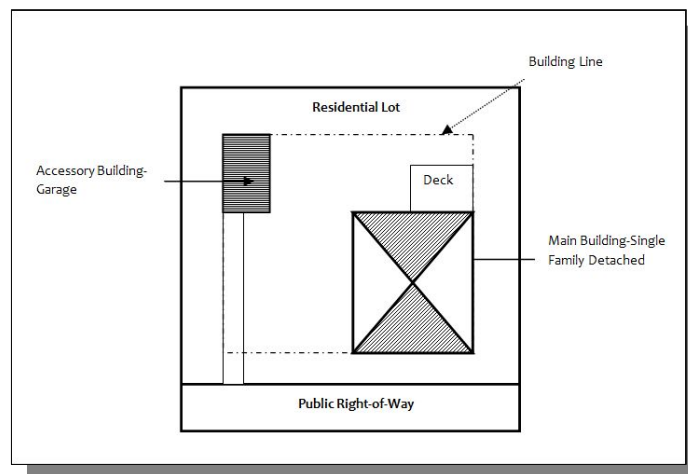
Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

A

Accessory apartment. A separate, complete housekeeping unit that is substantially contained within the structure of, and clearly secondary to, a single-family dwelling. The accessory apartment may not occupy more than 35 percent of the floor area of the dwelling.

Accessory building or structure. A subordinate building or structure customarily incidental to and located upon the same lot occupied by the main use or building. No such accessory building or structure shall be used for housekeeping purposes. Garages or other accessory structures such as carports, porches, decks and stoops attached to the main building shall be considered part of the main building. Accessory buildings and structures located ten feet or less from a main structure shall be considered part of the main structure for the purpose of determining side and rear yards. *(Refer to the definition of "structure.")*



Accessory use. A subordinate use customarily incidental to and located upon the same lot occupied by the main use or building.

Acresage parcel. A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any record subdivision plat.

Administrator; zoning administrator. The official charged with the *administration, interpretation and enforcement* of this chapter.

Adult day care center. ~~A facility that provides care to adults during part of the day only and which includes personal supervision of the adults and promotes social, physical and emotional well being through companionship, self education and leisure time activities. Any facility that is either operated for profit or that desires licensure from the Virginia Department of Social Services (VDSS) and that provides supplementary care and protection during only a part of the day to four or more aged, infirmed or disabled adults who reside elsewhere.~~

~~*Affordable housing.* Units with sales prices targeted to low and moderate income households, as defined by the U.S. Department of Housing and Urban Development (HUD). Such sales prices shall be those endorsed annually by the board of supervisors after receiving recommendations from the James City County Office of Housing and Community Development based on the then current HUD area wide income limits and identified local needs.~~

Agriculture, general. The tilling of the soil, the raising of crops, orchards, horticulture, forestry and gardening, including the keeping of animals and fowl but not intensive agriculture as herein defined or the commercial slaughtering or processing of animals or poultry.

Agriculture, intensive. Those intensive agricultural operations commonly known as confinement operations where large numbers of animals or poultry are confined to a relatively small space such as hog, veal and poultry pens or houses, feedlots for livestock and dairy farming operations. Any enclosure, pen or building for the concentrated confinement of livestock or poultry wherein more than 300 veal animals, slaughter or feeder cattle, 200 dairy cattle, 750 swine, 150 horses, 500 sheep, lambs, goats or similar animals, 5,500 turkeys, or 10,000 laying hens or broilers are confined or housed shall constitute intensive agriculture. Enclosed pasture or range where grass is maintained for at least ten months of the year or where animals are confined at no more than 15 adult animals per acre for no longer than 120 continuous days shall not constitute intensive agriculture.

Alteration. Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Antenna. A device of which the surface is used to capture an incoming and/or to transmit an outgoing radio-frequency signal. Antennas shall include the following types:

- (1) Omni directional (or 'whip') antenna. An antenna that receives and transmits signals in a 360-degree pattern.
- (2) Directional (or 'panel') antenna. An antenna that receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
- (3) Dish (or parabolic) antenna. A bowl shaped device, less than two meters in diameter, that receives and transmits signals in a specific directional pattern.

~~*Apartment house.* A building used or intended to be used as the residence of three or more families living independently of each other.~~

Aquaculture. The growing, farming and husbandry of freshwater and marine organisms under controlled conditions, including, but not limited to, hatcheries, *fish farms*, the propagation of ornamental fish and plants and pearl culture. ~~Includes fish farming.~~

~~*Arterial streets.* A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one, two or three digit numbers, state secondary roads with three digit numbers, and any other street which the subdivision agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three digit numbered streets which are part of a recorded subdivision or an extension thereof.~~

Assisted living facility. Any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirmed or disabled in a primarily residential setting. For the purpose of this definition, an assisted living facility is an institutional use and therefore it does not count toward residential density calculation.

Attic. That part of a building which is immediately below and wholly or partly within the roof framing.

~~*Automobile* A motor vehicle designed to transport property and/or passengers on its own structure and having a gross registered weight of 10,000 pounds or less. Automobile is inclusive of "passenger car," "pickup truck" "panel truck" and "van."~~

~~*Automobile and gasoline service station.* A facility for fueling, minor repairs and maintenance of automobiles. An automobile or gasoline service station may include no more than four enclosed service bays for maintenance and minor repair of automobiles and may also include retail sale of lubricants, tires, batteries and similar accessories.~~

~~*Automobile graveyard.* Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated and which it would not be economically practical to make operative, are placed, located or found. (Code of Virginia, section 33.1-348)~~

B

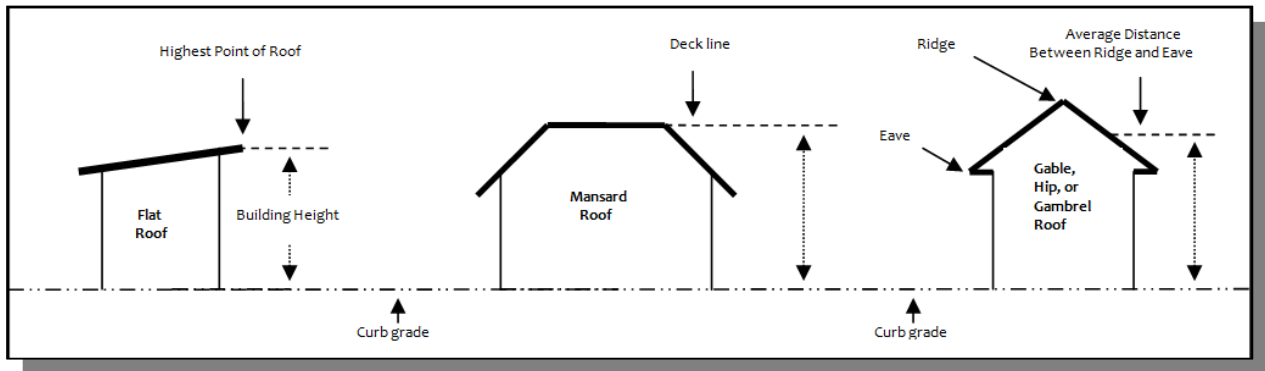
Base flood/100-year flood. A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one percent chance of occurring each year although the flood may occur in any year).

Base flood elevation. The Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation.

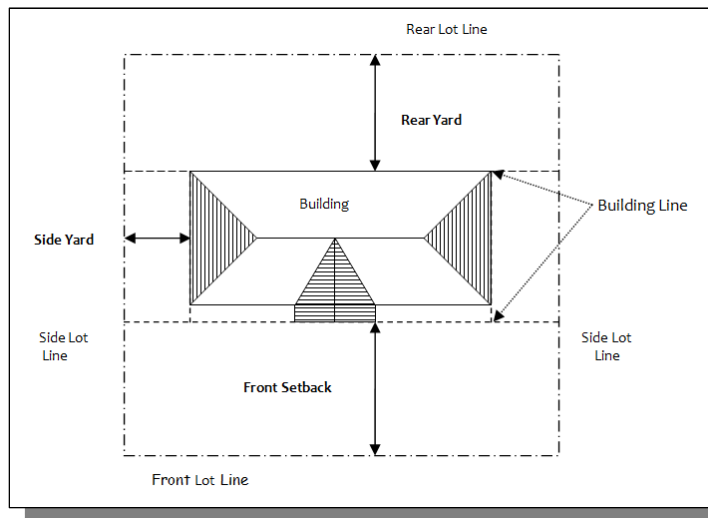
Basement. A story having part but not more than one-half of its height below grade. A basement shall be counted as a story for the purpose of height regulations if it is used for business purposes or for dwelling purposes by other than a janitor employed on the premises. Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean any area of the building having its floor subgrade (below ground level) on all sides.

Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

Building, height of. The vertical distance measured from the level of the curb or the established curb grade opposite the middle of the front of the structure to the highest point of the roof if a flat roof, to the deck line of a mansard roof, or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. For buildings set back from the street line, the height shall measured from the average elevation of the ground surface along the front of the building.



Building line. The line marking the intersection of the vertical building face and the ground plane. For the purpose of this definition, the building face shall be deemed to exclude exterior steps, chimneys and architectural features such as canopies, cornices, belt courses, pilasters, sills and eaves which project no more than three feet into the yard.



Building, main. The principal structure or one of the principal buildings on a lot, or the building or one of the principal buildings housing the principal use on the lot.

C

Caliper. The diameter of a tree trunk measured ~~six inches above ground level~~ **at breast height** for ~~nursery stock trees~~.

Campgrounds. Any area, place, parcel or tract of land of four acres or more on which three or more campsites are occupied or intended for occupancy or facilities are established or maintained, wholly or in part, for the accommodation of camping units for periods of overnight or longer, whether the use of the campsites and facilities is granted gratuitously, or by rental fee, lease or conditional sale, or by covenants,

restrictions and easements. "Campground" includes, but is not limited to, a travel ~~trailer~~ camp, recreation camp, family campground, camping resort, recreational vehicle park and camping community. "Campground" does not include a summer camp, migrant labor camp or park for ~~manufactured~~ mobile homes as defined in sections 32.1-203, ~~35-1.1 and 36.71~~ of the Code of Virginia, or a construction camp, storage area for unoccupied camping units, or property upon which the individual owner may choose to camp and not be prohibited or encumbered by covenants, restrictions, and conditions for providing his sanitary facilities within his property lines.

Camping unit. A tent, tent trailer, travel trailer, camping trailer, pickup camper, motor home, recreational vehicle or any other commonly used temporary shelter device used as temporary living quarters or shelter during periods of recreation, vacation, leisure time or travel. To qualify as a camping unit, vehicular and mobile units shall be eligible to be currently licensed and registered by a governmental body and shall be legal to travel on Virginia highways without special permits for size, weight or other reasons. For purposes of this definition, "temporary shelter device" shall mean a unit not occupied by the same persons in the campground for more than ~~30~~ 90 days in any ~~60~~ 120-day period. A mobile home or manufactured home shall not be considered a camping unit.

Campsite. Any plot of ground within a campground used or intended for occupation by the camping unit.

Cellar. A story having more than one-half of its height below grade and which may not be occupied for dwelling purposes.

Certificate of occupancy (C.O.). A document issued by the James City County building official after completion of the final inspection and when the building or structure is in compliance with the Virginia Uniform Statewide Building Code (USBC) and any pertinent laws and ordinances. A certificate of occupancy indicates completion of the work for which a permit was issued and allows the occupancy or use of a building or structure.

Child day care center. An establishment offering group care to six or more children away from their own home for any part of a day.

Co-location. The use of a single support structure and/or site by more than one wireless communications service provider.

Commission, the. The planning commission of James City County, Virginia.

Community character corridor. A road shown and identified on the Land Use Plan Map in the Comprehensive Plan as a community character corridor.

Continuing care retirement community (CCRC). An age-restricted development that is planned, designed and operated to provide a full range of accommodations for senior citizens, including independent living, assisted living and a skilled nursing component.

Condominium. ~~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.~~

Convenience store. A single store, the ground floor area of which is ~~of~~ consists of 4,000 square feet or less of retail floor area and which offers for sale, primarily, most of the following articles: Bread, milk, cheese, canned and bottled foods and drinks, tobacco products, candy, papers and magazines, and general

hardware articles. Gasoline may also be offered for sale but only as a secondary activity of a convenience store.

D

Dairy. A commercial establishment for the manufacture, processing, distribution and sale of dairy products.

Detectable warnings. A standardized surface feature built in or applied to walking surfaces or other elements to warn visually impaired people of hazards on a circulation path.

Developable area. 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 steep slopes. (Refer to definitions of "non-developable area" and "steep slopes.")

Development. Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, the placement of manufactured homes, streets and other paving, utilities, filling, grading, excavation, mining, dredging, drilling operations, storage of equipment or materials.

Development plans. Any site plan, ~~or subdivision plan,~~ plat, or subdivision construction plan.

Diameter breast height. The diameter of a tree trunk measured four and five-tenths feet from the ground.

Discontinuance. "Discontinuance" is defined as:

- (1) Vacancy of a building originally designed or arranged for the nonconforming use for a continuous period of two years;
- (2) Vacancy of land for a period of 90 days;
- (3) Vacancy of any building other than in subparagraph (1) above for a period of six months; or
- (4) Clear intent on the part of the owner to abandon the nonconforming use.

~~*Dish antenna.* A dish-shaped antenna designed, used or intended to be used to receive or transmit television, radio or other electronic signals.~~

District. Districts as referred to in the Code of Virginia, section 15.2-2280.

Dwelling. Any structure, ~~or portion of thereof,~~ which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, ~~and~~ tourist cabins, ~~time-share units, motor lodges, tents, travel trailers, recreational vehicles and similar accommodations.~~ Dwellings may include the following types:

- (1) *Single-family detached.* A detached structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.
- ~~(2) *Two family.* A structure containing two dwelling units separated from one another by a solid wall or floor. For the purpose of this chapter, the term "two family dwelling" shall not apply to a single family dwelling containing an accessory apartment.~~

~~(3) *Multiple family.* A structure arranged or designed to be occupied by more than two families.~~

(2) *Multi-family.* A building or structure including, but not limited to, townhouses, duplexes, and triplexes that are arranged or designed to be occupied by more than one family living in separate dwelling units with separate cooking, toilet facilities, and entrances.

(3) *Apartments.* A building or structure arranged or designed to be occupied by three or more families living in separate dwelling units but sharing the entrance to the building.

Dwelling unit. One or more rooms in a dwelling designed for living or sleeping purposes, and having at least one kitchen.

E

Elevation. A vertical distance above or below a fixed reference point.

Equipment enclosure. A small building, cabinet, or vault used to house and protect the electronic equipment necessary to process wireless communications signals. Associated equipment may include air conditioners and emergency generators.

Exterior lot. Pertaining to lots for three- or four-family dwellings whose units are laid out side-by-side in a row, an exterior lot is a lot intended to contain a dwelling unit sharing only one wall in common with another dwelling unit.

F

Fair market value. The price that a good or service would bring between a willing seller and a willing buyer in the open market after negotiation.

Family. One or more persons related by blood, adoption or marriage living and cooking together as a single housekeeping unit, exclusive of household servants. A number of persons, not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage shall be deemed to constitute a family.

A family is, exclusive of household servants:

- (1) An individual;
- (2) Two or more persons related by blood, marriage, adoption or guardianship;
- (3) A number of persons, not exceeding three, living and cooking together as a single housekeeping unit though not related by blood, marriage, adoption or guardianship; or
- (4) Not more than two unrelated persons living and cooking together along with two or more persons related by blood, marriage, adoption or guardianship, as a single housekeeping unit.

Farmer's market. An occasional or periodic market held in a structure or open area where farmers sell their produce or farm products.

~~*Fast food restaurant.* Any establishment whose principal business is the sale of pre-prepared and rapidly prepared food directly to the customer in a ready to consume state for consumption either at the restaurant or off premises.~~ Any building in which, for compensation, food or beverages are dispensed for consumption on or off the premises. Customer orders and/or services may be by means of a walk-up

counter or a window designated to accommodate traffic of vehicles. (Refer to the definition of "restaurant.")

Fish farm. See "Aquaculture."

Flag lot. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way ~~not less than 25 feet in width.~~

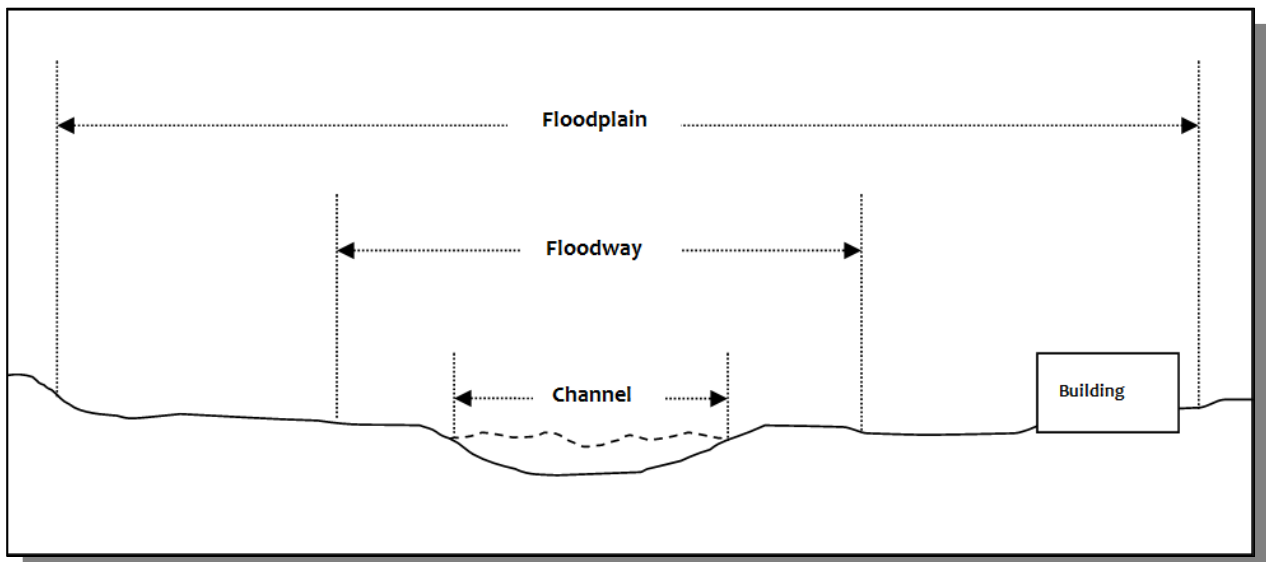
Flea market. An occasional or periodic market held in a structure or open area where one or more individuals offer goods for sale to the public. "Flea market" does not include sales held by charitable or nonprofit organizations not more than four times a year, farmer's market or garage sales.

Flood or flooding. The terms include:

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

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

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height ~~one foot.~~



Floor area. The total number of square feet of floor space within the exterior walls of a building, not including space in cellars, basements or attics.

Floor area ratio. A mathematical expression determined by dividing the total floor area of a building by the area of the lot on which it is located, as:

$$\frac{\text{Floor area}}{\text{Lot area}} = \text{Floor area ratio}$$

Floor area, retail. The total floor area of a commercial building or the commercial portion of a mixed use building, excluding stairwells, elevator shafts, equipment rooms (HVAC, plumbing, electrical, mechanical), storage areas, restrooms, hallways, and interior vehicle parking or loading. For the purposes of commercial parking calculations, the applicant shall be responsible for providing the zoning administrator with information detailing the allocation of retail and non-retail space.

Foot-candle. A measure of light falling on a surface. One foot-candle is equal to the amount of light generated by one candle shining on one square foot surface located one foot away. Foot-candle measurements shall be made with a photometric light meter and with a specified horizontal orientation.

Frontage. The minimum width of a lot measured along the street from one side lot line to the other.

Functional classification. A classification of streets, approved by the governing body, into the following categories: ~~Interstate, expressway, principal arterial, minor arterial, major collector and minor collector.~~

- (1) *Interstate:* A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.
- (2) *Expressway:* A roadway designated exclusively for unrestrictive movement of traffic. Access is only with selected arterial streets by means of interchanges.
- (3) *Arterial streets (principal, minor).* A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one, two or three-digit numbers, state secondary roads with three-digit numbers, and any other street which the subdivision agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three-digit numbered streets which are part of a recorded subdivision or an extension thereof. The arterial classification is further subdivided into “principal arterial” and “minor arterial” based on traffic volumes.
- (4) *Collector streets (major, minor):* A street with relatively low speed and low volume providing circulation within and between neighborhoods. Collector streets usually serve short trips and are intended for collecting trips from local streets and distributing them to the arterial network. The collector classification is further divided into “major collector” and “minor collector.”

G

Garage. A deck, building or structure, or part thereof, used or intended to be used for the parking or storage of vehicles.

Garage, private. An accessory building which is designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory and which is not operated as a separate commercial enterprise available to the public.

Garage, repair. A building or portion thereof, other than a private garage, designed or used for servicing, repairing, equipping, renting, selling or storing motor-driven vehicles.

Garage sale. The sale of goods by a property owner and his neighbors at the property owner's residence occurring not more than twice a year.

Glare. The effect of a light source that shines ~~so as to be~~ in a conspicuous and obtrusive manner.

Golf course. Any area of land, publicly or privately owned, on which the game of golf is played, including accessory uses and buildings customary thereto, but excluding golf driving ranges as defined herein.

Golf driving range. A limited area on which golf players do not walk, but onto which they drive golf balls from a common driving tee.

Governing body. The board of supervisors of James City County, Virginia.

~~*Greenbelt road.* A road shown and identified on the Land Use Plan Map in the Comprehensive Plan as having a greenbelt.~~

Green building. Structures constructed in a manner that addresses elements such as efficient management of energy and water resources, management of material resources and waste, protection of environmental quality, protection of health and indoor environmental quality, reinforcement of natural systems, and integration of the design approach. Accreditation programs include, but are not limited to, Earthcraft and LEED (Leadership in Energy and Environmental Design).

Group home. A residential facility in which individuals with mental illness, mental retardation or developmental disabilities reside with one or more resident counselors or other staff persons, and which is licensed by the Department of Behavioral Health and Development Services. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance as provided for in the Code of Virginia.

Guest room. A room which is intended, arranged or designed to be occupied, or which is occupied, by one or more guests paying direct or indirect compensation therefor, but in which no provision is made for cooking. Dormitories are excluded.

H

Historic and scenic resource area. Land managed by Colonial Williamsburg, the Jamestown-Yorktown Foundation, the National Park Service, York River State Park, the Virginia Association for Preservation of Antiquities, the Williamsburg Land Conservancy, or properties listed in the National Register, Virginia Historic Landmarks Register, or locally designated historic structures or districts, or Community Character Areas as defined in the Comprehensive Plan.

~~*Home care facility.* A residential facility for the care of four or more persons who require the protection of a supervised group setting or nine or more persons who are mentally ill, intellectually disabled, or developmentally disabled.~~

Home garden. An accessory use in a residential district for the production of vegetables, fruits and flowers generally for use or consumption, or both, by the occupants of the premises.

Home occupation. Any occupation or activity which is clearly incidental and secondary to the use of the premises for dwelling purposes and conducted solely by residents of the dwelling; provided, that:

- (1) The occupation or activity is conducted entirely within the dwelling; and
- (2) Not more than 25 percent of the first floor area is used throughout the structure for such occupation or activity; and
- (3) The occupation or activity requires no external alterations or the use or outdoor storage of machinery or equipment that creates noise, odor, smoke, dust or glare or is dangerous or otherwise detrimental to persons residing in the home or on adjacent property; and
- (4) No exterior evidence of the secondary use exists, with the exception of one sign, not to exceed four square feet. Such a sign must be attached to the dwelling and shall not be illuminated; and
- (5) No articles are displayed or otherwise offered for sale upon the premises; and
- (6) No equipment or process is used that may disrupt neighboring dwellings; and
- (7) Traffic is not generated in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.

Horizontal light bars/strips. An illumination device erected in a way so there is no visible bulb, lens or globe, diode or other light source as desired, and designed such that there is no light spillage beyond the intended object to be illuminated.

Hospitals and mental health facilities. Any facility in which the primary function is the provision of diagnosis, of treatment and of medical and nursing services, surgical or nonsurgical, for two or more nonrelated individuals, including hospitals known by varying nomenclature or designation such as sanatoriums, sanitariums, and general, acute, short-term, long-term, outpatient and maternity hospitals.

Hotel. A building designed or occupied as the more or less temporary abiding place for more than ten individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms or suites.

I

Independent living facility. A facility containing independent dwelling units providing housing and supportive services such as meals, housekeeping, social activities and transportation to residents.

Institutional use. A nonprofit, religious, private or public use, such as a church, library, school, hospital, or government-owned or operated building, structure, or land used for a public purpose.

Iso-foot candle diagram. A diagram consisting of lines showing the relative illumination in foot candles from a light source or group of light sources.

J

Junk yard. The use of any area of land lying within 100 feet of a state highway or the use of more than 200 square feet of land area in any location for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials.

K

Kennel. A place prepared to house, board, breed, handle or otherwise keep or care for either dogs or cats or both for sale or in return for compensation.

L

Landscaped open space, area or strip. An area containing living plant materials, including trees, flowers, shrubs or grass. Landscaped areas may include pedestrian walks, ornamental objects, decorative planting, lawns and wooded areas, but at least 50 percent of the area must be vegetated. Landscaped open space, areas or strips shall not include any building, parking surface or structure except as stated above, or any wet detention pond or infiltration trench.

Lighting fixture. A complete lighting unit consisting of the lamp, lens, optical reflector, housing and any electrical components necessary for ignition and control of the lamp, which may include a ballast, starter and/or photo control.

Lighting fixture, directionally shielded. A lighting fixture which emits a light distribution where some light is emitted at or above a horizontal plane located at the bottom of a fixture. Such fixtures may contain visors, louvers or other types of shields, baffles or lenses which are designed to direct light onto a targeted area and to minimize light spillage.

Lighting fixture, full cut-off. A lighting fixture from which no light output is emitted at or above a horizontal plane drawn through the bottom of the lighting fixture.

Livestock. Domestic animals normally raised on a farm such as horses, cows, swine, goats, sheep, etc.

Livestock market. A commercial establishment wherein livestock is collected for sale and auctioned off.

Lot. A unit, division or piece of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open spaces, lot width and lot areas as are required by this chapter, and having frontage upon a street, either shown on a plat of record or considered as a unit of property and described by metes and bounds.

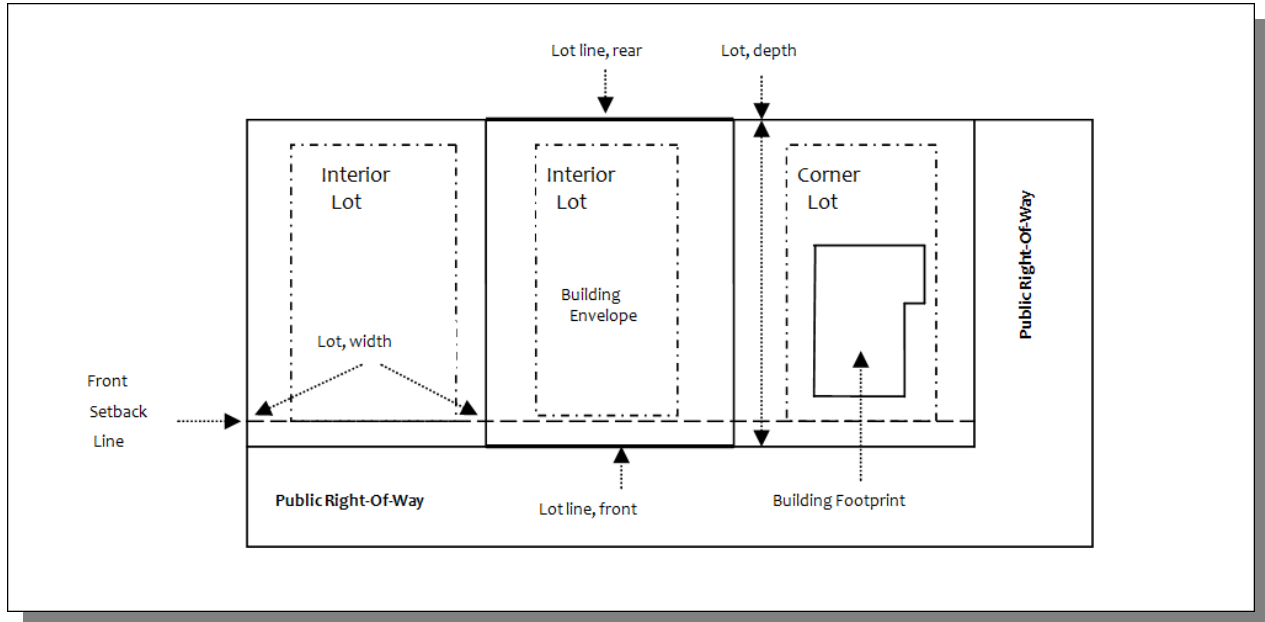
Lot, area of. The total area of land contained by lot lines and inclusive of any easements that may exist upon the lot. For the purpose of computing coverage of floor area ratio, the area of the lot shall not be considered to include any area of land designated for a future public road right-of-way.

Lot, corner. A lot abutting on two or more streets at their intersection. Of the two sides of a corner lot the front shall be deemed to be the shortest of the two sides fronting on streets.

Lot, depth of. The shortest horizontal distance between the front and rear lot lines.

Lot, double frontage. An interior lot having frontage on two streets.

Lot, interior. Any lot other than a corner lot.



Lot, interior unit. Pertaining to lots for ~~three or four family~~ **multi-family** dwellings, an "interior unit lot" is a lot intended to contain a dwelling unit sharing two walls wholly or in part with another dwelling unit.

Lot line, front. The lot line separating a lot from a street right-of-way except in the case of a flag lot, which the front lot line shall be the lot line nearest and parallel or approximately parallel to the street to which the lot has access: **except as otherwise provided for in the subdivision ordinance.**

Lot line, rear. The lot line opposite and most distant from the front lot line; or in the case of a triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot, width of. The horizontal distance between side lot lines measured at the setback line.

Lot of record. A lot which has been recorded in the clerk's office of the circuit court.

Lowest Floor. The lowest floor of the lowest enclosed area including the basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Federal Code 44CFR Section 60.3.

Luminary. A lighting fixture assembly or source of artificial illumination including, but not limited to, bulbs, lamps, reflectors, refractors and housings associated with them.

M

Manufacture; manufacturing. The assembly of components, pieces or subassemblies, or the processing or converting of raw, unfinished materials or products into articles or substances of different character or for use for a different purpose.

Manufactured home. A manufactured home is a structure subject to federal regulation which is transportable in one or more sections; is eight body feet or more in width and 40 body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning and electrical systems contained in the structure.

Manufactured home park. A lot or parcel, not part of a manufactured home subdivision, on which are located or which are arranged or equipped for the accommodation of three or more manufactured homes occupied as single-family dwellings.

Medical clinic. An establishment where patients are admitted for examination and treatment by one or more physicians, dentists or psychologists and where patients are not usually lodged overnight. "Medical clinic" includes a facility known as surgical outpatient clinic.

Micro-brewery. A brewery that produces less than 15,000 barrels per year.

Mixed use structure. A building or other structure containing a combination of two or more different principle uses.

Mobile home. A mobile home is a structure not meeting the specifications or requirements of a manufactured home, designed for transportation, after fabrication, on streets and highways on its own wheels or on flat bed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operation, location on jacks or permanent foundations, connection to utilities and the like. (See "trailer" and "travel trailer" following in this section.)

Monopole. A wireless communication facility tower used to deploy antennas defined as self-supporting with a single shaft of wood, steel or concrete.

Motel. One or more buildings containing individual sleeping rooms, designed for or used temporarily by automobile tourists or transients, with garage or parking space conveniently located to each unit. Cooking facilities may be provided for each unit.

Multi-antenna system. Wireless communication facilities 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.

Multiple provisioning antenna. Antennas used as part of an overall network such as distributive antenna systems that transmit and/or receive radio signals from multiple points and multiple users in a prescribed geographic area.

N

~~*Net developable area.* The total gross land area of a site minus stream beds, areas subject to flooding, marsh and areas with slopes exceeding 25 percent gradient.~~

Neighborhood resource center. A facility used primarily by residents of adjacent neighborhoods for the sharing of information and services of a public, nonprofit, or charitable nature. Primary uses may include resource libraries, meeting rooms, offices for neighborhood organizations or related staff, and education rooms. Accessory uses may include food preparation areas, health areas, community gardens, and

parking. “Neighborhood Resource Center” does not include any facility with sales or residential units, nor does it include facilities for private lodges or clubs.

New Construction. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after July 18, 1975, the effective date of an initial Flood Insurance Rate Map, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which start of construction commenced on or after August 8, 1977, the effective date of these floodplain management regulations, and includes any subsequent improvements to such structures.

Nonconforming lot. An otherwise legally platted lot that does not conform to the minimum area or width requirements of this chapter for the district in which it is located either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

Nonconforming activity or use. The otherwise legal use of a building or structure or of a tract of land that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter. 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 the zoning district in which it is located by the currently adopted regulations.

Nonconforming building or structure. An otherwise legal building or structure that does not conform with the lot area, yard, height, lot coverage or other area regulations of this chapter, or is designed or intended for a use that does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments to the chapter.

Nonconforming structure. Any structure not in conformance with current ordinance regulations.

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 steep slopes. (Refer to definition of “steep slopes.”)

Noninterference/intermodulation study. A study prepared by a licensed engineer indicating potential interference with public safety communication equipment.

Nursing home. Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health related services for the treatment and in-patient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries.

O

Office park. A development on a tract of land that contains two or more separate office buildings that are designed, planned, constructed and managed on an integrated and coordinated basis.

Off-street parking area. Space provided for vehicular parking outside the dedicated street right-of-way.

Open space. Space suitable for recreation, gardens or landscaping which may include areas left in their natural state, trails, ponds, stream banks, recreation areas, areas of excessive slopes, low-lying areas and

marshes and landscaped areas required by this chapter. Such space must be free of automobile traffic and parking and be readily accessible to all those for whom it is required.

P

Parcel. A contiguous area of land described in a single description as one of a number of lots on a plat, separately owned, either publicly or privately, and capable of being separately conveyed.

Parks and playgrounds. Land set aside for nonprofit activities of a recreational nature such as fishing, boating, swimming, camping, hiking, picnicking, outdoor games and sports incidental to the foregoing.

Parking area. Any public or private land area or structure designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.

Parking lot. An off-street, outdoor area, usually surfaced and improved, for the parking of motor vehicles.

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

Pen. A small enclosure used for the concentrated confinement and housing of animals or poultry; a place for feeding and fattening animals; a coop. Enclosed pasture or range with an area in excess of 100 square feet for each hog or small animal or 200 square feet for each larger animal shall not be regarded as a pen.

Planned road. Any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, ~~Peninsula Area~~ Long Range Transportation Plan or any road plan adopted by the board of supervisors.

Plant and garden supply sales. Stores which shall sell a combination of materials used in the process of creating, cultivating, decorating, and maintaining gardens and landscaped areas. The primary items sold may include plants, shrubs, and trees grown on- or off-site; seeds; produce; hand tools; fertilizer; plant containers and hangers; natural materials such as sand, soil, rock, wood chips, and mulch; and decorative features including sculptures, fountains, ponds, ornaments, and cast or formed cement and cement pavers. Patio and outdoor furniture, including grills, gazebos, trellises, and outdoor fireplaces may also be included as secondary and incidental items sold at a plant and garden supply store. Excluded from this definition are mechanical lawn and garden equipment, pools and pool equipment, lumber and building supplies.

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. PCTFs 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 as determined by the zoning administrator.

Poultry. Domestic fowl normally raised on a farm such as chickens, ducks, geese and turkeys.

Primary service area. The primary service area (PSA) is the area(s) identified on the zoning map where urban development is encouraged to locate in accordance with the Comprehensive Plan. These areas presently are provided with public water and sewer systems and other public services such as police and

fire protection, transportation and emergency medical services, and areas slated to receive such services in the next 20 years.

Principal residential use. A single-family dwelling, including a mobile home, manufactured home, ~~and a modular home, a two-family dwelling or a multiple-family~~ multi-family dwelling. The occupancy of a building by a caretaker or watchman for sleeping quarters shall not constitute a principal residential use.

Public water and sewer systems. A water or sewer system owned and operated by a municipality, county, service authority or sanitary district, or owned and operated by a private individual or a corporation approved by the governing body and properly licensed by the State Corporation Commission and approved by the Virginia Department of Health.

Publicly owned solid waste container site. A county-owned facility providing containers for citizens to dispose of residential solid waste and recyclable materials to include, but not limited to, aluminum cans, container glass and newspaper.

R

Radio frequency (RF) report. A statement from a registered engineer demonstrating that electromagnetic radiation emitted from wireless communication facilities, including all facilities that may already be attached, does or does not result in "public" exposure level outside the wireless communication facilities that exceeds relevant federal communications commission standards.

Recreation facility, commercial. A place designed and equipped for the conduct of leisure-time activities, sports or other customary and usual recreation activities and which is operated as a business.

Recreation facility, community. A place designed and equipped for recreational activities by the inhabitants of a residential or mixed use project and which is operated for noncommercial purposes by a developer, homeowner association, nonprofit organization or a governmental agency.

Recreational vehicle. A vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

Residential club house. A facility used by residents of the community for recreational purposes.

Resort Hotel. A building or group of buildings designed or occupied as the more or less temporary abiding place for more than ten individuals who are, for compensation, lodged, with or without meals, and in which provision is not generally made for cooking in individual rooms but may be accommodated for in suites or detached units. Resort hotel units, regardless of the structural arrangement, must meet the performance standards listed in section 24-45, Performance standards for resort hotels.

~~*Rest home.* Any place, establishment or institution, public or private, including any day care center for adults, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled, except the home or residence of any individual who cares for or maintains only persons related to him by blood or marriage. The term "rest home" shall include facilities known by varying nomenclature such as home for adults and domiciliary.~~

Restaurant. Any building in which, for compensation, food or beverages are dispensed for consumption on the premises including, among other establishments, cafes, tea rooms, confectionery shops or refreshment stands.

Retail stores and shops. Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumber yards) such as the following which will serve as illustration: Drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique shop and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty shop.

S

Sanitary landfill. A facility where solid waste is spread in thin layers on the ground, compacted to the smallest practical volume and covered with soil at the end of each working day.

Scenic resource corridor. Community Character Corridors as defined in the Comprehensive Plan; Virginia Byways.

Setback. The distance by which any building or structure must be separated from the front lot line. For buildings, the setback is measured from the building line. For other structures, the setback is measured from the point on the ground vertically below the point of the structure nearest the front lot line.

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

Setback line. That line that is the required distance from the street line or any other lot line. The setback line establishes the area within which the principal structure shall be erected or placed.

Shrubs. For the landscaping requirements of this chapter, a shrub shall be defined as a low-growing woody plant having several permanent stems which is, at planting, 18 inches if evergreen or 22 inches if deciduous.

Skilled nursing/Nursing home facilities. Any facility or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries.

Slick stick. A monopole where all antennas arrays are concealed within the tower.

Solid waste transfer station. A facility for the collection of solid waste and shipment to a final point of disposal. The facility may serve one or more localities and may include accessory facilities for the collection of recyclable materials such as glass, aluminum, paper and plastic products, waste motor oil, tires and appliances.

Spillage (light). Light which falls or is transmitted from a luminary in one area or site into an adjoining area or site.

Start of construction. The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site (such as the pouring of slab or footings, the installation of piles, the construction of columns or any

work beyond the stage of excavation) or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, or filling; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration on any wall, ceiling, floor, or other structural part of a building, whether or not the alternation affects the external dimensions of the building.

Steep slopes. Areas containing changes in elevation meeting or exceeding 25 percent gradient.

Store. See "Retail stores and shops" preceding in this section.

Story. That portion of a building, other than the basement, included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between the floor and the ceiling next above it.

Story, half. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than two-thirds of the floor area is finished off for use.

Street; road. A public or private thoroughfare which affords principal means of access to abutting property.

Street line. The line that forms the boundary between a street or road right-of-way and the contiguous property.

Structure. Anything constructed or erected, the use of which required permanent location on the ground or attachment to something having a permanent location on the ground. *The term structure shall not refer to fences, walls used as fences, mailboxes, retention walls, street signs, utility pedestals, docks or other features which are constructed or erected as determined by the zoning administrator.*

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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~~ *wireless communication facilities* which are not primarily designed to support antenna nor are designed should be taller in order to accommodate antenna.
- (3) *Camouflaged structure.* Any ~~WCF~~ *wireless communication facility* disguised or hidden so that all of its components are unnoticeable to the casual observer, or otherwise not ~~having~~ 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. Structures whose primary function is to deploy an antenna as part of a multi-antenna system arrangement.*

T

Theme park. A park or garden facility that is based on a common theme and may include, but is not limited to, the following: Exhibits, animal acts and displays, rides, shops and eating facilities encompassing a minimum of ten acres.

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

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

Tourist home. A dwelling where lodging or lodging and meals are provided for compensation for up to five rooms and open to transients.

~~*Townhouse.* 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.~~

Trailer. A structure standing on wheels towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects, or as a temporary office.

Travel trailer. A mobile unit less than 29 feet in length and less than 4,500 pounds in weight which is designed for human habitation.

Tree. For the landscaping requirements of this chapter, a tree shall be defined as a deciduous shade tree having a minimum caliper of 1-1/2 inches at planting or an evergreen tree at least eight feet in height and a minimum caliper of 1-1/4 inches if single stemmed at planting or eight feet in height if multi-stemmed at planting. The term "tree" shall not include ornamental trees as defined below.

Tree, mature. Any deciduous or evergreen tree with a minimum diameter breast height of 12 inches which is free of disease and significant damage.

Tree, ornamental. For the landscaping requirements of this chapter, an ornamental tree shall be defined as a deciduous or evergreen tree which if single stemmed is eight feet in height and has a minimum caliper of 1-1/4 inches at planting or if multi-stemmed has a height of eight feet at planting.

Tree, specimen. Any tree with a minimum diameter breast height of 24 inches which is free of disease and significant damage or which is notable by virtue of its outstanding size and quality for its particular species.

Truck. A motor vehicle designed to transport property on its own structure or to transport property on a trailer drawn by it. "Truck" is inclusive of "tractor trailer vehicle," "tractor truck," and "road tractor" and has a registered gross weight in excess of 10,000 pounds.

Truck stop. Any facility offering for sale fuel for commercial vehicles, trucks and automobiles and constructed and designed to enhance maneuverability and fueling of tractor trailer vehicles by the contouring of curbs and aprons, the placement and design of fuel pump islands or other such design criteria. In addition, a truck stop shall have the capability to fuel three or more tractor trailer vehicles at the same time and/or parking facilities for three or more such vehicles. The facility may include provisions for one or more of the following: ~~R~~repairs or maintenance of commercial vehicles and trucks; sleeping accommodations for commercial vehicles or truck crews; sale of parts and/or accessories for commercial vehicles or trucks; or a restaurant.

Truck terminal. A storage facility for the unloading, transferring and storing of goods and materials being transported by truck. A truck terminal may include facilities for the repair and servicing of trucks.

U

Unit. See "Dwelling unit."

Usable satellite signal. A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations by use of an outdoor antenna.

V

Variance. A variance is a relaxation of the terms of this chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in an unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variances in the zoning division or district or adjoining zoning division or districts.

~~Automobile~~ *Vehicle.* A motor vehicle designed to transport property and/or passengers on its own structure and having a gross registered weight of 10,000 pounds or less. ~~Automobile~~ *Vehicle* is inclusive of, ~~but not limited to,~~ "passenger car," "pickup truck," "panel truck" and "van."

Automobile Vehicle and gasoline service station. A facility for fueling, minor repairs and maintenance of automobiles vehicles. An automobile vehicle or gasoline service station may include no more than four enclosed service bays for maintenance and minor repair of automobiles vehicles and may also include retail sale of lubricants, tires, batteries and similar accessories.

Automobile Vehicle graveyard. Any lot or place which is exposed to the weather upon which more than five motor vehicles of any kind, incapable of being operated and which it would not be economically practical to make operative, are placed, located or found. (~~Code of Virginia, section 33.1-348~~)

W

Watercourse. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Wayside stand; roadside stand; wayside market. Any structure or land use for the sale of agricultural or horticultural produce, livestock or merchandise produced by the owner or his family on their farm.

Winery. An establishment located on a farm with a producing vineyard, orchard or similar growing areas and with facilities for fermenting, bottling, storage and sale of wine on the premises.

Wireless communications facility (WCF). A facility for the transmission or reception of low power radio signals used for two-way communications provided by a FCC licensee. WCFs shall not include facilities for broadcasting or receiving commercial or public radio or television programming, or facilities for transmitting or receiving signals by governmental agencies or amateur radio, citizens band, or similar users. WCFs are composed of two or more of the following components:

- (1) Antenna;
- (2) Support structure;
- (3) Equipment enclosure; or
- (4) Security barrier

Workforce housing. Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between 30 percent and 120 percent of the area median income.

Y

Yard. An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward except as otherwise provided herein:

- (1) *Front.* An open space on the same lot as a building and located between the front building line and the front lot or street line and extending across the full width of the lot.
- (2) *Rear.* An open, unoccupied space on the same lot as a building between the rear building line and rear line of the lot and extending the full width of the lot.
- (3) *Side.* An open, unoccupied space on the same lot as a building between the side building line and the side line of the lot and extending from the front yard line to the rear yard line.

Z

Zoning district, overlay. Any section of James City County, Virginia, for which regulations governing the use of buildings and land, the height of buildings, the size of yards and the intensity of use are uniform and which district overlays one or more principal zoning districts ~~so as to~~ impose special requirements in addition to the requirements of the principal zoning district.

Zoning district, principal. Any section of James City County, Virginia, for which regulations governing the use of buildings and land, the height of buildings, the size of yards and the intensity of use are uniform. Wherever used in this chapter, the term "district" or "zoning district" shall mean the same as the term "principal zoning district" as if the latter term were fully set out.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia this 11th day of September, 2012.

ZO-2-12Definitions_ord

List of Revised Definitions

New definitions	Revisions to existing definitions	Deletions of existing definitions
Antenna support structures for multi antenna systems Apartments Assisted living facility Certificate of occupancy (C.O.) Collector streets (major, minor) Continuing care retirement community (CCRC) Expressway Developable area Fair market value Foot-candle Green building Group home Independent living facility Institutional use Interstate Lighting fixture Lighting fixture, directionally shielded Lighting fixture, full cut-off Monopole Multi-antenna system Multi-family Multiple provisioning antenna Nonconforming structure Non-developable area Non interference /intermodulation study Office park Pedestrian accommodations Portable cellular transmission facility Radio frequency (RF) report Slick stick Steep slopes Workforce housing	Accessory building or structure Administrator; zoning administrator Adult day care center Alternative mounting structure Aquaculture Arterial streets Automobile Automobile and gasoline service station Automobile graveyard Caliper Camouflaged structure Campgrounds Camping unit Convenience store Development plans Dwelling Family Fast food restaurant Flag lot Flood or flooding Floodplain Floodway Functional classification Glare Horizontal light bars/strips Hospital Lot, interior unit Lot line, front Lot line, rear Lowest floor Neighborhood resource center New construction Non-conforming activity or use Nonconforming building or structure Nursing home Planned road Principal residential use Shrubs Structure Support structure Theme park Timbering Tree ornamental Truck stop Wireless communications facility Zoning district overlay	Affordable housing Apartment house Condominium Dish antenna Greenbelt road Home care facility Multiple-family Net developable area Rest home Townhouse Two-family

ZO-0002-2012 Definitions, ZO-0009-2011 Residential Districts, ZO-0008-2011 Multi-Use Districts, ZO-0007-2011 Residential Cluster Overlay, ZO-0005-2011 Green Building

Mr. Johnson stated that in the interest of time, Mr. Ribeiro could make a short presentation on all of these topics. He stated Ms. Cook and Mr. Purse could then be available to answer any questions.

Mr. Woods asked staff whether each section was materially consistent with the language reviewed by the Policy Committee.

Mr. Ribeiro stated his presentation did not include that information. He stated he could discuss changes to the Definitions section and his coworkers other sections.

Mr. Johnson stated Mr. Ribeiro, Mr. Purse, and Ms. Cook could give brief summations to what the Policy Committee reviewed previously.

Mr. Ribeiro stated that some definitions were previously submitted to the Committee and the Commission as part of the review of individual districts and sections of the ordinance. He stated all revised definitions are now being presented collectively under a single document in Section 24-2. In addition to the definitions and ordinance updates under review tonight, staff has also prepared a residential redevelopment policy, workforce housing opportunity policy, endorsement of green building incentives, and mixed use construction phasing guidelines for consideration.

Mr. Jason Purse stated a majority of the changes in the Multiple Use districts language is consistent with what the Policy Committee has seen. He stated that since the Committee's review, there was a Board work session where the Board discussed the density bonus table. Changes had been made to the table since the Committee saw it. Staff has also added more uses to these districts to make them more consistent with state code, such as group home and assisted living type uses.

Mr. Basic stated that PUD setbacks when adjacent to residential uses were reasonable. He asked if the 75' feet setback from PUDs to adjacent compatible commercial uses could be reduced.

Mr. Purse stated staff would be amenable to proposing a waiver provision to those sections. He stated it could be similar to the residential section, with waivers going to the Planning Director and appeals to the Commission. The language could be added to materials going to the Board next month.

Mr. Basic stated that sounded good.

Ms. Cook stated there was a lot of discussion of the Residential districts at the Board level work sessions. She stated the density bonuses table is also used in Cluster Overlay, R1, and R2 districts. The other major changes of note since the Policy Committee are the refinements to density provisions. In R1 and R2, density had been based on gross area. Now density based on the developable area is applied to all districts and uses a step-scale method. Green Building incentives also saw substantial changes since the Policy Committee. It has changed from a expectations-based policy to an incentives-based approach. The Green Building policy is more a list of incentives now.

Mr. O'Connor asked if the step-scale method made it more consistent and predictable to calculate density for both staff and business.

Ms. Cook stated staff attempted to make it as user-friendly as possible. She stated the ordinance includes an illustration with the table.

Mr. Basic stated it was much more user-friendly.

Mr. O'Connor opened the public hearing.

Ms. Susan Gaston, representing the Williamsburg Area Association of Realtors, stated the density calculations are much more user-friendly, predictable, and consistent. She stated the association supports the density table and changes. She commended the affordable housing policy and supported the green building policy as well.

Mr. O'Connor closed the public hearing.

Mr. Krapf stated staff made changes to each district easy to follow and that the changes are positive.

Mr. Woods stated he had no issues with what had been presented, but had some questions with the process.

Mr. Basic moved to recommend approval as amended.

In a unanimous roll call vote, the Commission recommended approval of the ordinance amendments, policies, and guidelines, as amended (7-0).

MEMORANDUM COVER

Subject: Case No. ZO-0005-2011. Endorsement of Green Building Incentives

Action Requested: Shall the Board approve the resolution to create a set of incentives for projects pursuing green building certification?

Summary: Based on Board guidance, the measures outlined in the attached resolution are a list of incentives for projects pursuing green building certification.

At its July 11, 2012, meeting, the Planning Commission voted 7-0 to recommend approval of the green building incentives.

Staff recommends that the Board of Supervisors approve 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. Resolution
3. Minutes of the January 24, 2012, Board Work Session
4. Minutes of the July 11, 2012, Planning Commission

Agenda Item No.: I-5

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner II

SUBJECT: Case No. ZO-0005-2011. Endorsement of Green Building Incentives

Consideration of a green building policy was part of the Zoning Ordinance update methodology adopted by the Board of Supervisors in May 2010. A green building policy options memorandum was presented to the Policy Committee on February 24, 2011, and to the Board of Supervisors at its work session on April 26, 2011.

Staff next prepared a draft green building policy which was reviewed by the Policy Committee on July 18, 2011. As part of their comments on the draft, the Policy Committee members asked staff to obtain input from the Economic Development Authority (EDA). Subsequently, the EDA conveyed its comments that green building certification should be incentivized, rather than expected or required.

At its work session on January 24, 2012, the Board was presented with the list of incentives reviewed by the EDA, and directed staff to move forward with incentives rather than the draft policy. The incentives include (see resolution for additional details):

- To help defray the costs of certification program registration and certification fees, refund of 25 percent of the Planning Division site or subdivision construction plan review fees. As these fees are affected by the size of the proposed development, this amount would vary; as one example, an approximately 30,000-square-foot commercial structure would receive a fee refund of approximately \$330.
- Technical consultations and assistance.
- Recognition of achievement.

The Board also asked that staff prepare a periodic assessment of the number of development projects which have pursued green building certification.

To accompany this change, the language in the density bonus section of the residential and multiple use district ordinances has been revised to allow for density bonuses where projects achieve basic program certification through Leadership in Energy and Environmental Design (LEED), EarthCraft, or equivalent program.

In summary, based on Board guidance, the measures outlined in the attached resolution are a list of incentives, not the previously-drafted policy against which legislative development projects would have been evaluated. At its July 11, 2012, meeting, the Planning Commission voted 7-0 to recommend approval of the green building incentives.

Staff recommends that the Board of Supervisors approve the attached resolution.


Ellen Cook

CONCUR:

Allen J. Murphy, Jr.

EC/nb

ZO-05-11GrBldg_mem

Attachments:

1. Minutes of the January 24, 2012, Board Work Session (included with the multiple use districts package)
2. Minutes of the July 11, 2012, Planning Commission Meeting
3. Resolution

RESOLUTION

CASE NO. ZO-0005-2011. ENDORSEMENT OF GREEN BUILDING INCENTIVES

- WHEREAS, the 2009 Comprehensive Plan cites use of green building practices in a development project as an example of public benefit; and
- WHEREAS, the Green Building Design Roundtable Forum, which met from March 2009 to June 2010, compiled a report and set of green building recommendations known as the James City County Green Building Design Roundtable Report (“Report”) dated June 2010; and
- WHEREAS, on July 27, 2010, the Board of Supervisors adopted a resolution that supports implementation of the general recommendations found within the Report; and
- WHEREAS, consideration of a green building policy was part of the Zoning Ordinance update methodology adopted by the Board of Supervisors in May 2010; and
- WHEREAS, at its January 24, 2012, work session, the Board of Supervisors directed staff to set forth incentives to be provided for projects that pursue green building certification; and
- WHEREAS, the Board of Supervisors encourages all types of development in James City County to pursue green building practices for new construction and major renovations or expansions.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following green building incentives:

In support of projects considering program certification (at a minimum, “Certified” level or equivalent), James City County commits to the following:

1. Technical consultations and assistance, including the following components:
 - a. County-organized workshops and training sessions that will cover green building topics; and
 - b. As-needed opportunities to sit down with knowledgeable County staff to discuss questions about certification standards and processes and to evaluate options.

In support of projects that do make the commitment¹ to achieve green building certification through Leadership in Energy and Environmental Design (LEED), Earthcraft, or another equivalent certification program, James City County offers the following package of incentives:

¹ Commitment shall entail providing a copy of relevant documents showing that the project has been registered with the certification program, and submission of an initial draft certification checklist indicating the likely items to be pursued.

1. To help defray the costs of certification program registration and certification, the County will refund 25 percent of the Planning Division site or subdivision construction plan review fees upon the project achieving certification.
2. On-going technical consultations and assistance, including the following components:
 - a. Invitations to no cost or low cost planned County-organized workshops and training sessions that will cover green building topics.
 - b. Opportunities to work with County staff:
 - i. Pre-application meeting to go through the certification program checklist to identify opportunities to coordinate certification points with County requirements.
 - ii. Plan review project participation within Development Management by staff members familiar with green building certification programs. Staff will be available to review and discuss the elements of the project proposed to meet the certification points on an as-needed basis.
3. Recognition of the commitment through the following, at a minimum:
 - a. A "Future James City County Green [Business/Institution/Community]" site sign on location during construction.
 - b. Upon certification, a profile on the County website and on TV Channel 48.
 - c. Upon certification, inclusion in the Planning Commission's Annual Report and recognition at a Board of Supervisors meeting.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ZO-05-11GrBldg_res

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF JANUARY 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Dominion Virginia Power – Discussion of Transmission Line

Dominion staff gave a PowerPoint presentation.

Ms. Stephanie Harrington stated that Dominion would present its proposal to the State Corporation Commission (SCC) in April, which allows it opportunities to respond to feedback. Dominion planners are concerned with the area's electrical reliability due to the Peninsula's geographic isolation. With the Yorktown plant going offline in 2014, the need for additional transmission line has accelerated. Dominion has already acquired right-of-way running from Charles City to Newport News. A 500kv line would extend across the Chickahominy River through James City to a Skiffe's Creek switching station, with another new 230kv line running from the Skiffe's Creek switching station to Newport News. This corridor does not need to be widened or require additional easements.

Ms. Mary Jones asked how Dominion determined what areas of the right-of-way would receive lattice style towers versus monopole towers.

Mr. Wade Briggs, Dominion Virginia Power, stated that was an economic assessment.

Ms. Harrington stated that Dominion has already mailed letters to property owners, created a website, and held three open houses. Citizens can submit feedback through the website or at an upcoming open house. The upcoming open houses will be advertised in local papers. Dominion's routing analysis will be reviewed based on those comments. The SCC will hold its own round of outreach and feedback.

Mr. McGlennon asked if alternative routes were considered.

THE HISTORY OF THE
CITY OF BOSTON
FROM 1630 TO 1880
BY
JOHN B. HENNING

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Ms. Harrington stated that Dominion had considered another line extending through New Kent to the Lanexa substation. That route was not chosen due to the existing line needing to remain in place.

Mr. Briggs stated that a new corridor was chosen instead of upgrading the existing corridor for redundancy in case of a major event.

Mr. Middaugh asked if there were any problematic issues along the northern route.

Mr. Briggs stated that Dominion had to consider the effects on the region of losing a large amount of load in a short time.

Ms. Jones asked if existing lines would be removed or if double lines would be placed.

Mr. Briggs stated that the existing lines between the Lightfoot and Toano substations would be removed and replaced. He stated that the existing 230kv line between Chickahominy, Lanexa, and Lightfoot substations would remain.

Mr. McGlennon asked if any lattice structures would be placed in the County.

Mr. Briggs stated that the lattice structures would move across the Chickahominy River and transition to monopoles soon after. The monopoles would run the rest of the way through the County. Dominion is still collecting historical and cultural information and feedback regarding the routes. Dominion will report back to the County after getting a better idea of the final route.

Mr. Middaugh asked how Dominion deals with cultural sites, such as Freedom Park, along the corridor.

Mr. Briggs stated that feedback on the corridor is still being collected.

Mr. McGlennon asked who monitors environmental impacts for the project.

Mr. Briggs stated that he has a staff member that collects and monitors environmental data.

Mr. McGlennon asked if there were any issues at the Skiffe's Creek station.

Mr. Briggs stated there were some historical issues under review at the site.

Mr. McGlennon asked if there had been community outreach in that area.

Mr. Briggs stated not yet, although he intends to set one up. Dominion has held three public meetings so far: at Warhill High School, in Charles City, and in Newport News.

Mr. Jim Icenhour asked if future hearings would be held in Richmond or in each locality.

Mr. Briggs stated that the State hearing examiner would make that decision and he has seen the examiner rule both ways.

Ms. Harrington stated that the Dominion project website links directly to the SCC email and mailing addresses to allow citizens to send feedback.

Mr. Briggs stated that Dominion wants to hear feedback for any issue and that plans are not finalized.

The first part of the report deals with the general situation of the country and the progress of the work during the year. It is followed by a detailed account of the various projects and the results achieved. The report concludes with a summary of the work done and the plans for the future.

The second part of the report contains a list of the various projects and the results achieved. It is followed by a detailed account of the various projects and the results achieved. The report concludes with a summary of the work done and the plans for the future.

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Ms. Harrington stated that photo simulations from Hornsby Middle and Warhill High Schools are available on the project website at www.dom.com/about/electric-transmission/skiffes/index.jsp.

2. Stage II Zoning Ordinance Update for Nonpriority Items - Continued from September 27, 2011, Work Session

Ms. Tammy Rosario, Principal Planner, stated that high priority issues from the last work session included density calculation for residential and multiuse districts, the affordable housing opportunities policy, and green building policy.

Ms. Ellen Cook, Senior Planner, said that staff calculated various ways of determining density including: net acreage, gross acreage, the current calculation of 35 percent of non-developable acreage, and a stepped-scale approach.

Mr. Icenhour asked if staff changed the 35 percent calculation to 25 percent in the draft ordinance.

Ms. Cook stated that the 35 percent calculation was the current ordinance. Staff had initially changed it to 25 percent, but at the Board's direction, concentrated on the stepped-scale option.

Mr. Icenhour asked if the R-1 and R-2 districts were affected by the current proposal.

Ms. Cook said no, but that the stepped-scale option could be used in other districts if the Board wished.

Mr. Icenhour said that the districts calculate density differently. He preferred net density, but felt the acreage calculation was a good compromise. For consistency, if the acreage calculation was adopted, he would like to see it adopted in all districts. He asked staff if there were any issues with using the calculation everywhere.

Mr. Allen Murphy, Acting Manager of Development Management and Planning Director, stated that the calculations could be used everywhere if the Board wanted a consistent policy.

Ms. Rosario said that staff wants feedback on how consistent the Board wants density. Using a step-scale in Mixed Use (MU) would not have much effect, but using it in Economic Opportunity (EO) could actually increase density since this was already adopted using net acreage.

Mr. Jason Purse, Senior Planner, stated that there are other density checks in EO to limit residential development.

Mr. Icenhour stated that if there are no negative impacts to MU or EO he would like to see all districts use the same density. He said that using the same standard would clean up different density methods while still allowing a bonus.

Mr. Kennedy stated that he would like to review additional information on the topic.

Mr. McGlennon stated that as a principle, he would like all densities to be calculated the same way, although upon further review, it may not work for all districts.

Ms. Jones stated that she would like to see additional examples showing the density methods.

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Ms. Rosario stated that while staff examples are hypothetical, the Board ultimately controls the number of units through the legislative process.

Mr. Murphy that stated the process can be either more predictable or give the Board more discretion.

Ms. Kate Sipes, Business Development Coordinator and former Senior Planner, stated that staff drafted an affordable housing policy based on feedback from the Board to provide affordable units with future residential proposals, including making expectations for developers clearer. Based on Policy Committee input, staff was considering combining the definitions for 'affordable' and 'workforce' by targeting households earning between 30 and 120 percent of the area median income.

Ms. Rosario stated that developers would get additional benefits for homes offered at the lower end of the area median.

Mr. Icenhour stated that he wanted to maintain the distinction between 'affordable' and 'workforce.' The market was taking care of workforce housing and the program should be focused on the affordable end. He asked staff to elaborate on changes to the affordable proffer language.

Ms. Sipes stated that staff does not want to overlook the category of greatest-need households at 30-60 percent of area median income and wants to give additional benefit to those providing it.

Mr. McGlennon asked what in the policy addressed housing needs at the lowest income level.

Ms. Sipes stated that developers will be asked to provide the entire spectrum of affordable housing targeted at households earning from 30 to 120 percent of area median income. She said that units targeting the lowest income levels would have no cash proffers.

Ms. Rosario stated that there are additional density bonuses in the districts to further incentivize affordable housing.

Mr. Icenhour asked staff to research whether soft second provisions apply to workforce housing, including the new Candle Factory proposal. He also asked how taking cash in lieu of affordable housing helps the County.

Mr. Vaughn Poller, Administrator of Housing and Community Development, stated that staff envisions using the in lieu funds to develop other affordable units around the County.

Ms. Sipes stated that staff included the in lieu policy in cases where a development's having affordable housing may not be practical, but that the County would still want to uphold the policy.

Ms. Jones stated that she was comfortable with the policy.

Mr. Poller stated that the policy provides 10 percent of affordable units below 30 percent of area median. He said the in lieu fund could also be used to address people at the lowest end by subsidizing home renovations.

Ms. Cook stated that staff drafted an incentive-based green building policy for commercial and residential based on Economic Development Authority (EDA) comments. The draft submitted to the Board could be expanded from commercial to include all development.

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15. The fifteenth part of the report deals with the list of references of the report.

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17. The seventeenth part of the report deals with the list of symbols of the report.

Mr. Kennedy stated that the Green Building Roundtable intended green buildings to be voluntary. Many people feel the draft language is punitive. He asked what changed in the policy.

Ms. Cook stated that while many of the Green Building Roundtable's recommendations focused on incentives, staff used language from the recommendations for expectations on commercial buildings larger than 10,000 square feet and for residential units. Incentives would be revisited later.

Mr. Kennedy stated that he would like to see an incentive-based final policy.

Mr. Russell Seymour, Director of Economic Development, stated that the Office of Economic Development (OED) recommends various incentives for commercial green building, including expedited review and fee waivers as well as business education. Additional restrictions would be not helpful in the current economic climate.

Ms. Rosario stated that the latest staff version presented to the Board is incentive-based.

Mr. Icenhour asked if the same incentives would be possible for both commercial and residential green building.

Mr. Murphy stated that commercial green building could be expedited. However every case cannot be expedited.

Ms. Jones stated that the policy should use incentives while the green building deposit draft language moves away from that.

Mr. Icenhour stated that it would be better to give to businesses that comply rather than take away from businesses that do not and he would like the incentives policy clarified. He asked staff to come back and demonstrate, if the policy was adopted, how the County could verify its effectiveness and performance.

Mr. Kennedy stated that having more options gives businesses greater reason to locate here.

Mr. McGlennon stated green building was not being built into the ordinance and was only a staff policy.

Mr. Murphy stated that draft ordinance language included density bonuses for exceeding green building standards. That language can be modified based on Board feedback.

Mr. Kennedy stated expedited review may not matter as much with fewer planning cases under review, but could become a more important incentive when an improved economy causes a case backlog.

Mr. Seymour stated that expedited review was frequently requested by business owners. Expedited review would be taken off the table if the Board decided to extend green incentives to residential units.

Mr. Murphy stated that staff could develop residential incentives without losing business fast-tracking.

Mr. Kennedy stated that it was very important to have consistency and clear expectations.

Mr. Murphy stated that staff will draft supplemental material to accompany an incentive-based policy with clear expectations.

Mr. McGlennon stated that he would prefer expectations to incentives.

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2. The second part of the report deals with the economic situation and the measures taken to improve it.

3. The third part of the report deals with the social situation and the measures taken to improve it.

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9. The ninth part of the report deals with the transport situation and the measures taken to improve it.

10. The tenth part of the report deals with the communication situation and the measures taken to improve it.

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15. The fifteenth part of the report deals with the clothing situation and the measures taken to improve it.

16. The sixteenth part of the report deals with the recreation situation and the measures taken to improve it.

17. The seventeenth part of the report deals with the sports situation and the measures taken to improve it.

18. The eighteenth part of the report deals with the tourism situation and the measures taken to improve it.

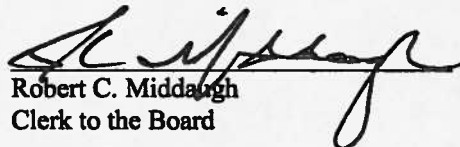
Ms. Jones stated that she did not want to see additional regulations.

Ms. Rosario stated that the Board seemed to have consensus on commercial incentives, but was divided on whether to go beyond that for either commercial or residential. Staff could draft an incentives policy now with an evaluation period before reporting findings to the Board.

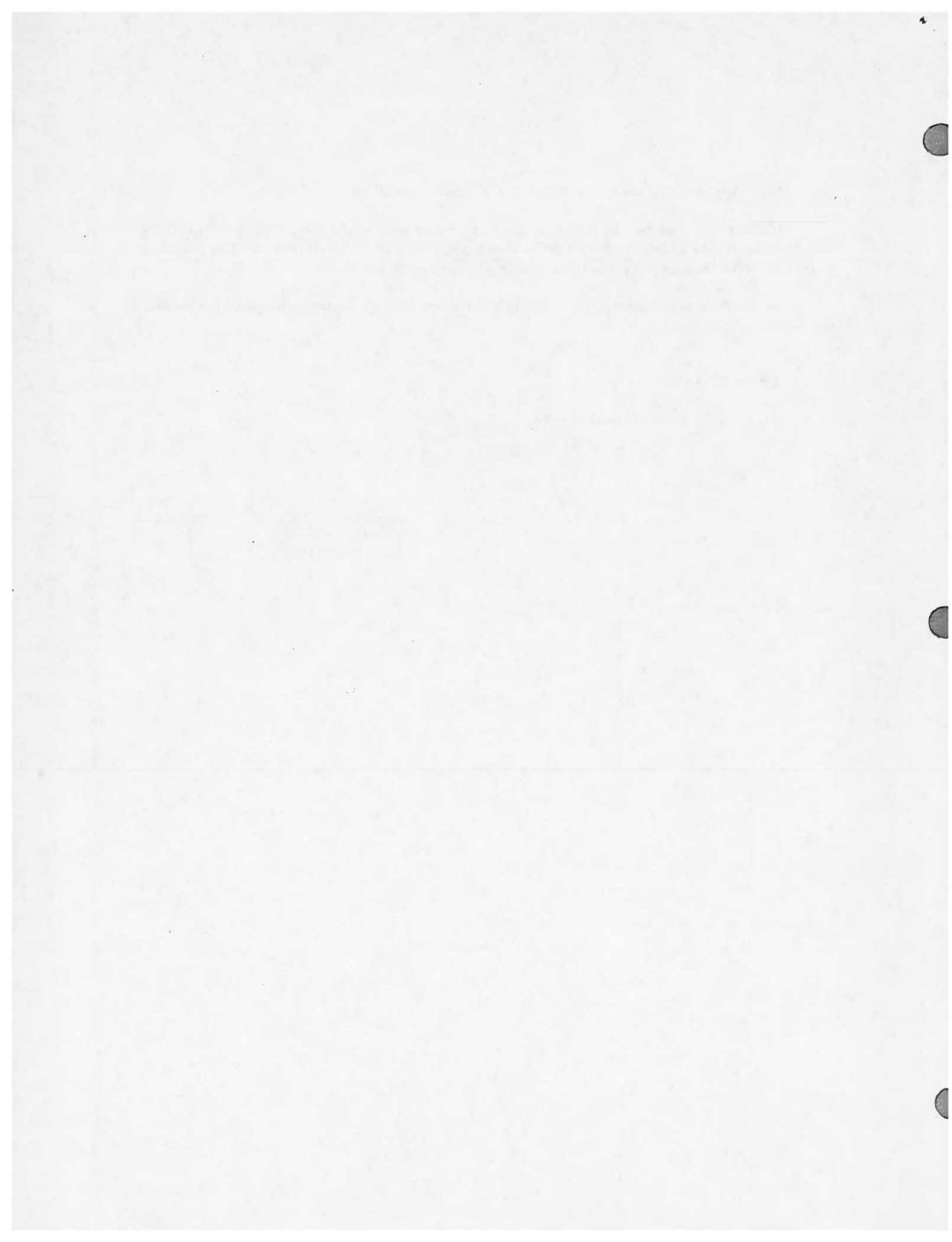
Mr. Icenhour stated that he would like to see whether voluntary incentive programs are meeting expectations.

D. ADJOURNMENT

Ms. Jones adjourned the meeting at 6:01 p.m.


Robert C. Middaugh
Clerk to the Board

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ZO-0002-2012 Definitions, ZO-0009-2011 Residential Districts, ZO-0008-2011 Multi-Use Districts, ZO-0007-2011 Residential Cluster Overlay, ZO-0005-2011 Green Building

Mr. Johnson stated that in the interest of time, Mr. Ribeiro could make a short presentation on all of these topics. He stated Ms. Cook and Mr. Purse could then be available to answer any questions.

Mr. Woods asked staff whether each section was materially consistent with the language reviewed by the Policy Committee.

Mr. Ribeiro stated his presentation did not include that information. He stated he could discuss changes to the Definitions section and his coworkers other sections.

Mr. Johnson stated Mr. Ribeiro, Mr. Purse, and Ms. Cook could give brief summations to what the Policy Committee reviewed previously.

Mr. Ribeiro stated that some definitions were previously submitted to the Committee and the Commission as part of the review of individual districts and sections of the ordinance. He stated all revised definitions are now being presented collectively under a single document in Section 24-2. In addition to the definitions and ordinance updates under review tonight, staff has also prepared a residential redevelopment policy, workforce housing opportunity policy, endorsement of green building incentives, and mixed use construction phasing guidelines for consideration.

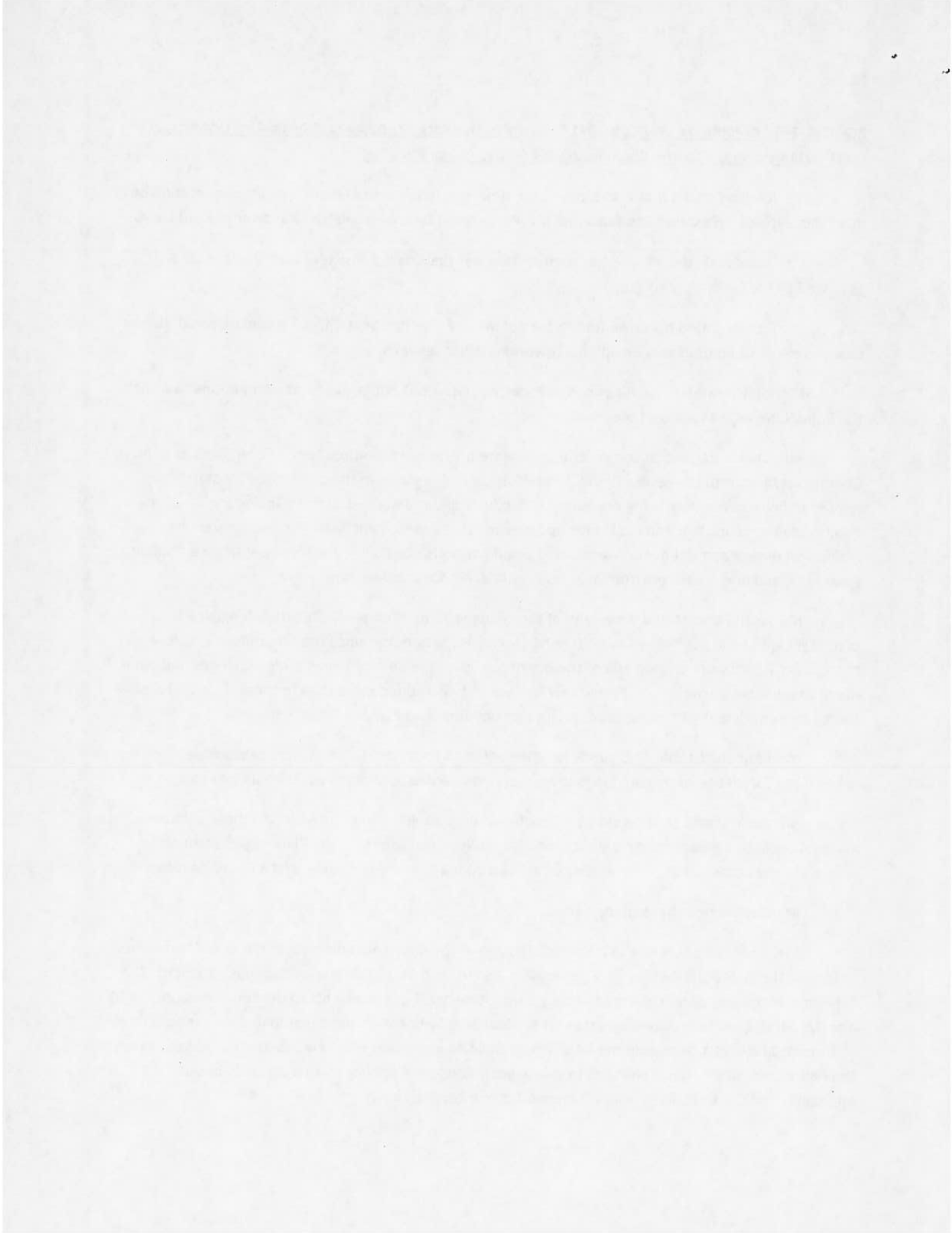
Mr. Jason Purse stated a majority of the changes in the Multiple Use districts language is consistent with what the Policy Committee has seen. He stated that since the Committee's review, there was a Board work session where the Board discussed the density bonus table. Changes had been made to the table since the Committee saw it. Staff has also added more uses to these districts to make them more consistent with state code, such as group home and assisted living type uses.

Mr. Basic stated that PUD setbacks when adjacent to residential uses were reasonable. He asked if the 75' feet setback from PUDs to adjacent compatible commercial uses could be reduced.

Mr. Purse stated staff would be amenable to proposing a waiver provision to those sections. He stated it could be similar to the residential section, with waivers going to the Planning Director and appeals to the Commission. The language could be added to materials going to the Board next month.

Mr. Basic stated that sounded good.

Ms. Cook stated there was a lot of discussion of the Residential districts at the Board level work sessions. She stated the density bonuses table is also used in Cluster Overlay, R1, and R2 districts. The other major changes of note since the Policy Committee are the refinements to density provisions. In R1 and R2, density had been based on gross area. Now density based on the developable area is applied to all districts and uses a step-scale method. Green Building incentives also saw substantial changes since the Policy Committee. It has changed from a expectations-based policy to an incentives-based approach. The Green Building policy is more a list of incentives now.



Mr. O'Connor asked if the step-scale method made it more consistent and predictable to calculate density for both staff and business.

Ms. Cook stated staff attempted to make it as user-friendly as possible. She stated the ordinance includes an illustration with the table.

Mr. Basic stated it was much more user-friendly.

Mr. O'Connor opened the public hearing.

Ms. Susan Gaston, representing the Williamsburg Area Association of Realtors, stated the density calculations are much more user-friendly, predictable, and consistent. She stated the association supports the density table and changes. She commended the affordable housing policy and supported the green building policy as well.

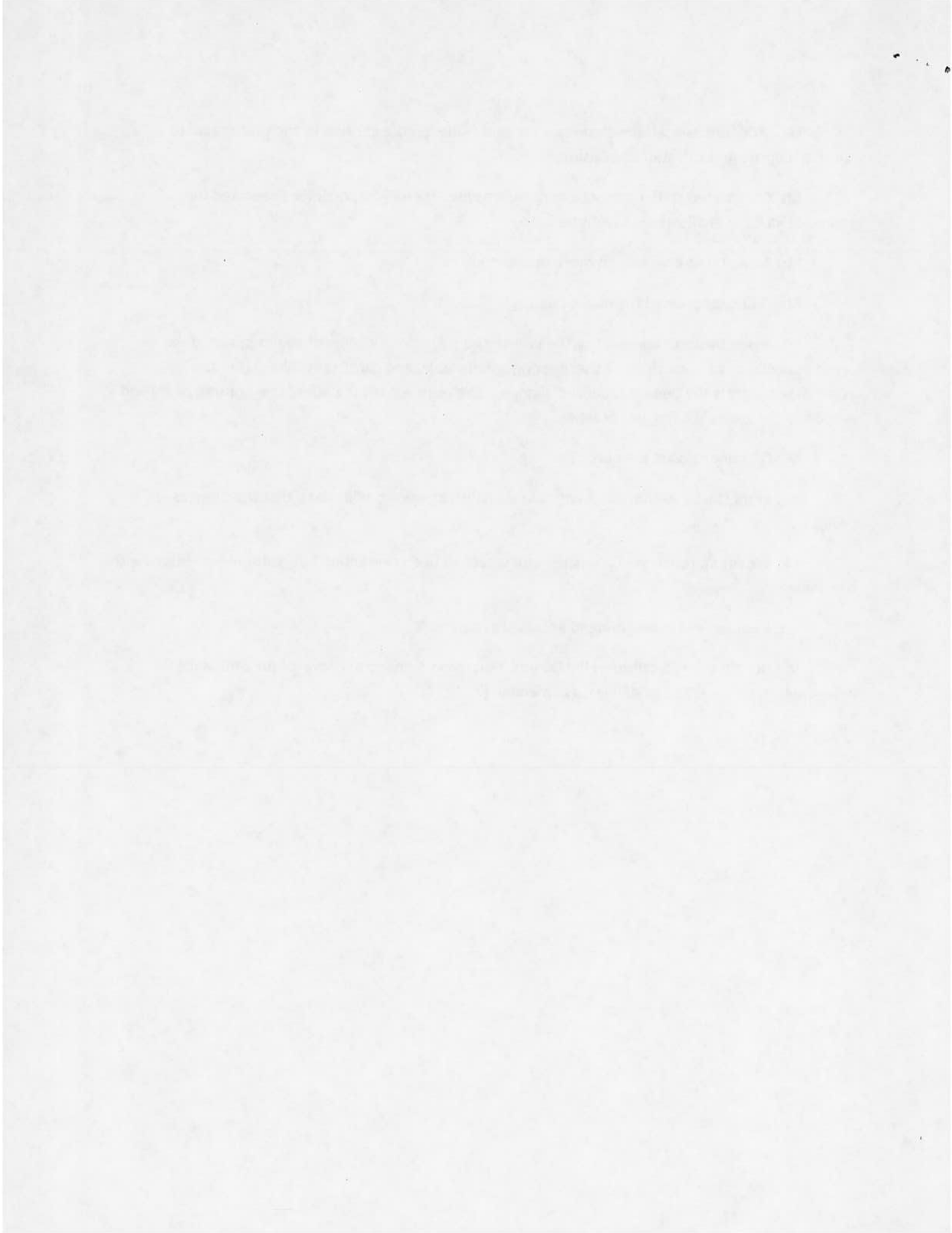
Mr. O'Connor closed the public hearing.

Mr. Krapf stated staff made changes to each district easy to follow and that the changes are positive.

Mr. Woods stated he had no issues with what had been presented, but had some questions with the process.

Mr. Basic moved to recommend approval as amended.

In a unanimous roll call vote, the Commission recommended approval of the ordinance amendments, policies, and guidelines, as amended (7-0).



MEMORANDUM COVER

Subject: Case Nos. ZO-0007-2011 and ZO-0009-2011. Residential Districts, Cluster Overlay, Residential Redevelopment Policy, and Workforce Housing Opportunities Policy

Action Requested: Shall the Board approve the proposed amendments to residential districts and cluster overlay ordinance, as well as the Residential Redevelopment and Workforce Housing Opportunities policies?

Summary: Staff has developed final ordinance language and policies for items that fall under the broader spectrum of residential districts within the Zoning Ordinance. Highlights of the proposed changes are listed in the attached memorandum.

At its July 11, 2012, meeting, the Planning Commission recommended approval of the residential districts (R-1, R-2, R-3, and R-5) ordinances, the Cluster Overlay ordinance, the Residential Redevelopment Policy, and the Workforce Housing Opportunities Policy by a vote of 7-0.

Staff recommends that the Board of Supervisors approve the above referenced material as proposed.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Minutes of the September 27, 2011, January 24, 2012, and February 28, 2012, Board Work Sessions (in Multiple Use Districts package)
2. Minutes of the July 11, 2012, Planning Commission (in Multiple Use Districts package)
3. R-1 Ordinance
4. R-2 Ordinance
5. R-3 Ordinance
6. Residential Redevelopment Policy Resolution
7. R-5 Ordinance
8. Cluster Overlay District Ordinance
9. Workforce Housing Opportunities Policy
10. Clean Copies of the above Ordinances (in Reading File)

Agenda Item No.: I-6

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner II
Jose Ribeiro, Senior Planner

SUBJECT: Case Nos. ZO-0007-2011 and ZO-0009-2011. Residential Districts, Cluster Overlay, Residential Redevelopment Policy, and Workforce Housing Opportunities Policy

Staff has drafted final ordinance language, guidelines and policies for multiple items that fall into the residential districts category. The following specific sections are included in this category:

1. R-1, Limited Residential District, and R-2, General Residential District
2. R-3, Residential Redevelopment District, and Residential Redevelopment Policy
3. R-5, Multi-family Residential District
4. Cluster Overlay District
5. Workforce Housing Opportunities Policy

The Policy Committee discussed initial proposals for the above items at meetings in February 2011, and the Board discussed these items at a work session in April 2011. The Policy Committee considered draft ordinance and policy language in July and September 2011, and the Board discussed these items at work sessions in September 2011, and January, and February 2012. The attached materials are associated with Stage III, final review of residential districts ordinances.

Proposed residential district-related amendments to the Definitions section (Section 24-2) of the ordinance will be presented separately, but are referenced in the summary below. The following list represents a brief summary of each of the above items.

1. R-1 and R-2

The substantive changes that are proposed to the R-1, Limited Residential District and the R-2, General Residential, District include the list of items below. The proposed changes reflect Policy Committee and Board feedback during Stages I and II of the process.

- Revises the statement of intent to clarify that activities of a commercial nature are limited, but not prohibited;
- Makes additions, deletions, and clarifications to the list of permitted and specially permitted uses:
 - In R-2 only, this section is amended to include certain limited commercial uses
 - Changes and clarifications for group home and senior living terms
- Removes the description of a minor subdivision (to be placed in Definitions section of the Subdivision Ordinance);
- Revises the items that need to be provided as part of a Special Use Permit (SUP) application to increase density from one to two units per acre, by citing the new density bonus options table also being used in cluster and several multiple use districts;
- Adds the method for calculating the density of a proposed subdivision that uses a stepped scale to calculate gross acreage based on percent of nondevelopable land;
- Removes the description of non-developable land (to be placed in Definitions section) – note that the definition of non-developable land has been revised to use current terminology, such as Resource Protection Areas;

- Clarifies areas that can and cannot be counted toward the developable open space requirement;
- Adds minimum recreation requirement for park land and playground;
- Simplifies homeowners association establishment section through reference to similar language in the County's subdivision ordinance;
- Adds language on including open space information in homeowners association documents;
- Changes authority for buffer requirements waiver decisions from the Planning Commission to the Planning Director;
- Adds an ability to appeal buffer requirement waiver decisions;
- Makes revisions to bring this district into conformance with amendments previously made to Division 6, Wireless Communication Facilities; and
- Adds a section referencing the pedestrian accommodations section.

2. R-3, Residential Redevelopment District

This item involves amendment of the Zoning Ordinance to create a new district suited for residential redevelopment. The proposed new district text reflects Policy Committee and Board feedback during Stages I and II of the process. Creation of this district includes establishment of the following elements:

- A statement of intent, which includes a reference to the new James City County Residential Redevelopment Policy;
- Requirements for where permitted and minimum site size;
- List of permitted and specially permitted uses;
- Right-of-way and perimeter buffer requirements;
- Minimum lot width and area requirements;
- Setback and yard requirements;
- A method for calculating the density of a proposed subdivision that uses a stepped scale to calculate gross acreage based on percent of nondevelopable land;
- Standards for overall development density including the method for achieving density bonuses;
- Requirements for improvement and design;
- Requirements for open space and neighborhood park;
- Requirements for ownership and maintenance of open space; and
- Structure height limitation requirements.

To accompany this district, the Residential Redevelopment Policy has been created.

3. R-5, Multi-family Residential District

The substantive changes that are proposed to the R-5, Multi-Family Residential District include the list of items below. The proposed changes reflect Policy Committee and Board feedback during Stages I and II of the process.

- Makes additions, deletions and clarifications to the list of permitted and specially permitted uses:
 - Only permits multi-family dwellings containing two or more dwelling units
 - Removes the Cluster Overlay District option within R-5
 - Adds certain limited commercial uses
 - Makes changes and clarifications for group home and senior living terms
- Deletes requirements regarding area, setbacks, minimum lot width and yards;
- Amends the method for achieving density bonuses by citing the new density bonus options table also being used in cluster and several multiple use districts;
- Revises the method for calculating the density of a proposed subdivision. The revised language uses a stepped scale to calculate gross acreage based on percent nondevelopable land;

- Establishes standards for developable and nondevelopable open space;
- Deletes requirements regarding private yards (to provide design flexibility) and utility lines, fire hydrants, and drainage facilities (to eliminate overlap with other agency regulations);
- Makes revisions to bring this district into conformance with amendments previously made to Division 6, Wireless Communication Facilities;
- Establishes a new section on buffers and setback requirements that retains some elements of the original R-5 language, but is more consistent overall with the other residential districts; and
- Adds section referencing the pedestrian accommodations section.

4. Cluster Overlay District

The substantive changes that are proposed to the Cluster Overlay District include the list of items below. The proposed changes reflect Policy Committee and Board feedback during Stages I and II of the process.

- Clarifies the cluster overlay is only allowed inside the Primary Service Area;
- Deletes provisions allowing cluster overlay to be used with the R-5 district;
- Clarifies the portion of the Comprehensive Plan with which commercial development should be consistent;
- Changes authority for buffer requirements waiver decisions from Planning Commission to Planning Director;
- Adds an ability to appeal buffer requirement waiver decisions;
- Reduces requirement for the distance that a building must be from the internal edge of the perimeter buffer;
- Revises the method for calculating the density of a proposed subdivision that uses a stepped scale to calculate total gross acreage based on percent of nondevelopable land;
- Substantially revises the method for achieving density bonuses by establishing a list of density bonus item options that correspond to a range of available point values;
- Removes the description of non-developable land (to be placed in Definitions section) – note that the definition of non-developable land has been revised to use current terminology, such as Resource Protection Areas;
- Clarifies areas that can and cannot be counted toward the developable open space requirement;
- Revises developable open space requirement by:
 - Incorporating the percent of open space required into the tiered system linked to desired density
 - Deleting language that allowed for reductions in required open space through provision of various amounts of affordable housing;
- Adds language on the arrangement of conservation/general open space and recreational open space that should be considered during the conceptual or master plan review process;
- Adds a new section on development design that should be considered during the conceptual or master plan review process;
- Simplifies homeowners association establishment section through reference to similar language in the County's subdivision ordinance;
- Adds language on including open space information in homeowners association documents;
- Adds section referencing the pedestrian accommodations section; and
- Revises language for a review and approval process where submission of a conceptual plan prior to the legislative process is strongly encouraged.

5. Workforce Housing Opportunities Policy

This item involves creation of a new policy to address workforce housing needs. The proposed new policy reflects Policy Committee and Board feedback during Stages I and II of the process. Creation of this policy includes establishment of the following elements:

- Purpose;
- Provision and integration of housing opportunity units;
- Applicability of cash proffers;
- Retention of housing opportunity units over time;
- In-lieu contribution to housing fund; and
- Procedures.

As the Board may recall, the Policy title's use of the term "workforce housing" rather than both the terms "workforce" and "affordable" follows the recommendation of the County's Office of Housing and Community Development (OHCD), followed by Policy Committee concurrence and Board discussion at its January 24, 2012, work session. The Policy continues to target the same low and moderate income range, but the segments of the income range specified in the Policy are no longer separately termed as affordable or workforce. This use of terminology is reflected in the Definitions section as well.

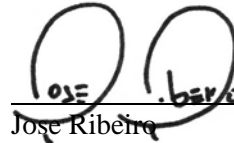
RECOMMENDATION

At its July 11, 2012 meeting, the Planning Commission recommended approval of the residential districts (R-1, R-2, R-3, and R-5) ordinances, the Cluster Overlay ordinance, the Residential Redevelopment Policy, and the Workforce Housing Opportunities Policy by a vote of 7-0.

Staff recommends that the Board of Supervisors approve the above referenced material as proposed.



Ellen Cook



Jose Ribera

CONCUR:

Allen J. Murphy, Jr.

EC/JR/nb
ZO-07-11_ZO-09-11RDis-WFHous_mem

Attachments:

1. Minutes of the September 27, 2011, January 24, 2012, and February 28, 2012, Board Work Sessions – these sets of minutes are included with the Multiple Use Districts package
2. Minutes of the July 11, 2012, Planning Commission Meeting – this set of minutes is included with the Multiple Use Districts package
3. R-1 Ordinance
4. R-2 Ordinance
5. R-3 Ordinance
6. Residential Redevelopment Policy Resolution
7. R-5 Ordinance
8. Cluster Overlay District Ordinance
9. Workforce Housing Opportunities Policy
10. Clean Copies of the above Ordinances (in Reading File)

AGENDA ITEM NO. G-1a

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF SEPTEMBER 2011, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
 Bruce C. Goodson, Vice Chair, Roberts District
 James G. Kennedy, Stonehouse District
 James O. Icenhour, Jr., Powhatan District
 John J. McGlennon, Jamestown District

Robert C. Middaugh, County Administrator
 Leo P. Rogers, County Attorney

*as adopted
 on Oct. 11, 2011*

C. STAGE II ZONING ORDINANCE UPDATE FOR NON PRIORITY ITEMS

The work session will address draft ordinances and policies for four areas: Wireless Communication Facilities, Residential Districts, Multiple Use Districts, and Administrative items.

Mr. McGlennon noted he felt that it would take several work sessions to review all of these items.

Ms. Tammy Rosario, Senior Planner, stated the purpose of the work session is to share changes to the ordinances and to receive feedback from the Board so that staff can move forward with preparing the items for final consideration.

1. Wireless Communication Facilities

Mr. Luke Vinciguerra, Planner, stated that the proposed revisions to the Wireless Communications Facilities Ordinance include a mechanism to review applications for multi-antenna systems such as Distributed Antenna Systems (DAS), clarify the camouflaged towers provision, permit Portable Cellular Tower Facilities (PCTF), and encourage alternatively mounted antennas.

He also noted that the Policy Committee recommended language regarding the minimum quality of products that can be used for camouflaged towers utilizing the Native Vegetation provision and requiring a Special Use Permit (SUP) for camouflaged towers in residential districts.

Mr. Goodson clarified with the County Attorney that the proposed changes comply with Federal law.

Mr. Rogers replied that they do.

Mr. Jack Fraley, Chair of the Planning Commission, stated that the consultant reported to the Policy Committee that he was not aware of any locality in Virginia that allows towers at 120 feet by right in residential districts.

Mr. Goodson asked why the SUP requirement only applied to camouflaged towers.

Mr. Fraley noted that many citizens prefer the use of "slick sticks" to a camouflaged tower intended to look like native vegetation such as a pine tree.

Mr. Goodson asked if alternatively mounted antennas on buildings would continue to be allowed by right.

Mr. Vinciguerra replied that they would be and that the proposed ordinance adds language which clarifies that they are allowed by right.

Mr. Icenhour asked if a distributed antenna system such as DAS, would require an SUP in a residential district.

Mr. Vinciguerra replied that it would require an SUP and that the Board could approve all of the antennas in such a system at one time in a single application.

Mr. Icenhour asked if an alternatively mounted antenna was allowed by right in all districts.

Mr. Vinciguerra responded affirmatively. He added that camouflaged towers, as determined by the Planning Director, of 120 feet or less are currently allowed by right in any district, including residential.

The Board expressed a desire to require an SUP for any tower, including camouflaged, in all residential districts.

Mr. Icenhour verified that a PCTF under 120 feet currently can be approved administratively for up to 90 days.

Mr. Goodson asked if there was a provision in the ordinance to extend approval for a PCTF beyond 90 days.

Mr. Icenhour asked if 120 feet was the appropriate height limit for a PCTF.

The Board expressed an interest in adding language that would allow the Board to extend approval for a PCTF beyond 90 days.

2. Residential Districts

Ms. Ellen Cook, Senior Planner, provided a summary of proposed changes to the Residential Districts. Changes made to both R-1 and R-2 included coordinating the density bonus system with the cluster overlay district and adding selected commercial uses allowed by SUP. Changes to the R-5 district include changing permitted uses to include only multi-family dwellings containing more than four dwelling units.

Mr. McGlennon asked if the staff had evaluated how well these ordinances had performed previously.

Ms. Cook replied that they had.

Ms. Tammy Rosario, Principal Planner, suggested starting the review with the cluster overlay.

Ms. Cook noted that the major changes in this cluster overlay district were revisions of the nondevelopable land definition, revision to the density standards and bonus items, and inclusion of new design information for open space and for development.

The Board discussed the way that density is calculated in the residential and some of the multiple use districts, and whether it should be based on gross land area, net land area (which does include the nondevelopable land), or a calculated area based on the percentage of nondevelopable land.

Mr. McGlennon said the County has generally determined density based on all of the area of the site (gross land area). He asked if there was consideration given for using only developable area, and how the proposed changes to the nondevelopable area definition and to the density calculation method in Cluster would affect density.

Ms. Cook stated that she thought the proposed changes would tend to reduce overall density to some degree, but that it would be dependent on the conditions present at a given site.

Mr. Icenhour noted that PUD was the only place that density had been based on developable acreage and asked why there had been a difference. He also noted his preference that density be based on developable acreage in all districts.

Mr. McGlennon noted that density in the Economic Opportunities (EO) Zone is based on developable acreage.

Mr. Goodson said he desired predictability, and thought it would be hard to calculate developable acreage in some cases.

Mr. Icenhour said this incentivizes development on properties that are environmentally sensitive. He said the proposal allows too much density in a smaller area and where it is not wanted.

Mr. McGlennon and Mr. Icenhour stated their preference to determine density based on developable land.

Mr. Goodson and Ms. Jones said they supported the staff proposal.

Mr. Kennedy asked for additional information and mentioned that a Transfer of Development Rights (TDR) program could affect this question.

Discussion ensued about the impact of changing the determination of density.

The Board requested that in terms of the calculated area method, staff investigate an altered scale method that limits the density achievable at the highest level of nondevelopable land, similar to a sliding scale method.

The Board also requested that in terms of the net land area method, staff provide more information on potential effects through example scenarios and at ways to compensate the landowner.

The Board then discussed the density bonus item options in the cluster overlay district.

Mr. Icenhour expressed a concern that the ordinance gives incentives for practices that he thought the County should expect as standard.

The Board discussed whether the bonus item list should be shorter and more prioritized.

The Board requested that staff provide a spreadsheet or other form so feedback on the Board's high, medium, and low priorities could be gathered.

Prompted by several questions from Mr. Icenhour, the Board discussed the R-5, Multi-family Residential District, and the Cluster Overlay District and the connection between the two.

The Board discussed the way the density provisions and incentives in each of the districts worked, and whether it made sense to either remove the R-5 cluster option, or to reduce the base densities in R-5 and allow the densities to be achieved through greater use of the density bonus items.

The Board requested that staff examine each of those options and provide that information to the Board and discussed the R-3 Redevelopment District, a proposed new district.

Ms. Kate Sipes, Business Development Coordinator, explained that this new district is intended to apply in instances where development has occurred, where improvements to infrastructure is needed, where rehabilitation or replacement of structures is needed or where legally non-conforming lots exist. In the past, the Mixed Use district has been applied to these types of developments, but it not always a good fit.

The question was raised as to why the proposed ordinance seeks "greater conformance" given that property would be rezoned to R-3. There was consensus to amend the ordinance to state that non-conforming parcels should be brought into conformance.

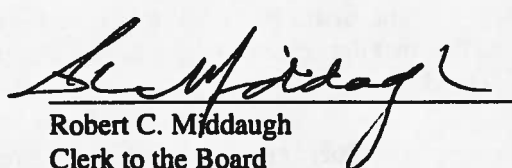
The Board also raised questions about the density bonus item options and expressed a concern that some should be expectations. The question of whether the County needed density bonuses for County projects was also raised. Staff was asked to review the list for possible changes.

There was acknowledgement among Board members that common areas require maintenance, but in redevelopment projects for existing neighborhoods, the County cannot require existing property owners to join a new association. R-3 language requires a mechanism for maintaining open space, but allows flexibility from firm homeowners association requirements found in other districts.

Mr. Fraley raised the issue of providing incentives for re-use of empty storefronts.

D. BREAK

At 6:12 p.m., the Board took a break.


Robert C. Middaugh
Clerk to the Board

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 24TH DAY OF JANUARY 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Dominion Virginia Power – Discussion of Transmission Line

Dominion staff gave a PowerPoint presentation.

Ms. Stephanie Harrington stated that Dominion would present its proposal to the State Corporation Commission (SCC) in April, which allows it opportunities to respond to feedback. Dominion planners are concerned with the area's electrical reliability due to the Peninsula's geographic isolation. With the Yorktown plant going offline in 2014, the need for additional transmission line has accelerated. Dominion has already acquired right-of-way running from Charles City to Newport News. A 500kv line would extend across the Chickahominy River through James City to a Skiffe's Creek switching station, with another new 230kv line running from the Skiffe's Creek switching station to Newport News. This corridor does not need to be widened or require additional easements.

Ms. Mary Jones asked how Dominion determined what areas of the right-of-way would receive lattice style towers versus monopole towers.

Mr. Wade Briggs, Dominion Virginia Power, stated that was an economic assessment.

Ms. Harrington stated that Dominion has already mailed letters to property owners, created a website, and held three open houses. Citizens can submit feedback through the website or at an upcoming open house. The upcoming open houses will be advertised in local papers. Dominion's routing analysis will be reviewed based on those comments. The SCC will hold its own round of outreach and feedback.

Mr. McGlennon asked if alternative routes were considered.

Ms. Harrington stated that Dominion had considered another line extending through New Kent to the Lanexa substation. That route was not chosen due to the existing line needing to remain in place.

Mr. Briggs stated that a new corridor was chosen instead of upgrading the existing corridor for redundancy in case of a major event.

Mr. Middaugh asked if there were any problematic issues along the northern route.

Mr. Briggs stated that Dominion had to consider the effects on the region of losing a large amount of load in a short time.

Ms. Jones asked if existing lines would be removed or if double lines would be placed.

Mr. Briggs stated that the existing lines between the Lightfoot and Toano substations would be removed and replaced. He stated that the existing 230kv line between Chickahominy, Lanexa, and Lightfoot substations would remain.

Mr. McGlennon asked if any lattice structures would be placed in the County.

Mr. Briggs stated that the lattice structures would move across the Chickahominy River and transition to monopoles soon after. The monopoles would run the rest of the way through the County. Dominion is still collecting historical and cultural information and feedback regarding the routes. Dominion will report back to the County after getting a better idea of the final route.

Mr. Middaugh asked how Dominion deals with cultural sites, such as Freedom Park, along the corridor.

Mr. Briggs stated that feedback on the corridor is still being collected.

Mr. McGlennon asked who monitors environmental impacts for the project.

Mr. Briggs stated that he has a staff member that collects and monitors environmental data.

Mr. McGlennon asked if there were any issues at the Skiffe's Creek station.

Mr. Briggs stated there were some historical issues under review at the site.

Mr. McGlennon asked if there had been community outreach in that area.

Mr. Briggs stated not yet, although he intends to set one up. Dominion has held three public meetings so far: at Warhill High School, in Charles City, and in Newport News.

Mr. Jim Icenhour asked if future hearings would be held in Richmond or in each locality.

Mr. Briggs stated that the State hearing examiner would make that decision and he has seen the examiner rule both ways.

Ms. Harrington stated that the Dominion project website links directly to the SCC email and mailing addresses to allow citizens to send feedback.

Mr. Briggs stated that Dominion wants to hear feedback for any issue and that plans are not finalized.

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Ms. Harrington stated that photo simulations from Hornsby Middle and Warhill High Schools are available on the project website at www.dom.com/about/electric-transmission/skiffes/index.jsp.

2. Stage II Zoning Ordinance Update for Nonpriority Items - Continued from September 27, 2011, Work Session

Ms. Tammy Rosario, Principal Planner, stated that high priority issues from the last work session included density calculation for residential and multiuse districts, the affordable housing opportunities policy, and green building policy.

Ms. Ellen Cook, Senior Planner, said that staff calculated various ways of determining density including: net acreage, gross acreage, the current calculation of 35 percent of non-developable acreage, and a stepped-scale approach.

Mr. Icenhour asked if staff changed the 35 percent calculation to 25 percent in the draft ordinance.

Ms. Cook stated that the 35 percent calculation was the current ordinance. Staff had initially changed it to 25 percent, but at the Board's direction, concentrated on the stepped-scale option.

Mr. Icenhour asked if the R-1 and R-2 districts were affected by the current proposal.

Ms. Cook said no, but that the stepped-scale option could be used in other districts if the Board wished.

Mr. Icenhour said that the districts calculate density differently. He preferred net density, but felt the acreage calculation was a good compromise. For consistency, if the acreage calculation was adopted, he would like to see it adopted in all districts. He asked staff if there were any issues with using the calculation everywhere.

Mr. Allen Murphy, Acting Manager of Development Management and Planning Director, stated that the calculations could be used everywhere if the Board wanted a consistent policy.

Ms. Rosario said that staff wants feedback on how consistent the Board wants density. Using a step-scale in Mixed Use (MU) would not have much effect, but using it in Economic Opportunity (EO) could actually increase density since this was already adopted using net acreage.

Mr. Jason Purse, Senior Planner, stated that there are other density checks in EO to limit residential development.

Mr. Icenhour stated that if there are no negative impacts to MU or EO he would like to see all districts use the same density. He said that using the same standard would clean up different density methods while still allowing a bonus.

Mr. Kennedy stated that he would like to review additional information on the topic.

Mr. McGlennon stated that as a principle, he would like all densities to be calculated the same way, although upon further review, it may not work for all districts.

Ms. Jones stated that she would like to see additional examples showing the density methods.

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Ms. Rosario stated that while staff examples are hypothetical, the Board ultimately controls the number of units through the legislative process.

Mr. Murphy that stated the process can be either more predictable or give the Board more discretion.

Ms. Kate Sipes, Business Development Coordinator and former Senior Planner, stated that staff drafted an affordable housing policy based on feedback from the Board to provide affordable units with future residential proposals, including making expectations for developers clearer. Based on Policy Committee input, staff was considering combining the definitions for 'affordable' and 'workforce' by targeting households earning between 30 and 120 percent of the area median income.

Ms. Rosario stated that developers would get additional benefits for homes offered at the lower end of the area median.

Mr. Icenhour stated that he wanted to maintain the distinction between 'affordable' and 'workforce.' The market was taking care of workforce housing and the program should be focused on the affordable end. He asked staff to elaborate on changes to the affordable proffer language.

Ms. Sipes stated that staff does not want to overlook the category of greatest-need households at 30-60 percent of area median income and wants to give additional benefit to those providing it.

Mr. McGlennon asked what in the policy addressed housing needs at the lowest income level.

Ms. Sipes stated that developers will be asked to provide the entire spectrum of affordable housing targeted at households earning from 30 to 120 percent of area median income. She said that units targeting the lowest income levels would have no cash proffers.

Ms. Rosario stated that there are additional density bonuses in the districts to further incentivize affordable housing.

Mr. Icenhour asked staff to research whether soft second provisions apply to workforce housing, including the new Candle Factory proposal. He also asked how taking cash in lieu of affordable housing helps the County.

Mr. Vaughn Poller, Administrator of Housing and Community Development, stated that staff envisions using the in lieu funds to develop other affordable units around the County.

Ms. Sipes stated that staff included the in lieu policy in cases where a development's having affordable housing may not be practical, but that the County would still want to uphold the policy.

Ms. Jones stated that she was comfortable with the policy.

Mr. Poller stated that the policy provides 10 percent of affordable units below 30 percent of area median. He said the in lieu fund could also be used to address people at the lowest end by subsidizing home renovations.

Ms. Cook stated that staff drafted an incentive-based green building policy for commercial and residential based on Economic Development Authority (EDA) comments. The draft submitted to the Board could be expanded from commercial to include all development.

Mr. Kennedy stated that the Green Building Roundtable intended green buildings to be voluntary. Many people feel the draft language is punitive. He asked what changed in the policy.

Ms. Cook stated that while many of the Green Building Roundtable's recommendations focused on incentives, staff used language from the recommendations for expectations on commercial buildings larger than 10,000 square feet and for residential units. Incentives would be revisited later.

Mr. Kennedy stated that he would like to see an incentive-based final policy.

Mr. Russell Seymour, Director of Economic Development, stated that the Office of Economic Development (OED) recommends various incentives for commercial green building, including expedited review and fee waivers as well as business education. Additional restrictions would be not helpful in the current economic climate.

Ms. Rosario stated that the latest staff version presented to the Board is incentive-based.

Mr. Icenhour asked if the same incentives would be possible for both commercial and residential green building.

Mr. Murphy stated that commercial green building could be expedited. However every case cannot be expedited.

Ms. Jones stated that the policy should use incentives while the green building deposit draft language moves away from that.

Mr. Icenhour stated that it would be better to give to businesses that comply rather than take away from businesses that do not and he would like the incentives policy clarified. He asked staff to come back and demonstrate, if the policy was adopted, how the County could verify its effectiveness and performance.

Mr. Kennedy stated that having more options gives businesses greater reason to locate here.

Mr. McGlennon stated green building was not being built into the ordinance and was only a staff policy.

Mr. Murphy stated that draft ordinance language included density bonuses for exceeding green building standards. That language can be modified based on Board feedback.

Mr. Kennedy stated expedited review may not matter as much with fewer planning cases under review, but could become a more important incentive when an improved economy causes a case backlog.

Mr. Seymour stated that expedited review was frequently requested by business owners. Expedited review would be taken off the table if the Board decided to extend green incentives to residential units.

Mr. Murphy stated that staff could develop residential incentives without losing business fast-tracking.

Mr. Kennedy stated that it was very important to have consistency and clear expectations.

Mr. Murphy stated that staff will draft supplemental material to accompany an incentive-based policy with clear expectations.

Mr. McGlennon stated that he would prefer expectations to incentives.

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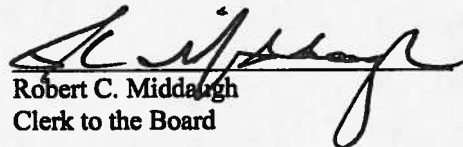
Ms. Jones stated that she did not want to see additional regulations.

Ms. Rosario stated that the Board seemed to have consensus on commercial incentives, but was divided on whether to go beyond that for either commercial or residential. Staff could draft an incentives policy now with an evaluation period before reporting findings to the Board.

Mr. Icenhour stated that he would like to see whether voluntary incentive programs are meeting expectations.

D. ADJOURNMENT

Ms. Jones adjourned the meeting at 6:01 p.m.


Robert C. Middaugh
Clerk to the Board

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AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF FEBRUARY 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSION

1. Stage II Zoning Ordinance Update for Non Priority Items – Continued from the January 24, 2012 Work Session

Ms. Tammy Rosario, Principal Planner, began the work session discussion on the topics of density calculations and density bonuses, which have an overlap with both residential and multiple use districts. Ms. Rosario stated that at last month's work session, there was review of the stepped-scale approach introduced by staff. The Board members requested specific examples from various developments. Ms. Rosaria stated that this information has been provided as Attachment No. 8.

Ms. Ellen Cook, Senior Planner II, explained the spreadsheet table and scale and stated that the department wanted to include as much information as possible on developable and non-developable properties.

Mr. Icenhour questioned some of the definitions and asked if the definitions are clear and easy to apply and understand from staff's and applicant's viewpoint.

Ms. Rosario stated that the new definitions make matters clearer because the terms used are more typically used in today's developmental process.

Ms. Jones questioned density measurements. She stated that currently the County requires an additional 15 percent of the developable area of the site be set aside as open space. Ms. Jones stated that this would be an additional imposition on a potential applicant.

Ms. Cook sated that the non-developable definition change did also affect open space requirements and that the open space percentage was adjusted down. Ms. Cook stated that there is a range.

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Mr. McGlennon questioned the net developable area formula and inquired as to how recognition is given to parcel developability.

Mr. Allen Murphy, Acting Manager of Development Management and Planning Director, responded that the 35 percent formula was a compromise reached when the County involved the development community in the ordinance process.

Mr. Icenhour inquired if the existing 35 percent system actually provided an incentive for putting density where you really would not want it.

Mr. Murphy responded that when the Board considers a residential development, it would consider the suggested densities in the Comprehensive Plan. He stated that the current formulas in the zoning ordinance would allow more units given recognition that part of the undevelopable land could be counted in the density calculation. He further stated that as part of legislative approval, the Board would know just how many units were being proposed on how many developable acres. The total build out could be compared to what is suggested by the Comprehensive Plan, which is currently in gross density.

Ms. Jones recognized that Mr. Tim O'Connor, Chairman of the Planning Commission, was present at the work session. Ms. Jones asked Mr. O'Connor to provide the details of the discussion that the Policy Committee had on net developable versus gross density issue.

Mr. O'Connor responded that the meeting discussions focused on language being clear to the applicant and process streamlining.

Mr. Icenhour stated that under the current regulations, there are three different ways to calculate density. He suggested that the County consider choosing one method and utilizing it across the board.

Ms. Rosario commented that the Board has been working towards this method with the stepped-scale approach and asked whether the Board would be comfortable with this method.

Mr. Icenhour stated, while he prefers the net because it allows building at a consistent density on developable property, that the stepped-scale approach is a reasonable alternative he could support.

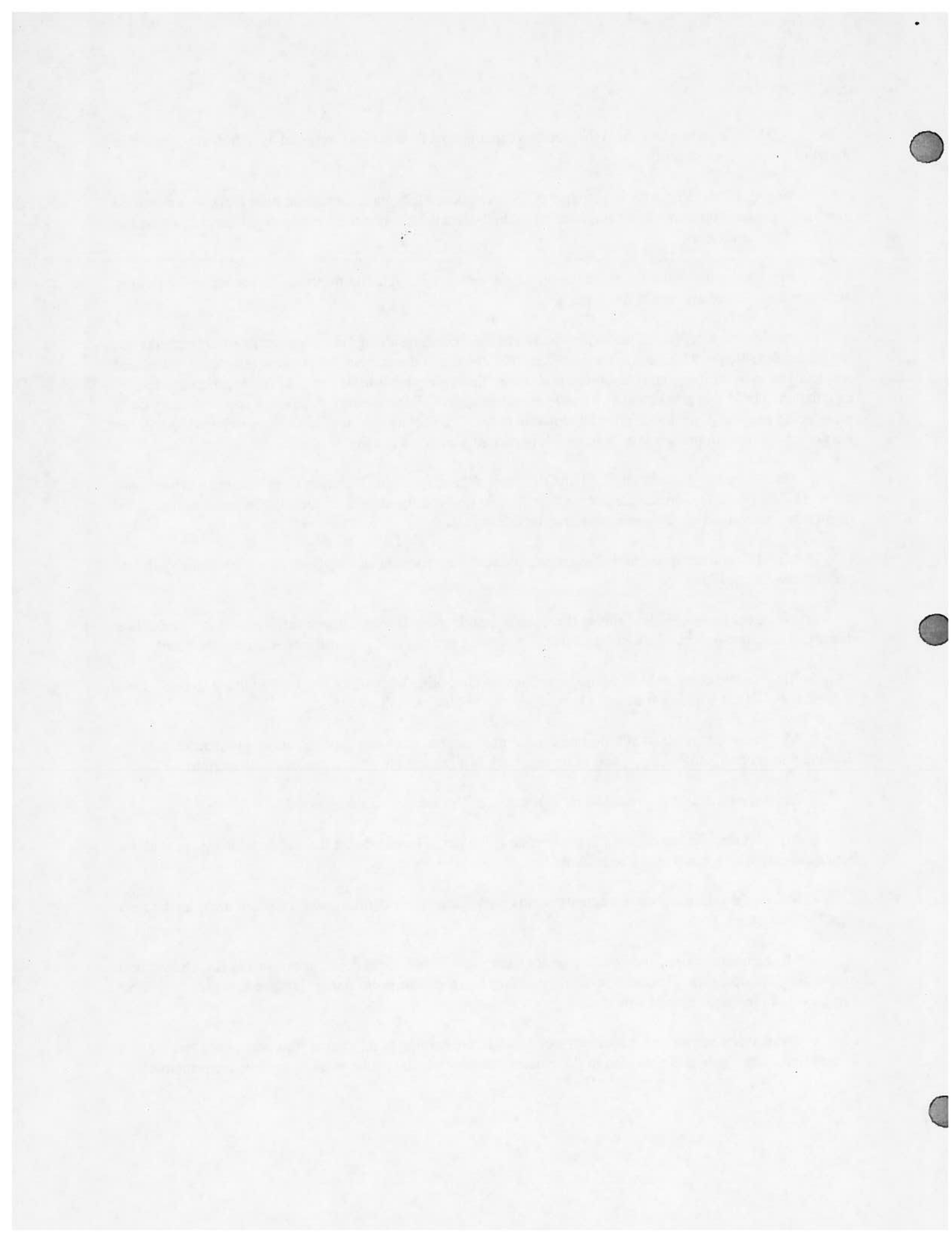
Ms. Jones stated that she could be supportive of the stepped-scale approach.

Mr. McGlennon stated that his preference is the net. He stated that the net developable provides a better indication of what is going to actually fit.

Ms. Rosario introduced the density bonus provisions in residential and mixed use areas as the next item for discussion.

Mr. Icenhour questioned whether or not there are different density bonus options in R5, cluster, and mixed use developments. He questioned whether they had the same point status. He questioned if the cluster category had the varying point values.

Ms. Rosario responded that only the cluster had the varying point values. She also noted that there is an additional density bonus provided in the cluster category which is adherence to open space principles.



Mr. Icenhour expressed concern over several density bonuses that do not measure up to the level of some of the other items in providing benefit to County citizens. He stated that some items should not be on the chart. He stated that there should be a weighting system across the board which should be consistent from one zoning category to another.

Mr. McGlennon questioned if it could be determined which points were used more frequently than others.

Ms. Cook responded that she researched past proffers and master plans, but that she could not produce that tally.

Mr. McGlennon questioned if the bonus list could be more simplified and prioritized. He stated that there are good reasons to provide density bonuses.

Ms. Jones expressed concern regarding grading the different types of open space designs. She stated that she didn't want to see the process complicated because the County would lose predictability of land use for the citizens, property owners, and developers.

Mr. McGlennon stated that he believed that there would be less predictability when a bonus is provided for a much wider range of options.

Mr. Icenhour expressed concern that the County will give density bonus for open space, regardless if the open space is a soccer field with 100 children using it or a path through a swamp. He indicated that there is value in both, but has difficulty with open space being generally categorized.

Ms. Cook stated that the department tried to put more specifics in the ordinance as to what they would like to see in open space, some of which is limited by State code.

Ms. Jones questioned if the Chesapeake Bay Preservation Ordinance is currently required.

Mr. Murphy stated that the Chesapeake Bay Preservation Ordinance is required, but that the density bonus item listed in this ordinance is above and beyond what the Chesapeake Bay Ordinance requires because it is directed towards exclusive or majority use of low impact site design measures.

Mr. McGlennon questioned as to what extent the State Code prevents the County from mandating better site designs for stormwater management.

Ms. Cook responded that she did not believe this particular item was restricted by State Code.

Ms. Jones inquired as to what areas are limited by State Code.

Ms. Cook stated that the State limits pertain to the cluster category.

Ms. Rosario inquired if the Board had any more questions or concerns on what options the Board considered necessary or unnecessary density bonuses.

Mr. Icenhour discussed the bonus density options that he felt would provide the greatest benefit to the community.

1. The first part of the report deals with the general situation of the country and the position of the various groups of the population.

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Mr. Kennedy expressed his thoughts and concerns on affordable and work force housing density bonus. He expressed his thoughts on the Williamsburg Area Transit Authority (WATA) bus stops being important with mass transit and the green design.

Mr. McGlennon stated that he felt it important to have a good transportation system. However, he stated that many parcels would be ineligible for the density bonus. He stated that a development cannot have a WATA stop if there is no service to that area.

Mr. Kennedy stated that with the increased gas prices, maybe more people would take the bus. He stated that if an item is removed from getting the density bonus he did not want to see it become a proffered requirement.

Ms. Rosario asked the Board if they would examine the weighting of the bonus density items.

Mr. Icenhour questioned that if property is being rezoned and it comes to the Board for legislative action, does the Board still have an opportunity to take a look at whether or not the Board thinks the particular density bonus option provided meets what the Board would like to see in the community. He questioned that if the property were already zoned, would it become a by-right or an administrative application.

Ms. Jones and Mr. Icenhour both expressed concern with leaving in-fill as a density bonus option.

Ms. Rosario questioned whether there was a consensus to remove in-fill as a density bonus.

Ms. Jones stated that this could be a case-by-case decision and that maybe it should not be removed as a bonus density option.

Mr. Icenhour stated that he would not have a problem with the in-fill density bonus if the matter came before the Board and not staff.

Mr. Kennedy stated that it would be appropriate to discuss in-fill density bonus on a case-by-case issue.

Ms. Rosario opened the discussion to include R4, PUD, Mixed Use, and R5 topics.

Mr. McGlennon questioned changes in the Mixed Use district.

Mr. Jason Purse, Senior Planner II, responded that the only changes to the permitted/specially permitted uses in the mixed use district were ones that were discussed at the Economic Opportunities (EO) stage as well. He stated that there were very few changes to the actual uses in Mixed Use.

Ms. Rosario stated that any discussion pertaining to density calculations and bonuses would be applied to multiple use districts and residential districts.

Mr. Icenhour questioned if there are any R5 properties that have not been developed.

Ms. Cook responded that an open field by the church located near the James City County/Williamsburg Community Center was not developed.

Mr. Icenhour questioned if there was R5 zoned property on Croaker Road.

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Ms. Cook stated that yes, there was a rezoning, but it is subject to a binding master plan.

Mr. Icenhour stated his concern about the terminology of "or otherwise" on page 54 - Cluster Ordinance Chart regarding low density, moderate density, and open space.

Mr. Kennedy stated that he could support stepped-scale, however, he prefers net on EO.

Mr. McGlennon stated he prefers net.

Ms. Jones stated she supports stepped-scale

Mr. Icenhour stated that he prefers net, but stated that he could support stepped-scale, leaving EO at net. He also questioned Mixed Use language and asked how the staff defines the 80 percent ratio in regards to housing units and commercial square footage. He stated that he would like a clearer definition on defining that ratio.

Ms. Rosario responded that this information is in the ordinance in concept form and she recognized that moving through Stage 3, the County will need to refine some of the specifics. She stated that if the Board concurs with the concept of ensuring a basic level of mixture, the County would then look to quantifying specifications either through ordinance or policy form.

Mr. McGlennon questioned if a site was being developed for residential or commercial developers, would the residential developer have to wait until the commercial developer has developed to the threshold required.

Ms. Rosario responded that the construction phasing guidelines are in policy form and stated that this concluded her meeting on residential and mixed use. Ms. Rosario turned the discussion over to Mr. Christopher Johnson, Principal Planner.

Mr. Johnson spoke to the Board on updating administrative and procedural changes and also on clarifying references to non-conforming use and non-conforming structures. He inquired of the Board if they had any question.

Mr. Icenhour asked how much impact the County had from the development community in preparing the Fiscal Impact Study template.

Mr. Johnson stated that the County got a fair amount of input from the development community and stated that the development community thought it was fair.

Mr. McGlennon inquired if the template was going to replace the analysis the developer was previously providing and if the analysis would still be required to be submitted.

Mr. Jose Ribeiro, Senior Planner, responded that only the template would be required to be submitted, although the applicant would have the option of providing any supplemental information he or she thought was appropriate.

Ms. Jones questioned the Environmental Constraint Analysis for Legislative Cases Resolution. Ms. Jones also questioned how the Natural Resource Policy determined rare or endangered animal and plant species and how frequently this was determined.

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Mr. Johnson responded that the State Department of Conservation and Recreation (DCR) had a wealth of information available that the County can now incorporate into the County's existing data. He stated that there are maps available that provide locations of rare and threatened animal and plant species.

Mr. McGlennon questioned the source of the endangered species policy study.

Mr. Johnson believed the study refers one back to the State to put one in touch with the people who know more about the study.

Mr. McGlennon inquired as to the level of expectation when an applicant stated an endangered study has been done.

Mr. Johnson responded that the department would inquire to see a copy of the study.

Mr. McGlennon questioned if the Natural Resource Policy requires a report to be submitted.

Ms. Rosario stated the policy does have standards referring back to the clearinghouse agency and their standards.

Mr. McGlennon questioned what standard the County was going to expect the applicant to meet.

Mr. Johnson assured the Board that his department is encouraging applicants to submit a project conceptually and taking the project to the Development Review Committee (DRC) for initial feedback. They can bring in consultants to meet with staff, ensuring that everyone is on the same page.

Ms. Jones inquired if the Board had any more questions.

Mr. Icenhour made a motion to go into closed session for consideration of a personnel matter, involving the mid-year performance of the County Administrator pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.

On a roll call the vote, the vote was: AYE: McGlennon, Icenhour, Kennedy, Jones (4). NAY: (0)

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

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NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, consideration of a personnel matter, involving the mid-year performance of the County Administrator.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call the vote, the vote was: AYE: McGlennon, Icenhour, Kennedy, Jones (4). NAY:

(0)

D. BREAK

At 6:55 p.m., the Board took a break.


Robert C. Midgough
Clerk to the Board

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ZO-0002-2012 Definitions, ZO-0009-2011 Residential Districts, ZO-0008-2011 Multi-Use Districts, ZO-0007-2011 Residential Cluster Overlay, ZO-0005-2011 Green Building

Mr. Johnson stated that in the interest of time, Mr. Ribeiro could make a short presentation on all of these topics. He stated Ms. Cook and Mr. Purse could then be available to answer any questions.

Mr. Woods asked staff whether each section was materially consistent with the language reviewed by the Policy Committee.

Mr. Ribeiro stated his presentation did not include that information. He stated he could discuss changes to the Definitions section and his coworkers other sections.

Mr. Johnson stated Mr. Ribeiro, Mr. Purse, and Ms. Cook could give brief summations to what the Policy Committee reviewed previously.

Mr. Ribeiro stated that some definitions were previously submitted to the Committee and the Commission as part of the review of individual districts and sections of the ordinance. He stated all revised definitions are now being presented collectively under a single document in Section 24-2. In addition to the definitions and ordinance updates under review tonight, staff has also prepared a residential redevelopment policy, workforce housing opportunity policy, endorsement of green building incentives, and mixed use construction phasing guidelines for consideration.

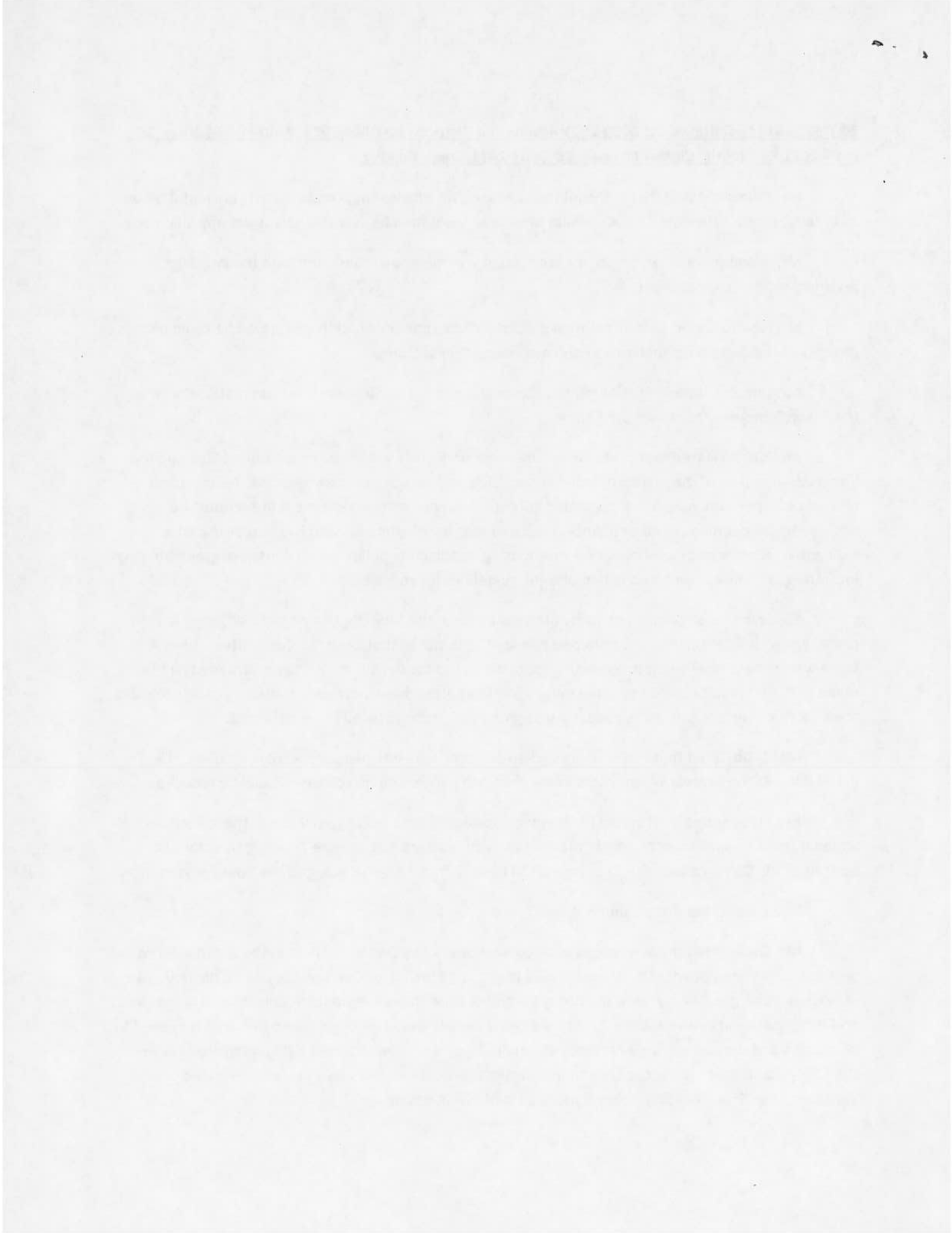
Mr. Jason Purse stated a majority of the changes in the Multiple Use districts language is consistent with what the Policy Committee has seen. He stated that since the Committee's review, there was a Board work session where the Board discussed the density bonus table. Changes had been made to the table since the Committee saw it. Staff has also added more uses to these districts to make them more consistent with state code, such as group home and assisted living type uses.

Mr. Basic stated that PUD setbacks when adjacent to residential uses were reasonable. He asked if the 75' feet setback from PUDs to adjacent compatible commercial uses could be reduced.

Mr. Purse stated staff would be amenable to proposing a waiver provision to those sections. He stated it could be similar to the residential section, with waivers going to the Planning Director and appeals to the Commission. The language could be added to materials going to the Board next month.

Mr. Basic stated that sounded good.

Ms. Cook stated there was a lot of discussion of the Residential districts at the Board level work sessions. She stated the density bonuses table is also used in Cluster Overlay, R1, and R2 districts. The other major changes of note since the Policy Committee are the refinements to density provisions. In R1 and R2, density had been based on gross area. Now density based on the developable area is applied to all districts and uses a step-scale method. Green Building incentives also saw substantial changes since the Policy Committee. It has changed from a expectations-based policy to an incentives-based approach. The Green Building policy is more a list of incentives now.



Mr. O'Connor asked if the step-scale method made it more consistent and predictable to calculate density for both staff and business.

Ms. Cook stated staff attempted to make it as user-friendly as possible. She stated the ordinance includes an illustration with the table.

Mr. Basic stated it was much more user-friendly.

Mr. O'Connor opened the public hearing.

Ms. Susan Gaston, representing the Williamsburg Area Association of Realtors, stated the density calculations are much more user-friendly, predictable, and consistent. She stated the association supports the density table and changes. She commended the affordable housing policy and supported the green building policy as well.

Mr. O'Connor closed the public hearing.

Mr. Krapf stated staff made changes to each district easy to follow and that the changes are positive.

Mr. Woods stated he had no issues with what had been presented, but had some questions with the process.

Mr. Basic moved to recommend approval as amended.

In a unanimous roll call vote, the Commission recommended approval of the ordinance amendments, policies, and guidelines, as amended (7-0).

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5. The fifth part is devoted to the case of a system of particles in a magnetic field.

6. In the sixth part, we shall consider the case of a system of particles in a magnetic field. The results of this part are of great importance for the theory of the Hall effect.

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, BY AMENDING SECTION 24-231, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-232, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-233, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-234, OVERALL DENSITY WITHIN SUBDIVISIONS WITH NEW NUMBER 24-233; BY ADDING NEW SECTION 24-234, DENSITY; BY RENAMING SECTION 24-238, YARD REGULATIONS WITH NEW NAME YARD REQUIREMENTS; BY AMENDING AND RENAMING SECTION 24-240, HEIGHT LIMITS WITH NEW NAME HEIGHT OF STRUCTURES; BY AMENDING SECTION 24-242, OPEN SPACE WITHIN MAJOR SUBDIVISIONS; BY AMENDING AND RENAMING SECTION 24-243, OWNERSHIP OF OPEN SPACE WITH NEW NAME ESTABLISHMENT OF HOMEOWNERS ASSOCIATION; BY AMENDING SECTION 24-245, BUFFER REQUIREMENTS; AND BY ADDING NEW SECTION 24-246, PEDESTRIAN ACCOMODATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 3, Limited Residential District, R-1, by amending Section 24-231, Statement of intent; Section 24-232, Use list; Section 24-233, Density; Section 24-234, Overall density within subdivisions; Section 24-238, Yard requirements; Section 24-240, Height limits; Section 24-242, Open space within major subdivisions; Section 24-243, Establishment of homeowners association; Section 24-245, Buffer requirements; and Section 24-246, Pedestrian accommodations.

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.~~ *Use list.*

In the Limited Residential District, R-1, structures to be erected or land to be used, shall be for the following uses:

~~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.~~

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	<i>Accessory apartments in accordance with Section 24-32</i>		<i>SUP</i>
	<i>Accessory buildings or structures as defined</i>	<i>P</i>	
	<i>Home care facilities Group home or residential facility, for eight or fewer adults</i>	<i>P</i>	<i>SUP</i>
	<i>Residential cluster development Single-family detached dwellings contained within cluster development in accordance with article VI, division 1 of this chapter</i>		<i>SUP</i>
	<i>Single-family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-234(a)</i>	<i>P</i>	
	<i>Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre in accordance with section 24-234(eb)</i>		<i>SUP</i>
Commercial Uses	<i>Accessory buildings or structures as defined</i>	<i>P</i>	
	<i>Adult day care centers</i>		<i>SUP</i>
	<i>Child day care centers</i>		<i>SUP</i>
	<i>Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities</i>	<i>P</i>	
	<i>Golf courses, country clubs</i>		<i>SUP</i>
	<i>Home occupations as defined</i>	<i>P</i>	
	<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
	<i>Rental of rooms to a maximum of three rooms</i>		<i>SUP</i>
	<i>Retail food shops and food service establishments associated with accessory to community recreation facilities</i>		<i>SUP</i>
Civic Uses	<i>Cemeteries and memorial gardens</i>		<i>SUP</i>
	<i>Fire stations</i>		<i>SUP</i>
	<i>Libraries</i>		<i>SUP</i>
	<i>Neighborhood resource centers</i>		<i>SUP</i>
	<i>Houses of worship Places of public assembly, including houses of worship and public meeting halls</i>		<i>SUP</i>
	<i>Publicly owned solid waste container sites</i>		<i>SUP</i>
	<i>Schools</i>		<i>SUP</i>
	<i>Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet</i>	<i>P</i>	
	<i>Water impoundments, new or expansion of, 50 acre or more and dam heights of 25 feet or more</i>		<i>SUP</i>
Utility Uses	<i>Camouflaged wireless communication facilities that comply with division 6, Wireless Communication Facilities</i>		<i>SUP</i>

	<i>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</i>		<i>SUP</i>
	<i>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 rights-of-way and track and safety improvements in existing railroad right-of-ways rights-of-way are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Telephone exchanges and telephone switching stations</i>		<i>SUP</i>
	<i>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</i>		<i>SUP</i>
	<i>Wireless communication facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	<i>P</i>	
	<i>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:</i> <div style="margin-left: 40px;"> <i>(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;</i> <i>(b) Distribution lines and local facilities within a development, including pump stations</i> </div>		<i>SUP</i>
<i>Open</i>	<i>Timbering in accordance with section 24-43</i>	<i>P</i>	

~~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. 24-2343. 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 the county's subdivision ordinance*. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-2535.

~~(b) For the purposes of this section, the term "minor subdivision" 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.~~

~~(eb) 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 the following: , proffers, or other document approved by the county attorney, for at least two points as specified in the density bonus item options table in section 24-549 of this chapter.~~

- ~~(1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~
- ~~(2) Implementation of the county's 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 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.~~
- ~~(5) Implementation of the county's Natural Resources Policy.~~

Sec. 24-234. Density.

The density of a proposed subdivision (other than minor subdivisions, as specified in section 24-233) shall be calculated as the number of units divided by the gross acreage. For the purposes of this section, the gross acreage shall be calculated as follows:

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

Illustration of Gross Acreage Calculation

(a) If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

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

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

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 ~~regulations~~ requirements.

- (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~~ 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 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.
- (4) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and 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. 24-241. 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.

~~(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.~~

(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 conservation and recreation purposes.

(1) Non-developable areas outside of private lots shall be maintained as open space and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) In addition, ten percent of the developable area shall also be set aside as open space. 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. Areas on site used to achieve density bonus points in accordance with Section 24-234(b);

c. . The following areas, up to the percent specified:

1. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and

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

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

a. *Area on any individual private lots or yards, with the exception of easements for streetscapes, or*

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

(4) *For the purpose of meeting the developable area open space requirements specified in (c), 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 all residents. At a minimum, the open space shall adhere to the following standards:*

<i>Item</i>	<i>Numerical Standard</i>	<i>Design Standard</i>
<i>Neighborhood Park</i>	<i>50-77 Units: Provide one park (minimum of 0.3 acre) 78+ Units: Provide 0.0039 acre per unit</i>	<i>Parkland shall be centrally located, with no less than 0.25 acre in a single area and with a minimum width of 60 feet. The parkland should be relatively level land, with a minimum of 70 percent groomed space. The balance may be in natural tree cover.</i>
<i>Playground</i>	<i>Provide one playground</i>	<i>The playground shall have a minimum area of 2,500 square feet and a minimum of five activities.</i>

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

~~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.~~

A homeowners association shall be established in accordance with Chapter 19 of the county Code. The homeowners association documents shall set forth the nature (recreation or conservation) and location of the open space(s) 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~~ *division*, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) ~~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 right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.~~

(b) *Perimeter buffers.* Within any major subdivision approved under this ~~article~~ *division*, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a)96 of this chapter.

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

- (1) The development is less than ~~5~~ *five* acres and a majority of the development's units are dedicated to ~~affordable~~ *workforce* housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or

- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

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

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

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

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

(f) *Limitations on buffers.* ~~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 a 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 the items specified in (c), (d), (e), (f), (g), and (h) in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.

Sec. 24-246. Pedestrian accommodations.

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

Secs. 24-246~~7~~ - 24-250. Reserved.

ATTEST:

Robert C. Middaugh
Clerk to the Board

John J. McGlennon
Chairman, Board of Supervisors

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September,
2012

ZO-07-11_ZO-09-11R1_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, BY AMENDING SECTION 24-251, STATEMENT OF INTENT; BY AMENDING AND RENAMING SECTION 24-252, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-253, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-254, OVERALL DENSITY WITHIN SUBDIVISIONS WITH NEW NUMBER 24-253; BY ADDING NEW SECTION 24-254 DENSITY; BY AMENDING SECTION 24-256; BY RENAMING SECTION 24-258, YARD REGULATIONS WITH NEW NAME YARD REQUIREMENTS; BY AMENDING AND RENAMING SECTION 24-260, SPECIAL PROVISIONS FOR TWO-FAMILY DWELLINGS WITH NEW NAME SPECIAL PROVISIONS FOR MULTIFAMILY UP TO TWO UNITS; BY AMENDING AND RENAMING SECTION 24-261, HEIGHT LIMITS WITH NEW NAME HEIGHT OF STRUCTURES; BY AMENDING SECTION 24-263 OPEN SPACE WITHIN MAJOR SUBDIVISIONS; BY AMENDING AND RENAMING SECTION 24-264, OWNERSHIP OF OPEN SPACE WITH NEW NAME ESTABLISHMENT OF HOMEOWNERS ASSOCIATION; BY AMENDING SECTION 24-266, BUFFER REQUIREMENTS; AND BY ADDING NEW SECTION 24-267, PEDESTRIAN ACCOMODATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 4, General Residential District, R-2, by amending Section 24-251, Statement of intent; Section 24-252, Use list; Section 24-253, Overall density within subdivisions; Section 24-254, Density; Section 24-256, Setback requirements; Section 24-258, Yard requirements; Section 24-260, Special provisions for multi-family up to two units; Section 24-261, Height of structures; Section 24-263, Open space within major subdivisions; Section 24-264, Establishment of homeowners association; Section 24-266, Buffer requirements; and Section 24-267, Pedestrian accommodations.

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 ~~prohibit~~ **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 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~~ **Use list.**

In the General Residential District, R-2, structures to be erected or land to be used, shall be for the following uses:

~~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.~~

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory apartments in accordance with Section 24-32	P	
	Accessory buildings or structures as defined	P	
	Home care facilities Group home or residential facilities, for eight or fewer adults	P	SUP
	Five to eight family dwellings Multifamily dwellings of between five and eight units, 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		SUP
	Four family dwellings Multifamily dwellings, up to and including four units, with a maximum gross density of one unit per acre, 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	
	Four family dwellings Multifamily dwellings, up to and including four units, with a maximum gross density of more than one unit per acre, 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
	Two family Multifamily dwellings, up to and including two units, in accordance with section 24-25460		SUP
	Residential cluster development with a maximum gross density of one unit per acre in accordance with article VI, division 1 of this chapter	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, either <ul style="list-style-type: none"> in accordance with section 24-254(a), or contained within residential cluster development in accordance with article VI, division 1 of this chapter 	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre, either <ul style="list-style-type: none"> in accordance with section 24-254(eb), or contained within residential cluster development in accordance with article VI, division 1 of this chapter 		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
	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 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
	Barber and beauty shops		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	
	Photography studios and sales, artists and sculptor studios		SUP
	Rental of rooms to a maximum of three rooms		SUP
	Retail shops associated with accessory to community recreation facilities	P	
	Tourist homes		SUP
Civic Uses	Cemeteries and memorial gardens		SUP
	Fire stations		SUP
	Libraries		SUP
	Neighborhood resource centers		SUP
	Houses of worship Places of public assembly, including houses of worship and public meeting halls		SUP
	Publically owned solid waste container sites		SUP
	Schools		SUP
	Water impoundments, new or expansion of, less than 50 acres and	P	

	<i>with dam heights of less than 25 feet</i>		
	<i>Water impoundments, new or expansion of, 50 acre or more and dam heights of 25 feet or more</i>		SUP
Utility Uses	<i>Camouflaged wireless communication facilities that comply with division 6, Wireless Communication Facilities</i>		SUP
	<i>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</i>		SUP
	<i>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 rights-of-way and track and safety improvements in existing railroad right-of ways rights-of-way are permitted generally and shall not require a special use permit</i>		SUP
	<i>Telephone exchanges and telephone switching stations</i>		SUP
	<i>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</i>		SUP
	<i>Wireless communication facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	P	
	<i>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:</i> <ul style="list-style-type: none"> <i>(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;</i> <i>(b) Distribution lines and local facilities within a development, including pump stations</i> 		SUP
Open	<i>Timbering in accordance with section 24-43</i>	P	

~~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(c).~~

~~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. 24-254.3. 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~~ *as defined in Chapter 19 of the county Code*. 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 subdivision" 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.~~

(eb) 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 the following:~~ *, proffers, or other document approved by the county attorney, for at least two points as specified in the density bonus item options table in section 24-549 of this chapter.*

- ~~(1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~
- ~~(2) Implementation of the county's 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 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.~~
- ~~(5) Implementation of the county's Natural Resources Policy.~~

Sec. 24-254. Density.

The density of a proposed subdivision (other than minor subdivisions, as specified in section 24-253) shall be calculated as the number of units divided by the gross acreage. For the purposes of this section, the gross acreage shall be calculated as follows:

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

Illustration of Gross Acreage Calculation

(a) If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

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

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

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~~ multifamily up to two units 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 ~~regulations~~ requirements.

- (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 ~~two-family dwellings~~ multifamily up to two units.

- (a) Lots intended for ~~two-family dwellings~~ 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 of a ~~two-family dwelling~~ 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 ~~two-family dwelling~~ multifamily units are located in the Primary Service Area and are in accord with the James City Service Authority Regulations Governing Utility Service.

Sec. 24-261. Height limits 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 aerals 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.

~~(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 15 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 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 use 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.~~

(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 conservation and recreation purposes.

(1) Non-developable areas outside of private lots shall be maintained as open space and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(2) *In addition, ten percent of the developable area shall also be set aside as open space. 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. *Areas on site used to achieve density bonus points in accordance with Section 24-254(b);*

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

1. *Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and*

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

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

a. *Area on any individual private lots or yards, with the exception of easements for streetscapes, or*

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

(4) *For the purpose of meeting the developable area open space requirements specified in (c), 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 all residents. At a minimum, the open space shall adhere to the following standards:*

<i>Item</i>	<i>Numerical Standard</i>	<i>Design Standard</i>
<i>Neighborhood Park</i>	<i>50-77 Units: Provide one park (minimum of 0.3 acre) 78+ Units: Provide 0.0039 acre per unit</i>	<i>Parkland shall be centrally located, with no less than 0.25 acre in a single area and with a minimum width of 60 feet. The parkland should be relatively level land, with a minimum of 70 percent groomed space. The balance may be in natural tree cover.</i>
<i>Playground</i>	<i>Provide one playground</i>	<i>The playground shall have a minimum area of 2,500 square feet and a minimum of five activities.</i>

Sec. 24-264. Ownership of open space *Establishment of homeowners association.*

~~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.~~

A homeowners association shall be established in accordance with Chapter 19 of the county Code. The homeowners association documents shall set forth the nature (recreation or conservation) and location of the open space(s) 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~~ **division**, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

- (3) ~~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 right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.*

(b) *Perimeter buffers.* Within any major subdivision approved under this ~~article~~ *division*, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a)96 of this chapter.

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

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

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

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

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the ~~director of planning~~ *director* or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~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~~ *shall* not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.

- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*
- (f) *Limitations on buffers. 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 a 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 the items specified in (c), (d), (e), (f), (g), and (h) in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.*

Sec. 24-267. Pedestrian accommodations.

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

Secs. 24-267~~8~~ - 24-273. Reserved.

ATTEST:

Robert C. Middaugh
Clerk to the Board

John J. McGlennon
Chairman, Board of Supervisors

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September,
2012

ZO-07-11_ZO-09-11R2_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, BY ADDING DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273, STATEMENT OF INTENT; SECTION 24-273.1, WHERE PERMITTED, MINIMUM SITE SIZE; SECTION 24-273.2, USE LIST; SECTION 24-273.3, BUFFER REQUIREMENTS; SECTION 24-273.4, MINIMUM LOT WIDTH AND AREA REQUIREMENTS; SECTION 24-273.5, SETBACK AND YARD REQUIREMENTS; SECTION 24-273.6, DENSITY; SECTION 24-273.7, OVERALL DENSITY WITHIN SUBDIVISIONS; SECTION 24-273.8, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; SECTION 24-273.9, OPEN SPACE; SECTION 24-273.10, OWNERSHIP AND MAINTENANCE OF OPEN SPACE; AND SECTION 24-273.11, HEIGHT OF STRUCTURES.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, by adding Division 4.1, Residential Redevelopment District, R-3, Section 24-273, Statement of intent; Section 24-273.1, Where permitted, site size; Section 24-273.2, Use list; Section 24-273.3, Buffer requirements; Section 24-273.4, Minimum lot width and area requirements; Section 24-273.5, Setback and yard requirements; Section 24-273.6, Density; Section 24-273.7, Overall density within subdivisions; Section 24-273.8, Requirements for improvements and design; Section 24-273.9, Open space; Section 24-273.10, Ownership and maintenance of open space; and Section 24-273.11, Height of structures.

CHAPTER 24

ARTICLE V. DISTRICTS

DIVISION 4.1. RESIDENTIAL REDEVELOPMENT DISTRICT, R-3

Sec. 24-273. 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. 24-273.1. Where permitted, minimum site size.

A Residential Redevelopment District, R-3, is permitted in areas designated Low Density Residential by the Comprehensive Plan. The minimum site size is five acres.

Sec. 24-273.2. Use list.

In the Residential Redevelopment District, R-3, structures to be erected or land to be used shall be for one or more of the following uses:

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<i>Accessory buildings or structures as defined</i>	<i>P</i>	
	<i>Accessory apartments in accordance with section 24-32</i>	<i>P</i>	
	<i>Apartments</i>	<i>P</i>	
	<i>Group homes or residential facilities, for eight or fewer adults</i>	<i>P</i>	
	<i>Group homes or residential facilities, for nine or more adults</i>		<i>SUP</i>
	<i>Independent living facilities</i>		<i>SUP</i>
	<i>Multifamily dwellings up to and including four units</i>	<i>P</i>	
	<i>Multifamily dwellings greater than four units</i>	<i>P</i>	
	<i>Single-family dwellings</i>	<i>P</i>	
<i>Commercial Uses</i>	<i>Accessory buildings or structures as defined</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Assisted living facilities</i>		<i>SUP</i>

	<i>Barber and beauty shops</i>		<i>SUP</i>
	<i>Business, professional and governmental offices</i>		<i>SUP</i>
	<i>Child day care centers</i>	<i>P</i>	
	<i>Coin laundries which are accessory to other residential uses and for the primary use of its residents</i>	<i>P</i>	
	<i>Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities</i>	<i>P</i>	
	<i>Continuing care retirement facilities</i>		<i>SUP</i>
	<i>Hospitals and mental health facilities</i>		<i>SUP</i>
	<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
	<i>Photography studios and sales, artist and sculptor studios</i>		<i>SUP</i>
	<i>Professional and business offices located in the same structure as and in conjunction with multifamily uses</i>		<i>SUP</i>
	<i>Rental of one room</i>	<i>P</i>	
	<i>Rental of two or three rooms to a maximum of three rooms</i>		<i>SUP</i>
	<i>Retail shops accessory to community recreation facilities</i>	<i>P</i>	
	<i>Temporary offices in accordance with section 24-111</i>		<i>SUP</i>
	<i>Tourist homes</i>		<i>SUP</i>
	<i>Places of public assembly, such as meeting halls and houses of worship</i>	<i>P</i>	
	<i>Schools, libraries and fire stations</i>	<i>P</i>	
	<i>Skilled nursing facilities (nursing homes)</i>		<i>SUP</i>
	<i>Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet</i>	<i>P</i>	
	<i>Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more</i>		<i>SUP</i>
<i>Utility Uses</i>	<i>Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities</i>		<i>SUP</i>
	<i>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</i>		<i>SUP</i>
	<i>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 rights-of-way and track and safety improvements in existing railroad rights-of-way are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Telephone exchanges and telephone switching stations</i>		<i>SUP</i>

	<i>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</i>		SUP
	<i>Wireless communications facilities that utilize alternative mounting structures and comply with division 6, Wireless Communications Facilities</i>	P	
	<i>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:</i> <div style="margin-left: 40px;"> <i>(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</i> <i>(b) Distribution lines and local facilities within a development, including pump stations</i> </div>		SUP
<i>Open</i>	<i>Timbering in accordance with section 24-43</i>	P	

Sec. 24-273.3. Buffer requirements.

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*
- (3) The right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.*

(b) Perimeter buffers. Within any residential redevelopment district approved under this division, 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 as determined by the planning director 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 of this chapter.

(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 by the planning director for a residential redevelopment district. Reductions may be approved upon the applicant's 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 of this chapter; 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 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.

Sec. 24-273.4. Minimum lot width and area requirements.

There are no minimum lot width or area requirements.

Sec. 24-273.5. Setback and yard requirements.

(a) *Front. There is no front setback requirement.*

(b) *Side. The minimum side yard shall be five feet.*

(c) *Rear. The minimum rear yard shall be 20 feet.*

(d) *The rear and side yards may be reduced to zero feet with the 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. 24-273.6. Density.

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

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

Illustration of Gross Acreage Calculation

(a) *If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.*

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

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

Sec. 24-273.7. Overall density within subdivisions.

No project shall have a density (including bonuses) of more than four units per acre. In order to achieve the densities listed below, the developer shall make assurances in a master plan, proffers, or other document approved by the county attorney, for the density bonus items.

Density	Required density bonus points from list below
Up to 2.5	None required
More than 2.5, but no more than 3	3
More than 3, but no more than 3.5	4
More than 3.5, but no more than 4	5

	Bonus Item Options	Bonus Points
A.	For every 15 percent of the total units that meet the definition of workforce housing (starting above the threshold set forth in the Residential Redevelopment Policy, as amended).	2, up to a max of 4
B.	Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the engineering and resource protection division.	1.5
C.	Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division.	1.5
D.	Meeting a majority of items (a) – (d) listed in section 24-551, open space development design elements, as determined by the planning director.	1.5
E.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units.	1
F.	Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee.	1
G.	Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the parks and recreation director or designee.	1
H.	Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter.	1
I.	Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director.	0.5

J.	<i>Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the Comprehensive Plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>	0.5
K.	<i>For projects with fewer than 50 residential units, providing a neighborhood park of 0.25 acre, with a minimum width of 60 feet. The parkland should be centrally located, relatively level land with a minimum of 70 percent groomed space. The balance may be left in natural tree cover.</i>	1
L.	<i>Providing at least 25 percent of the total units which are offered at fair market rate. 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.</i>	0.5
M.	<i>Providing one playground with a minimum area of 2,500 square feet and a minimum of five activities.</i>	0.5

Sec. 24-273.8. 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 article II, division 2 of this chapter.

(c) Signage. 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 Comprehensive Plan. Private streets may be permitted in accordance with the provisions of section 24-62 of this chapter.

(e) Pedestrian accommodations. Pedestrian accommodations shall be provided in accordance with section 24-35 of this chapter.

(f) Outdoor lighting. Outdoor lighting shall generally be provided as required by article II, division 7 of this chapter and the county subdivision ordinance.

(g) Signs. Outdoor signs shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

Sec. 24-273.9. 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 outside of private lots shall be maintained as open space and should be protected though a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(b) In addition, ten percent of the developable area 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) Areas on site used to achieve density bonus points in accordance with section 24-273.7;

(3) The following areas, up to the percent specified:

a. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and

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

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

(1) Area on any individual private lots, or in the case of condominiums, within fifteen feet of the units, with the exception of easements for streetscapes, or

(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 all residents. At a minimum, the open space shall adhere to the following standards:

<i>Item</i>	<i>Numerical Standard</i>	<i>Design Standard</i>
<i>Neighborhood Park</i>	<i>50 – 77 Units: Provide one park (minimum of 0.3 acre)</i> <i>78+ Units: Provide 0.0039 acre per unit</i>	<i>Parkland should be centrally located, with no less than 0.25 acre in a single area and with a minimum width of 60 feet. The parkland should be relatively level land, minimum 70 percent groomed space. The balance may be in natural tree cover.</i>

(e) The requirements found in (b) - (d) in this section may be waived by the planning director if an equivalent amount of qualifying off-site open space is already in existence. To qualify for the waiver, the off-site open space must meet the following criteria:

- (1) The off-site open space will remain as open space for the foreseeable future, such as open space located in a public park or at a public school.*
- (2) The open space is within 1,800 feet of 60 percent of the residential redevelopment district units, as measured by the shortest pedestrian route between the units and open space.*
- (3) A pedestrian connection between the district and the open space is already in existence or assurances are made on the master plan, proffers or other document approved by the county attorney that one shall be provided.*

Sec. 24-273.10. Ownership and maintenance of open space.

Residential redevelopments shall have a homeowners association established in accordance with Chapter 19 of the county Code. An alternative organization may be established, as long as the 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 the open space, consistent with the approved master plan.

Sec. 24-273.11. Height of structures.

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

(a) 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.

(b) 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.

(c) 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 in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

- (1) Such structure will not obstruct light to adjacent property;*

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

(3) *Such structure will not impair property values in the surrounding area;*

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

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

(d) *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.*

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ZO-07-11_ZO-09-11R3_ord

RESOLUTION

RESIDENTIAL REDEVELOPMENT POLICY

WHEREAS, the task of creating the Residential Redevelopment District, R-3, was included as a part of the adopted methodology for the zoning ordinance update adopted by the Board of Supervisors in May 2010; and

WHEREAS, the 2009 Comprehensive Plan referenced the importance of supporting efforts to improve the condition and variety of the County's housing stock; and

WHEREAS, after receiving feedback from the Policy Committee, the Planning Commission, and the Board of Supervisors, the following policy is recommended for all Residential Redevelopment projects.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

Projects seeking rezoning to the R-3, Residential Redevelopment District, should meet or exceed the following expectations:

1. Be located inside the Primary Service Area;
2. Bring existing non-conforming parcels into conformance with the requirements of this district;
3. Provide or improve public infrastructure (including but not necessarily limited to public streets, water and/or sewer service, and stormwater facilities); and
4. Provide workforce housing units, where at least 50 percent of all proposed housing units are targeted to families earning 30-120 percent of Area Median Income (AMI), with a minimum of 25 percent of all proposed housing units targeted to families earning 30-80 percent of AMI.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

RRedevPol_res

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 6, MULTIFAMILY RESIDENTIAL DISTRICT, R-5, BY AMENDING AND RENAMING SECTION 24-305, PERMITTED USES WITH NEW NAME USE LIST; BY DELETING SECTION 24-306, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY RENUMBERING SECTION 24-307, MINIMUM SITE SIZE WITH NEW NUMBER 24-306; BY DELETING SECTION 24-308, AREA REQUIREMENTS; SECTION 24-309, SETBACK REQUIREMENTS; 24-310, MINIMUM LOT WIDTH; AND SECTION 24-311, YARD REGULATIONS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-312, DENSITY REQUIREMENTS FOR TOWNHOUSES, APARTMENTS AND CONDOMINIUMS WITH NEW NUMBER AND NAME 24-307, OVERALL DEVELOPMENT DENSITY; BY ADDING NEW SECTION 24-308, DENSITY; BY AMENDING AND RENUMBERING SECTION 24-313, SUBDIVISION REGULATIONS WITH NEW NUMBER 24-309; BY AMENDING AND RENUMBERING SECTION 24-314, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN WITH NEW NUMBER 24-310; BY DELETING SECTION 24-315, DENSITY BONUSES; AND SECTION 24-316, RELATION TO PUBLIC UTILITIES; BY ADDING NEW SECTION 24-311, BUFFERS AND SETBACK REQUIREMENTS; AND NEW SECTION 24-312, PEDESTRIAN ACCOMODATIONS; AND BY RESERVING SECTIONS 24-313 THROUGH SECTION 24-316.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 6, Multifamily Residential District, R-5, by amending Section 24-305, Use list; Section 24-306, Minimum site size; Section 24-307, Overall development density; Section 24-308, Density; Section 24-309, Subdivision regulations; Section 24-310, Requirements for improvements and design; Section 24-311, Buffers and setback requirements; Section 24-312, Pedestrian accommodations; Section 24-267, Pedestrian Accommodation and reserving Sections 24-313 through 24-316.

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~~ *Use list*.

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:~~

~~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.~~

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	Accessory apartments in accord with section 24 32.	<i>P</i>	
	Accessory buildings or structures as defined	<i>P</i>	
	Apartments	<i>P</i>	
	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.		<i>SUP</i>
	Home care facilities <i>Group home or residential facilities, for eight or fewer adults</i>	<i>P</i>	<i>SUP</i>
	<i>Group home or residential facilities, for nine or more adults</i>		<i>SUP</i>
	<i>Independent living facilities</i>		<i>SUP</i>
	<i>Multifamily dwellings containing two or more dwelling units</i>	<i>P</i>	
	Residential cluster developments in accordance with article VI, division 1 of this chapter.	<i>P</i>	
	Single family dwellings.		<i>SUP</i>
	Single family dwellings contained within a cluster development in accordance with article VI, division 1 of this chapter	<i>P</i>	
	Three family and four family dwellings.	<i>P</i>	

	Townhouses.	P	
	Two-family dwellings.	P	
Commercial Uses	<i>Accessory buildings or structures as defined</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Assisted living facilities</i>		<i>SUP</i>
	<i>Barber and beauty shops</i>		<i>SUP</i>
	<i>Business, professional and governmental offices</i>		<i>SUP</i>
	Day care and e <i>Child day care centers</i>	<i>P</i>	
	<i>Coin laundries which are accessory to other residential uses and for the primary use of its residents</i>	<i>P</i>	
	<i>Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ballfields, tennis courts and other similar recreation facilities</i>	<i>P</i>	
	<i>Continuing care retirement communities</i>		<i>SUP</i>
	<i>Golf courses, country clubs</i>		<i>SUP</i>
	<i>Home occupations, as defined</i>	<i>P</i>	
	Hospitals and rest homes and mental health facilities		<i>SUP</i>
	<i>Lodges, civic clubs, fraternal organizations, service clubs</i>		<i>SUP</i>
	<i>Marina, boat dock or waterfront recreational facilities</i>	<i>P</i>	
	<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
	<i>Photography studios and sales, artist and sculptor studios</i>	<i>P</i>	
	<i>Professional and business offices located in the same structure as and in conjunction with accessory to multifamily uses</i>		<i>SUP</i>
	<i>Rental of one room</i>	<i>P</i>	
	<i>Rental of two or three rooms to a maximum of three rooms</i>		<i>SUP</i>
	<i>Restaurants which are accessory to permitted private clubs or marinas</i>	<i>P</i>	
	Retail shops associated with <i>accessory to community recreation facilities</i>	<i>P</i>	
	Signs, as permitted by article II, division 3 of this chapter.	<i>P</i>	
	Skilled nursing facilities (nursing homes) Nursing homes and facilities for the residence and/or care of the aged.		<i>SUP</i>
	<i>Temporary offices in accordance with section 24-111</i>		<i>SUP</i>
	<i>Tourist homes</i>	<i>P</i>	
Civic	<i>Cemeteries and memorial gardens</i>		<i>SUP</i>
	<i>Fire stations</i>	<i>P</i>	
	<i>Libraries</i>	<i>P</i>	
	Houses of worship. <i>Places of public assembly, including houses of worship and public meeting halls</i>	<i>P</i>	
	Schools, libraries and fire stations.	<i>P</i>	
	<i>Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more</i>		<i>SUP</i>
	<i>Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet</i>	<i>P</i>	

Utility	<i>Camouflaged wireless communications facilities that comply with Division 6, Wireless Communication Facilities</i>		<i>SUP</i>
	<i>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</i>		<i>SUP</i>
	<i>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 rights-of-way and track and safety improvement in existing railroad right-of-ways rights-of-way are permitted generally and shall not require a special use permit</i>		<i>SUP</i>
	<i>Telephone exchanges and telephone switching stations</i>		<i>SUP</i>
	<i>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</i>		<i>SUP</i>
	<i>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</i>		<i>SUP</i>
	<i>Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	<i>P</i>	
<i>Open</i>	<i>Timbering in accordance with section 24-43</i>	<i>P</i>	

~~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. 24-307~~6~~. 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. 24-309. 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. 24-31207. ~~Density requirements for townhouses, apartments and condominiums~~ Overall development density.

(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 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:~~

<i>Gross Acreage</i>	
<i>Percentage of Nondevelopable Area</i>	<i>Gross Acreage</i>
Less than 35%	Total area of parcel
More than 35%	Developable land plus up to 35% of the parcel's land

~~(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.~~

~~(d) *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 ~~are~~ shall be determined by the gross acreage at the site and the use proposed, as follows:

BASE DWELLING UNITS PER ACRE		
Number of units	Townhouses and multifamily structures Multifamily and apartments under three stories	Multifamily-structures and apartments three stories or more
1-100	8	10
101-200	7	9
Over 200	6	8

(c) Density bonuses. 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 density bonuses as specified in the density bonus item options table in Section 24-549 of this chapter. Density bonuses shall not exceed a maximum of an additional 20 percent above the maximum dwelling units per acre that would otherwise be permitted and in no case shall exceed 12 units per acre, in accordance with the following:

<i>Bonus increase from base density</i>	<i>Required density bonus points from list</i>
<i>Up to the base density</i>	<i>0</i>
<i>Greater than the base density, up to and including ten percent above the base density</i>	<i>1</i>
<i>Greater than ten percent above the base density, up to and including 20 percent above the base density</i>	<i>2</i>

(ed) *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.~~

Sec. 24-308. Density.

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

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

Illustration of Gross Acreage Calculation

(a) *If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.*

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

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

Sec. 24-31309. Subdivision regulations.

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

Sec. 24-31410. 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.~~

(1) *Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.*

(2) *In addition, ten percent of the developable area shall also be set aside as open space. 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. *Areas on site used to achieve density bonus points in accordance with section 24-308;*

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

1. *Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and*
2. *Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).*

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

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

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

(4) *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 all residents 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.~~

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

(fe) *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 county subdivision ordinance, whichever is more stringent. Such public streets shall be coordinated with the major transportation network shown in the Comprehensive Plan. Private streets may be permitted in accordance with the provisions of section 24-62. 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.

~~(g) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the director of building safety and permits 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.~~

(if) ~~*Streetlights*~~ **Outdoor lighting.** ~~Streetlights~~ **Outdoor lighting** shall be provided, as required by ~~section 24-53(e)(3)~~ **article II, division 7** 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.

(jg) *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 dwelling units shall be included in one structure. The facade of ~~townhouses~~ multifamily dwelling units 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.

~~(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*.

~~(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.

~~(p) Guarantee for improvements.~~ 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 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.

(k) Signs. To assure an appearance and condition which is consistent with the purposes of this district, outdoor signs shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

Sec. 24-315. Density bonuses.

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 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:

- ~~(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 bonus.* 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.~~

Sec. 24-311. Buffers and setback requirements

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

- (1) *The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*
- (2) *The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*
- (3) *The right-of-way buffer shall be planted in accordance with Section 24-96, General landscape area standards. Buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.*

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

	<i>Developments of 200 or less units</i>	<i>Developments of more than 200 units</i>
<i>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</i>	<i>35'</i>	<i>50'</i>
<i>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</i>	<i>50', which shall be increased to 75' for any structures which exceed two stories</i>	<i>75', which shall be increased to 100' for any structures which exceed two stories</i>

Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-96 of this chapter.

(c) *Waiver provisions. In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements 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 workforce housing; or*
- (2) *The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or*

- (3) *The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.*

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

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

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

- (1) *The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.*

- (2) *The stockpile shall not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.*

- (3) *Stockpiles shall not exceed 35 feet in height.*

- (4) *Stockpiles shall be temporary, with a time limit of six months.*

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

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

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

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

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

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

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

(i) *Setback and yard requirements. There shall be no minimum lot size or minimum front, side or rear setback or yard requirements for any lot within a R-5 district other than as specified in the approved final plans.*

(j) *Appeals. In the event the planning director disapproves the items specified in (c), (d), (e), (f), (g), and (h) in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.*

(k) *Relation to article II, division 4. Any development approved under this division shall adhere to the buffer and setback requirements listed above. Where these requirements are more stringent than those found in article II, division 4 of this chapter, these requirements shall supersede them.*

~~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.~~

Sec. 24-312. Pedestrian accommodations.

Pedestrian accommodations shall be provided in accordance with Section 24-35 of this chapter.

Secs. 24-317 - 24-326. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ZO-07-11_ZO-09-11R5_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 1, RESIDENTIAL CLUSTER DEVELOPMENT, BY AMENDING SECTION 24-538, STATEMENT OF INTENT; SECTION 24-540, WHERE PERMITTED; SECTION 24-541, MINIMUM SITE SIZE; SECTION 24-542, PERMITTED USES; SECTION 24-544, BUFFER REQUIREMENTS; AND SECTION 24-545, SETBACK REQUIREMENTS; BY AMENDING AND RENAMING SECTION 24-547, YARD REGULATIONS WITH NEW NAME YARD REQUIREMENTS; BY AMENDING SECTION 24-548, DENSITY; AND SECTION 24-549, DENSITY STANDARDS; BY RENUMBERING SECTION 24-550, BMP REQUIREMENTS TO NEW NUMBER 24-553; BY RENUMBERING SECTION 24-551, PERFORMANCE ASSURANCE TO NEW NUMBER 24-554; BY ADDING NEW SECTION 24-551, OPEN SPACE DEVELOPMENT DESIGN ELEMENTS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-552, AMOUNT OF OPEN SPACE REQUIRED TO NEW NUMBER AND NAME 24-550, OPEN SPACE; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-553, OWNERSHIP OF OPEN SPACE TO NEW NUMBER AND NAME 24-552, ESTABLISHMENT OF HOMEOWNERS ASSOCIATION; BY AMENDING AND RENUMBERING SECTION 24-554, REVIEW AND APPROVAL PROCESS TO NEW NUMBER 24-556, AND BY ADDING NEW SECTION 24-555, PEDESTRIAN ACCOMODATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VI, Overlay Districts, Division 1, Cluster Overlay District, by amending Section 24-538, Statement of intent; Section 24-540, Where permitted; Section 24-541, Minimum site size; Section 24-542, Permitted uses; Section 24-544, Buffer requirements; Section 24-545, Setback requirements; Section 24-547, Yard requirements; Section 24-548, Density; Section 24-549, Density standards; Section 24-550, Open space; Section 24-551, Open space development design elements;

Section 24-552, Establishment of homeowners association; Section 24-553, BMP requirements; Section 24-554, Performance assurance; Section 24-255, Pedestrian accommodations; and Section 24-256 Review and approval process.

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

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, ~~and~~ 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~~ **workforce** housing set forth in section 24-549 below. However, in no case shall such development be less than two acres. Such a waiver may be considered upon the applicant providing a written request to the planning director to waive the minimum acreage requirement demonstrating to the satisfaction of the planning director that:

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

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

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~~ *division*, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

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

- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) ~~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 right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.*

(b) *Perimeter buffers.* Within any ~~major subdivision~~ *residential cluster* approved under this ~~article~~ *division*, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a)96 of this chapter.

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

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

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

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

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

any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~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~~ *shall* not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*
- (f) *Limitations on buffers.* ~~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 *a* 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 the items specified in (c), (d), (e), (f), (g), and (h) in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.*

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 ~~35~~ 25 feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

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

There are no lot width or area requirements.

Sec. 24-547. Yard ~~regulations~~ requirements.

~~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~~ *feet* 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~~ *Uniform Statewide* Building Code.
- (b) No building in a residential cluster development shall be closer than ~~35~~ 25 feet to the internal edge of perimeter buffers.
- (c) *Easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Documents establishing such easements or covenants shall be satisfactory to the county attorney and submitted prior to approval of the development plan.*

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 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.~~

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

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

Illustration of Gross Acreage Calculation

(a) If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

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

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

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.~~

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

Density	Percent of developable acreage as open space	Required density bonus points from list below
Up to 1	25 percent	None
More than 1, but no more than 2	25 percent	2
More than 2, but no more than 3	30 percent	4
More than 3, but no more than 4	35 percent	6

	Bonus Item Options	Bonus Points
A.	For every 10 percent of the units committed to provision of workforce housing (starting above the threshold set in the county's workforce housing opportunities policy, as amended)	2, up to a max of 4

B.	<i>Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the engineering and resource protection division</i>	<i>1.5</i>
C.	<i>Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division</i>	<i>1.5</i>
D.	<i>Meeting a majority of items (a) – (d) listed in section 24-551, open space development design elements, as determined by the planning director</i>	<i>1.5</i>
E.	<i>Achieving green building certification using EarthCraft, LEED or equivalent program for all units</i>	<i>1</i>
F.	<i>Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee</i>	<i>1</i>
G.	<i>Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the parks and recreation director or designee</i>	<i>1</i>
H.	<i>Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present</i>	<i>1</i>
I.	<i>Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size</i>	<i>1</i>
J.	<p><i>Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least five percent of the developable area of the site.</i></p> <ol style="list-style-type: none"> <i>1. <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</i> <i>2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer</u> (retain at least 50 percent of these soils on site)</i> <i>3. <u>Conservation Area as identified by an approved watershed management plan</u></i> <i>4. <u>Wildlife habitat corridors</u> that:</i> <ul style="list-style-type: none"> <i>○ <u>Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and</u></i> <i>○ <u>Consist of mature forestland</u></i> 	<i>1</i>
K.	<i>Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter</i>	<i>1</i>

L.	<i>Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director</i>	0.5
M.	<i>Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least five percent of the developable area of the site)</i>	0.5
N.	<i>Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the comprehensive plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA</i>	0.5

Sec. 24-5520. 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:~~

Percentage of Total Units Dedicated to Affordable Housing	Percentage of Open Space Required in Low Density Residential	Percentage of Open Space Required in Moderate Density Residential
10 to 55	30	25
More than 55 to 100	25	20

~~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 and shall not be included on any private lot, and should be protected though a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(b) In addition, a percentage of the developable area shall also be set aside as open space, as specified in section 24-549. The developable area open space may include, but is not limited to:

- (1) Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;*
- (2) Areas on site used to achieve density bonus points in accordance with section 24-549;*
- (3) The following areas, up to the percent specified:*
 - a. Golf courses cannot exceed 30 percent of the developable open space required*
 - b. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and*

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

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

(1) Area on any individual private lots, or in the case of condominiums, within fifteen feet of the units, or

(2) Land within public road rights-of-way and utility or drainage easements.

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

Open space	
Nondevelopable open space, as defined	Acreage
Developable open space required	Acreage
Developable open space provided	Acreage
• Area(s) used to meet county policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable)	
• Area(s) on site used to achieve density bonus points in accordance with section 24-549	
• Area of golf courses	
• Area in required right-of-way and perimeter buffers	
• Area in stormwater management facilities	
• Other qualifying open space area	
Total nondevelopable and developable open space	

(e) Open space shall be arranged on the site in a manner that coordinates with 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.

(1) Conservation/general open space:

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

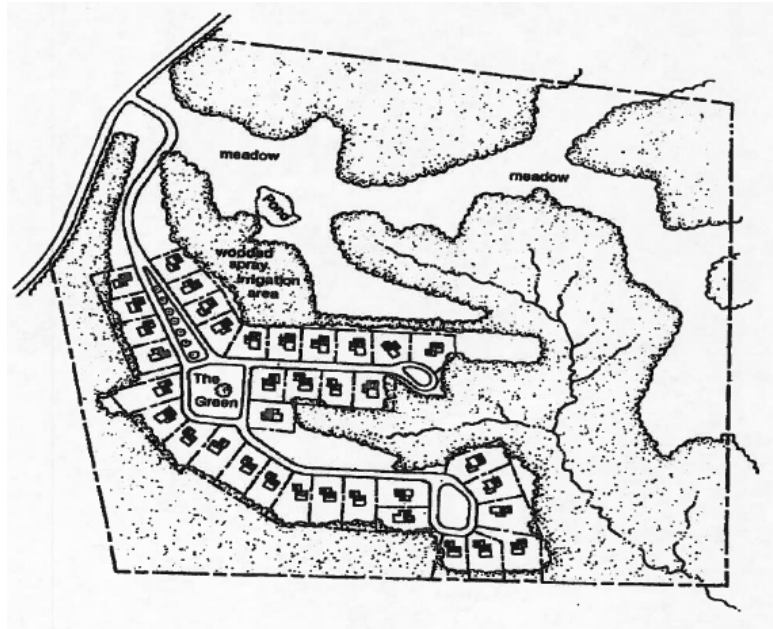


Figure 1
(Graphics permission provided by Natural Lands Trust)

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

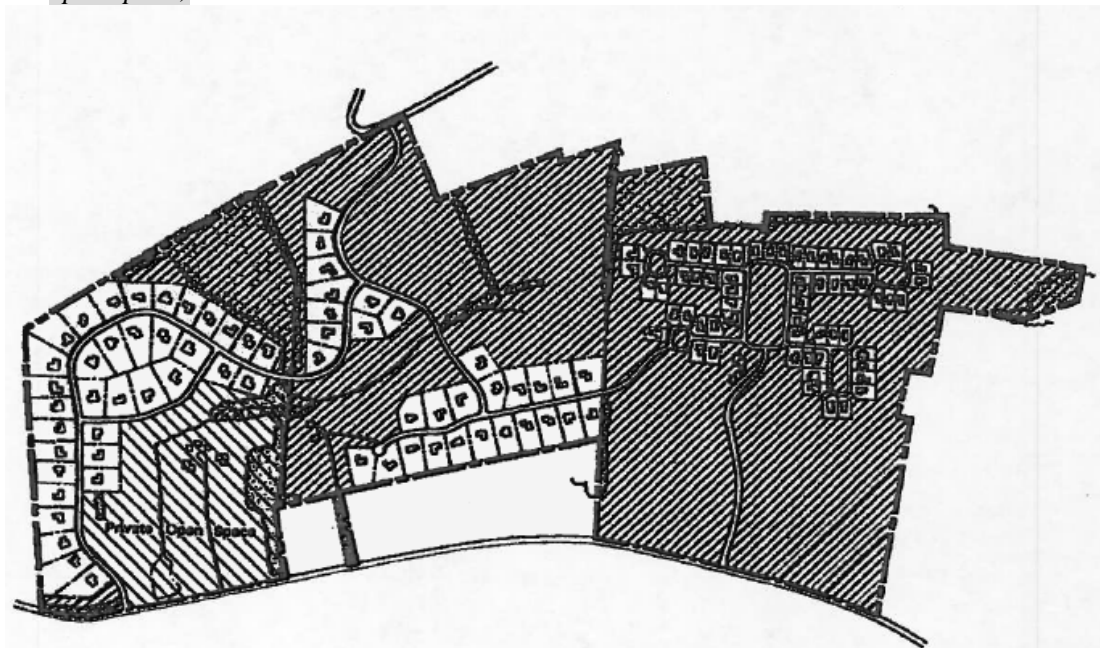


Figure 2
(Graphics permission provided by Natural Lands Trust)

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

(2) Recreation

- a. *Cluster developments shall adhere to the Parks and Recreation Master Plan Proffer Guidelines. Any additional land intended for recreation shall be useable for the purpose intended, and also follow the design specifications in the Parks and Recreation Master Plan Proffer Guidelines.*

Section 24-551. Open space development design elements.

While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the 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,*
 - (4) *Use of Better Site Design Techniques such as group or shared parking, and shared driveways, and*
 - (5) *Clear access from the units to the open space by abutting it, or via sidewalks or trails.*

Sec. 24-5532. Ownership of open space. Establishment of homeowners association.

~~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.~~

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

Sec. 24-5503. 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. 24-5514. 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. 24-555. Pedestrian accommodations.

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

Sec. 24-5546. Review and approval process.

~~(a) Review required. 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, which ever 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 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.~~

(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 in section 24-550, the amount of open space required and the amount of open space provided; and*
- (4) Conceptual stormwater design, illustrating use of better site design and low impact development techniques, where possible.*

(b) Approval Process.

(1) In instances where a special use permit is not required by the residential district, a master plan shall be filed with the planning director who shall recommend action on the plan to the development review committee, who shall forward a recommendation to the planning commission. The planning commission shall approve the master plan upon finding that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the Comprehensive Plan.

(2) In instances where a special use permit is required by the residential district:

a. Prior to submission of a master plan for legislative action, the applicant is strongly encouraged to file a conceptual plan for review by the development review committee. The development review committee shall provide a recommendation on the conceptual plan based upon 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.

b. A master plan in accordance with section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the planning commission

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September,
2012.

ZO-07-11_ZO-09-11Overlay_ord

RESOLUTION

WORKFORCE HOUSING OPPORTUNITIES POLICY

WHEREAS, the 2009 Comprehensive Plan recognizes the importance of providing housing opportunities which are affordable for homeowners and renters with particular emphasis on households earning 30 to 120 percent of James City County's Area Median Income (AMI); and

WHEREAS, consideration of measures to promote affordable and workforce housing was included as part of the Zoning Ordinance update methodology adopted by the Board of Supervisors in May 2010; and

WHEREAS, the Policy Committee recommended endorsement of the Workforce Housing Opportunities Policy to the Planning Commission on September 15, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, recommended approval of the Workforce Housing Opportunities Policy on July 11, 2012, by a vote of 7-0.

NOW THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby establishes the following Workforce Housing Opportunities Policy in order to identify criteria whereby the provision of workforce housing in residential and mixed-use rezoning cases is done in a consistent manner:

The Housing Section of the 2009 Comprehensive Plan sets the following goal for housing opportunities 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 workforce housing in all rezoning applications that include a residential component.

This policy identifies criteria whereby the provision of workforce housing (rental and ownership) in residential rezoning cases is consistent yet flexible. Provision of housing at different price ranges is a strategy to achieve the greater housing diversity goal described in the 2009 Comprehensive Plan.

1. Provision and Integration of Workforce Housing Opportunity Dwelling Units

- a. At least 20 percent 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 to 120 percent of Area Median Income (AMI). Of that 20 percent, the units should be targeted at the AMI ranges specified below:

Units targeted at:	Percent of the development's proposed dwelling units expected
30 percent - 80 percent of AMI	10 percent
80 percent – 120 percent of AMI	10 percent

- b. These units should be fully integrated in the development with regard to location, architectural detailing, quality of exterior materials, and general appearance.

2. Applicability of Cash Proffers for Workforce Housing Units

- a. Units targeted at household meeting 30 to 120 percent of AMI will have reduced expectations for cash proffers in accordance with the amounts set forth in the Cash Proffer Policy for Schools adopted by the Board of Supervisors on July of 2007, as amended, other cash proffers related for 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:	Percent cash proffer reduction:
30 percent – 60 percent of AMI	100 percent
61 percent - 80 percent of AMI	60 percent
81 percent – 120 percent of AMI	30 percent

3. Retention of Workforce Housing Opportunity Units Over Time

- a. For rental units, units must be made available at rents that are targeted at households earning 30 to 60 percent of AMI for a period of at least 30 years.
- b. For-sale units, sales of all targeted units as specified in paragraph one shall include a soft second mortgage payable to the benefit of James City County or third party approved by the Office of Housing and Community Development and the County Attorney's Office. The term of the soft second mortgage shall be at least 50 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.

4. In-lieu Contribution to the Housing Fund

Applicants may choose to offer cash contributions in-lieu of the provision of the percentages of workforce housing units specified above. Such cash contributions shall be payable 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 to 120 percent of AMI in the County. If applicants choose to offer a cash contribution in-lieu of construction of the units, the guideline minimum amount per unit shall be:

Units targeted at:	Cash in-lieu amount
30 percent – 80 percent of AMI	The cost to construct a 1,200 square-foot dwelling as determined below
81 percent - 120 percent	The cost to construct a 1,400 square-foot dwelling as determined below

Beginning in February 2013, and continuing in every subsequent February, the Housing and Community Development Director shall establish the average square foot cost to construct a workforce dwelling unit plus the average costs of a lot in the subject development. The construction cost shall be determined based on the cost information provided by at least three builders of workforce dwellings in James City County. If no workforce housing costs are available from James City County builders, the Director at his sole discretion may consult builders from nearby localities.

5. Procedures

- a. For rental units, the developer shall provide assurances in a form acceptable to the County Attorney that the development will provide a statement of rental prices, demonstrating that they are within the specified workforce housing income range, for the proffered workforce units for each year of the 30-year term.
- b. For for-sale units, the developer shall offer units at prices that fit within the workforce housing price range as stated in the definitions¹, which shall be calculated and made available on an annual basis by the County.
 - i. With regard to the soft-second mortgages, the James City County Office of Housing and Community Development (“OHCD”) shall be named beneficiary of a second deed of trust for an amount equal to the sales price of the market rate unit and the sales price of the proffered unit. The soft second shall be a forgivable loan, upon the terms specified in Section 5 above, in a form approved by OHCD and the County Attorney. The soft second deed of trust, the deed of trust note, and the settlement statement shall be subject to the approval of the County Attorney and Housing and Community Development Director prior to closing. The original note and deed of trust and a copy of the settlement statement identifying the net sales price shall be delivered by the closing agent of the OHCD after the deed of trust is recorded and no later than 45 days after closing. If down-payment assistance loans are authorized by OHCD, the lien on the deed of trust for the soft second may be recorded in third priority.
 - ii. Owner shall consult with and accept referrals of, and sell to qualified buyers from the 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.

¹ The prices shall be established based on payment of 30 percent of household income toward housing cost.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

WFHous_res

MEMORANDUM COVER

Subject: Case Nos. ZO-0008-2011. Multiple Use Districts and Mixed Use Construction Phasing Policy

Action Requested: Shall the Board of Supervisors approve the Multiple Use Districts and Mixed Use Construction Phasing Policy?

Summary: Staff has drafted final ordinance language, guidelines, and policies for multiple items that fall into the multiple use districts category. The following specific sections are included in this category:

1. R-4, Residential Planned Community District
2. PUD, Planned Unit Development District
3. MU, Mixed Use District
4. Construction Phasing Policy

The Policy Committee discussed initial proposals for the above items at meetings in February 2011, and the Board discussed these items at a work session in April 2011. The Policy Committee considered draft ordinance and policy language in September of 2011, and the Board discussed these items at work sessions in September 2011, and January and February 2012. The attached materials are associated with Stage III, final review of multiple use districts ordinances.

At the July 11, 2012, Planning Commission meeting, one of the Commissioners requested language be added to Section 24-492 (b) of the PUD ordinance. This language allowed setback reductions for commercial/industrial development when the PUD property was adjacent to land already zoned for commercial/industrial development. This language is similar to other language in the PUD ordinance that allowed setback reductions for residential uses.

At its July 11, 2012, meeting, the Planning Commission voted 7-0 to recommend approval of the ordinances to the Board of Supervisors, with the amended language added to the PUD ordinance.

Staff recommends that the Board of Supervisors approve the Multiple Use Districts (R-4, PUD, MU) ordinances and the proposed Mixed Use Construction Phasing Policy.

Fiscal Impact: N/A

FMS Approval, if Applicable: Yes ☐ No ☐

Assistant County Administrator

Doug Powell _____

County Administrator

Robert C. Middaugh _____

Attachments:

1. Adopted Minutes from the 7/11/12 Planning Commission meeting; Minutes of the 9/27/11, 1/24/12, and 2/28/12 Board work sessions
2. R-4 Ordinance
3. PUD Ordinance
4. MU Ordinance
5. Mixed Use Construction Phasing Policy

Agenda Item No.: I-7

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Jason Purse, Senior Planner II

SUBJECT: Case Nos. ZO-0008-2011. Multiple Use Districts and Mixed Use Construction Phasing Policy

Staff has drafted final ordinance language, guidelines, and policies for multiple items that fall into the multiple use districts category. The following specific sections are included in this category:

1. R-4, Residential Planned Community District
2. PUD, Planned Unit Development District
3. MU, Mixed Use District
4. Construction Phasing Policy

The Policy Committee discussed initial proposals for the above items at meetings in February 2011, and the Board discussed these items at a work session in April 2011. The Policy Committee considered draft ordinance and policy language in September of 2011, and the Board discussed these items at work sessions in September 2011, and January and February 2012. The attached materials are associated with Stage III, final review of multiple use districts ordinances.

The following list represents a brief summary of each of the above items:

1. R-4
The substantive changes that are proposed to the R-4, Residential Planned Community, District include the items listed below. The proposed changes reflect Policy Committee and Board feedback during Stages 1 and 2 of the process.
 - Revises the documents required for submission section to delete items that were referenced elsewhere in the ordinance and to standardize terms used in the Area Designation descriptions with similar terms in other districts.
 - Deletes the following sections, because they are no longer needed, and are referenced in the administrative procedures section of the ordinance:
 - Administrative Fee Section; Approval of Master Plan; Final Plan Submission; Administrative Review Fee/Development Plan; Proposed Deed of Easement; and Development Plan Action.
 - Changes authority for final plans consistency determinations from the Planning Commission to the Planning Director.
 - Adds a method for calculating the density of a proposed subdivision that uses a stepped scale to calculate gross acreage based on percentage nondevelopable land.
 - Changes the title of the use list section and reorganizes all of the uses into a table format.
 - Renames uses to make them consistent throughout the districts and adds home occupations, continuing care retirement facilities, group homes, independent living facilities, and assisted living facilities to the use list.
 - Adds camouflaged wireless antennas as a Special Use Permit (SUP) and amends the language of the other Wireless Communications Facility (WCF) uses to make them consistent with changes previously adopted to Division 6 of the zoning ordinance.

- Adds accessory apartments as a permitted use. These units shall be contained in an existing structure and will not count against the unit cap for a development.
- Revises sections so the Planning Director, rather than the Development Review Committee (DRC), has the authority to grant waivers.
- Appeal provisions have been added granting such authority to the DRC.
- Amends the language in the Height Limitation section to match the changes previously proposed as a part of the WCF update.
- General editorial revisions to the ordinance, as well as revisions that bring the ordinance into greater conformance with the Comprehensive Plan.

2. PUD, Planned Unit Development District

The substantive changes that are proposed to the PUD, Planned Unit Development, District include the list of items below. The proposed district changes reflect Policy Committee and Board feedback during Stages 1 and 2 of the process.

- Revises the documents required for submission to delete sections that were referenced elsewhere in the ordinance.
- Deletes the following sections, as they are no longer needed, as they are referenced in the administrative procedures section of the ordinance:
 - Master Plan - Administrative Review Fee; Procedures; Relationship of final plans to master plan; Final plans-Contents; Same-Administrative review fee; and Same-Action.
- Adds a method for calculating the density of a proposed subdivision that uses a stepped scale to calculate gross acreage based on percent nondevelopable land.
- Standardizes terms used in the Area Designation descriptions with similar terms in other districts.
- Lowers the base density by half and establishes a list of density bonus item options to achieve full density.
- Amends the language to match the changes previously proposed as a part of the WCF update.
- Standardizes terms used in the recreation areas description with similar terms in other districts.
- Removes language about utility connections, fire protection, streetlights, drainage facilities, and natural features and amenities that are evaluated by regulations of other departments/divisions or dealt with in other sections of the County code.
- Amends language referencing the Planning Director, rather than the Director of Building Safety and Permits as the person responsible for approving individual wells.
- Revises references to bring this section into conformance with amendments previously made to Division 4, Landscaping.
- Revises the waiver provision sections for Community Character Corridor (CCC) buffers, landscape modifications and limitations on buffers, improvements allowable within buffers, and roads within buffers to require Planning Director approval, rather than Planning Commission approval.
- Amends the language in the soil stockpiling section to conform with current Virginia Erosion and Sediment Control regulations as referenced in the Virginia Erosion and Sediment Control Handbook and through County policies.
- Adds appeal language that requires the DRC to review appeals to Planning Director waiver recommendations.
- Reorganizes this section into a table format.
- Adds accessory apartments as a permitted use. These units shall be contained in an existing structure and will not count against the unit cap for a development.
- Renames uses to make them consistent throughout the districts and adds a number of uses that were present in other districts to make things consistent between multiple use districts.
- Adds camouflaged wireless antennas as an SUP and amends the language of the other WCF uses to make them consistent with changes previously adopted to Division 6 of the zoning ordinance.
- Adds continuing care retirement facilities, independent living facilities, group homes, assisted living facilities, and skilled nursing to the use list.

- General editorial revisions to the ordinance, as well as revisions that bring the ordinance into greater conformance with the Comprehensive Plan.

3. MU, Mixed Use District

The substantive changes that are proposed to the MU, Mixed Use, District include the list of items below. The proposed changes reflect Policy Committee and Board feedback during Stages 1 and 2 of the process.

- Revises the district to reference Section 24-23 which contains all submittal requirements.
- Deletes sections that are duplicated elsewhere or unnecessary, including:
 - Master plan - Administrative review fees; Procedures; and Addition of land to an existing mixed use development.
- Adds language referencing a construction phasing policy.
- Revises of the method for calculating the density of a proposed subdivision – the revised language uses a stepped scale to calculate gross acreage based on percent nondevelopable land.
- Amends the language so that the Planning Director decides whether the development plan is consistent with the master plan, rather than the Development Review Committee/Planning Commission.
- Amends the method for achieving density bonuses by citing the new density bonus options table also being used in cluster and several multiple use districts.
- Amends the language to note that MU districts shall be located on a single parcel of land, or separate but adjacent, rather than contiguous, parcels shall total a minimum of at least 5 acres. Deletes requirements regarding private yards (to provide design flexibility) and drainage facilities (to eliminate overlap with other agency regulations).
- Reorganizes the use list into a table format.
- Renames uses to make them consistent throughout the districts, adds accessory apartments and home occupations and changes the permitted use threshold for some manufacturing uses in the use list.
- Adds camouflaged wireless antennas as a permitted use and amends the language of the other WCF uses to make them consistent with changes previously adopted to Division 6 of the zoning ordinance.
- Adds accessory apartments as a permitted use. These units shall be contained in an existing structure, and will not count against the unit cap for a development.
- Adds continuing care retirement facilities, assisted living facilities, group homes, independent living facilities, and skilled nursing facilities to the use list.
- Makes revisions to bring this district into conformance with amendments previously made to Division 6, WCFs.
- Standardizes terms used in the Area Designation descriptions with similar terms in other districts.
- Lowers the base density by half and establishes list of density bonus item options.
- Adds a requirement that no single use or use category shall exceed 80 percent of the developable land area within a mixed use district.
- Adds language similar to the Economic Opportunity district that requires unified building design and unified open space.
- Removes requirements that are covered in other sections of the ordinance, such as parking, signs, and landscaping.
- Adds language making the appeals section similar to other districts, where the planning director determination can be appealed to the development review committee.
- General editorial revisions to the ordinance, as well as revisions that bring the ordinance into greater conformance with the Comprehensive Plan.

4. Mixed Use Construction Phasing Policy

Similar to the Economic Opportunity Construction Phasing Policy, this document would be used as a guideline for developments that are approved through the legislative process. The policy allows more

residential development to be built at the start of construction than the Economic Opportunity District did. This is important for Mixed Use developments as residential units are needed to support commercial development.

CHANGES SINCE THE PLANNING COMMISSION:

At the July 11, 2012, Planning Commission meeting, one of the Commissioners requested language be added to Section 24-492 (b) of the PUD ordinance. This language allowed setback reductions for commercial/industrial development when the PUD property was adjacent to land already zoned for commercial/industrial development. This language is similar to other language in the PUD ordinance that allowed setback reductions for residential uses.

PLANNING COMMISSION RECOMMENDATION:

At its July 11, 2012, meeting the Planning Commission voted 7-0 to recommend approval of the ordinances to the Board of Supervisors, with the amended language added to the PUD ordinance.

RECOMMENDATION:

Staff recommends that the Board of Supervisors approve the Multiple Use Districts (R-4, PUD, MU) ordinances and the proposed Mixed Use Construction Phasing Policy.

Jason Purse

CONCUR:

Allen J. Murphy, Jr.

JP/gb

ZO-8-11MUConsPol_mem

Attachments:

1. Adopted minutes from the July 11, 2012, Planning Commission meeting
2. Minutes of the September 27, 2011, January 24, 2012, and February 28, 2012, Board work sessions
3. R-4 Ordinance
4. PUD Ordinance
5. MU Ordinance
6. Mixed Use Construction Phasing Policy

ZO-0002-2012 Definitions, ZO-0009-2011 Residential Districts, ZO-0008-2011 Multi-Use Districts, ZO-0007-2011 Residential Cluster Overlay, ZO-0005-2011 Green Building

Mr. Johnson stated that in the interest of time, Mr. Ribeiro could make a short presentation on all of these topics. He stated Ms. Cook and Mr. Purse could then be available to answer any questions.

Mr. Woods asked staff whether each section was materially consistent with the language reviewed by the Policy Committee.

Mr. Ribeiro stated his presentation did not include that information. He stated he could discuss changes to the Definitions section and his coworkers other sections.

Mr. Johnson stated Mr. Ribeiro, Mr. Purse, and Ms. Cook could give brief summations to what the Policy Committee reviewed previously.

Mr. Ribeiro stated that some definitions were previously submitted to the Committee and the Commission as part of the review of individual districts and sections of the ordinance. He stated all revised definitions are now being presented collectively under a single document in Section 24-2. In addition to the definitions and ordinance updates under review tonight, staff has also prepared a residential redevelopment policy, workforce housing opportunity policy, endorsement of green building incentives, and mixed use construction phasing guidelines for consideration.

Mr. Jason Purse stated a majority of the changes in the Multiple Use districts language is consistent with what the Policy Committee has seen. He stated that since the Committee's review, there was a Board work session where the Board discussed the density bonus table. Changes had been made to the table since the Committee saw it. Staff has also added more uses to these districts to make them more consistent with state code, such as group home and assisted living type uses.

Mr. Basic stated that PUD setbacks when adjacent to residential uses were reasonable. He asked if the 75' feet setback from PUDs to adjacent compatible commercial uses could be reduced.

Mr. Purse stated staff would be amenable to proposing a waiver provision to those sections. He stated it could be similar to the residential section, with waivers going to the Planning Director and appeals to the Commission. The language could be added to materials going to the Board next month.

Mr. Basic stated that sounded good.

Ms. Cook stated there was a lot of discussion of the Residential districts at the Board level work sessions. She stated the density bonuses table is also used in Cluster Overlay, R1, and R2 districts. The other major changes of note since the Policy Committee are the refinements to density provisions. In R1 and R2, density had been based on gross area. Now density based on the developable area is applied to all districts and uses a step-scale method. Green Building incentives also saw substantial changes since the Policy Committee. It has changed from a expectations-based policy to an incentives-based approach. The Green Building policy is more a list of incentives now.

Mr. O'Connor asked if the step-scale method made it more consistent and predictable to calculate density for both staff and business.

Ms. Cook stated staff attempted to make it as user-friendly as possible. She stated the ordinance includes an illustration with the table.

Mr. Basic stated it was much more user-friendly.

Mr. O'Connor opened the public hearing.

Ms. Susan Gaston, representing the Williamsburg Area Association of Realtors, stated the density calculations are much more user-friendly, predictable, and consistent. She stated the association supports the density table and changes. She commended the affordable housing policy and supported the green building policy as well.

Mr. O'Connor closed the public hearing.

Mr. Krapf stated staff made changes to each district easy to follow and that the changes are positive.

Mr. Woods stated he had no issues with what had been presented, but had some questions with the process.

Mr. Basic moved to recommend approval as amended.

In a unanimous roll call vote, the Commission recommended approval of the ordinance amendments, policies, and guidelines, as amended (7-0).

AGENDA ITEM NO. G-1a

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 27TH DAY OF SEPTEMBER 2011, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

*as adopted
on Oct. 11, 2011*

Mary K. Jones, Chairman, Berkeley District
Bruce C. Goodson, Vice Chair, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. STAGE II ZONING ORDINANCE UPDATE FOR NON PRIORITY ITEMS

The work session will address draft ordinances and policies for four areas: Wireless Communication Facilities, Residential Districts, Multiple Use Districts, and Administrative items.

Mr. McGlennon noted he felt that it would take several work sessions to review all of these items.

Ms. Tammy Rosario, Senior Planner, stated the purpose of the work session is to share changes to the ordinances and to receive feedback from the Board so that staff can move forward with preparing the items for final consideration.

1. Wireless Communication Facilities

Mr. Luke Vinciguerra, Planner, stated that the proposed revisions to the Wireless Communications Facilities Ordinance include a mechanism to review applications for multi-antenna systems such as Distributed Antenna Systems (DAS), clarify the camouflaged towers provision, permit Portable Cellular Tower Facilities (PCTF), and encourage alternatively mounted antennas.

He also noted that the Policy Committee recommended language regarding the minimum quality of products that can be used for camouflaged towers utilizing the Native Vegetation provision and requiring a Special Use Permit (SUP) for camouflaged towers in residential districts.

Mr. Goodson clarified with the County Attorney that the proposed changes comply with Federal law.

Mr. Rogers replied that they do.

Mr. Jack Fraley, Chair of the Planning Commission, stated that the consultant reported to the Policy Committee that he was not aware of any locality in Virginia that allows towers at 120 feet by right in residential districts.

- 2 -

Mr. Goodson asked why the SUP requirement only applied to camouflaged towers.

Mr. Fraley noted that many citizens prefer the use of "slick sticks" to a camouflaged tower intended to look like native vegetation such as a pine tree.

Mr. Goodson asked if alternatively mounted antennas on buildings would continue to be allowed by right.

Mr. Vinciguerra replied that they would be and that the proposed ordinance adds language which clarifies that they are allowed by right.

Mr. Icenhour asked if a distributed antenna system such as DAS, would require an SUP in a residential district.

Mr. Vinciguerra replied that it would require an SUP and that the Board could approve all of the antennas in such a system at one time in a single application.

Mr. Icenhour asked if an alternatively mounted antenna was allowed by right in all districts.

Mr. Vinciguerra responded affirmatively. He added that camouflaged towers, as determined by the Planning Director, of 120 feet or less are currently allowed by right in any district, including residential.

The Board expressed a desire to require an SUP for any tower, including camouflaged, in all residential districts.

Mr. Icenhour verified that a PCTF under 120 feet currently can be approved administratively for up to 90 days.

Mr. Goodson asked if there was a provision in the ordinance to extend approval for a PCTF beyond 90 days.

Mr. Icenhour asked if 120 feet was the appropriate height limit for a PCTF.

The Board expressed an interest in adding language that would allow the Board to extend approval for a PCTF beyond 90 days.

2. Residential Districts

Ms. Ellen Cook, Senior Planner, provided a summary of proposed changes to the Residential Districts. Changes made to both R-1 and R-2 included coordinating the density bonus system with the cluster overlay district and adding selected commercial uses allowed by SUP. Changes to the R-5 district include changing permitted uses to include only multi-family dwellings containing more than four dwelling units.

Mr. McGlennon asked if the staff had evaluated how well these ordinances had performed previously.

Ms. Cook replied that they had.

Ms. Tammy Rosario, Principal Planner, suggested starting the review with the cluster overlay.

- 3 -

Ms. Cook noted that the major changes in this cluster overlay district were revisions of the nondevelopable land definition, revision to the density standards and bonus items, and inclusion of new design information for open space and for development.

The Board discussed the way that density is calculated in the residential and some of the multiple use districts, and whether it should be based on gross land area, net land area (which does include the nondevelopable land), or a calculated area based on the percentage of nondevelopable land.

Mr. McGlennon said the County has generally determined density based on all of the area of the site (gross land area). He asked if there was consideration given for using only developable area, and how the proposed changes to the nondevelopable area definition and to the density calculation method in Cluster would affect density.

Ms. Cook stated that she thought the proposed changes would tend to reduce overall density to some degree, but that it would be dependent on the conditions present at a given site.

Mr. Icenhour noted that PUD was the only place that density had been based on developable acreage and asked why there had been a difference. He also noted his preference that density be based on developable acreage in all districts.

Mr. McGlennon noted that density in the Economic Opportunities (EO) Zone is based on developable acreage.

Mr. Goodson said he desired predictability, and thought it would be hard to calculate developable acreage in some cases.

Mr. Icenhour said this incentivizes development on properties that are environmentally sensitive. He said the proposal allows too much density in a smaller area and where it is not wanted.

Mr. McGlennon and Mr. Icenhour stated their preference to determine density based on developable land.

Mr. Goodson and Ms. Jones said they supported the staff proposal.

Mr. Kennedy asked for additional information and mentioned that a Transfer of Development Rights (TDR) program could affect this question.

Discussion ensued about the impact of changing the determination of density.

The Board requested that in terms of the calculated area method, staff investigate an altered scale method that limits the density achievable at the highest level of nondevelopable land, similar to a sliding scale method.

The Board also requested that in terms of the net land area method, staff provide more information on potential effects through example scenarios and at ways to compensate the landowner.

The Board then discussed the density bonus item options in the cluster overlay district.

Mr. Icenhour expressed a concern that the ordinance gives incentives for practices that he thought the County should expect as standard.

The Board discussed whether the bonus item list should be shorter and more prioritized.

- 4 -

The Board requested that staff provide a spreadsheet or other form so feedback on the Board's high, medium, and low priorities could be gathered.

Prompted by several questions from Mr. Icenhour, the Board discussed the R-5, Multi-family Residential District, and the Cluster Overlay District and the connection between the two.

The Board discussed the way the density provisions and incentives in each of the districts worked, and whether it made sense to either remove the R-5 cluster option, or to reduce the base densities in R-5 and allow the densities to be achieved through greater use of the density bonus items.

The Board requested that staff examine each of those options and provide that information to the Board and discussed the R-3 Redevelopment District, a proposed new district.

Ms. Kate Sipes, Business Development Coordinator, explained that this new district is intended to apply in instances where development has occurred, where improvements to infrastructure is needed, where rehabilitation or replacement of structures is needed or where legally non-conforming lots exist. In the past, the Mixed Use district has been applied to these types of developments, but it not always a good fit.

The question was raised as to why the proposed ordinance seeks "greater conformance" given that property would be rezoned to R-3. There was consensus to amend the ordinance to state that non-conforming parcels should be brought into conformance.

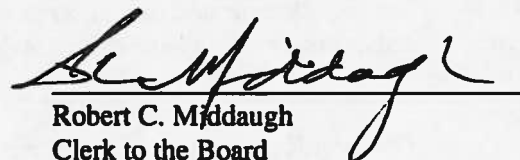
The Board also raised questions about the density bonus item options and expressed a concern that some should be expectations. The question of whether the County needed density bonuses for County projects was also raised. Staff was asked to review the list for possible changes.

There was acknowledgement among Board members that common areas require maintenance, but in redevelopment projects for existing neighborhoods, the County cannot require existing property owners to join a new association. R-3 language requires a mechanism for maintaining open space, but allows flexibility from firm homeowners association requirements found in other districts.

Mr. Fraley raised the issue of providing incentives for re-use of empty storefronts.

D. BREAK

At 6:12 p.m., the Board took a break.


Robert C. Middaugh
Clerk to the Board

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AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 24TH DAY OF JANUARY 2012, AT 4:00 P.M. IN THE COUNTY
GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY,
VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Dominion Virginia Power – Discussion of Transmission Line

Dominion staff gave a PowerPoint presentation.

Ms. Stephanie Harrington stated that Dominion would present its proposal to the State Corporation Commission (SCC) in April, which allows it opportunities to respond to feedback. Dominion planners are concerned with the area's electrical reliability due to the Peninsula's geographic isolation. With the Yorktown plant going offline in 2014, the need for additional transmission line has accelerated. Dominion has already acquired right-of-way running from Charles City to Newport News. A 500kv line would extend across the Chickahominy River through James City to a Skiffe's Creek switching station, with another new 230kv line running from the Skiffe's Creek switching station to Newport News. This corridor does not need to be widened or require additional easements.

Ms. Mary Jones asked how Dominion determined what areas of the right-of-way would receive lattice style towers versus monopole towers.

Mr. Wade Briggs, Dominion Virginia Power, stated that was an economic assessment.

Ms. Harrington stated that Dominion has already mailed letters to property owners, created a website, and held three open houses. Citizens can submit feedback through the website or at an upcoming open house. The upcoming open houses will be advertised in local papers. Dominion's routing analysis will be reviewed based on those comments. The SCC will hold its own round of outreach and feedback.

Mr. McGlennon asked if alternative routes were considered.

Continued on next page

The following information was obtained from the records of the

Department of the Interior, Bureau of Land Management, and the

Department of the Interior, Bureau of Reclamation, and the

Department of the Interior, Bureau of Indian Affairs, and the

Department of the Interior, Bureau of Fish and Wildlife Management, and the

Department of the Interior, Bureau of Geographical Names, and the

Department of the Interior, Bureau of Land Management, and the

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Department of the Interior, Bureau of Indian Affairs, and the

Ms. Harrington stated that Dominion had considered another line extending through New Kent to the Lanexa substation. That route was not chosen due to the existing line needing to remain in place.

Mr. Briggs stated that a new corridor was chosen instead of upgrading the existing corridor for redundancy in case of a major event.

Mr. Middaugh asked if there were any problematic issues along the northern route.

Mr. Briggs stated that Dominion had to consider the effects on the region of losing a large amount of load in a short time.

Ms. Jones asked if existing lines would be removed or if double lines would be placed.

Mr. Briggs stated that the existing lines between the Lightfoot and Toano substations would be removed and replaced. He stated that the existing 230kv line between Chickahominy, Lanexa, and Lightfoot substations would remain.

Mr. McGlennon asked if any lattice structures would be placed in the County.

Mr. Briggs stated that the lattice structures would move across the Chickahominy River and transition to monopoles soon after. The monopoles would run the rest of the way through the County. Dominion is still collecting historical and cultural information and feedback regarding the routes. Dominion will report back to the County after getting a better idea of the final route.

Mr. Middaugh asked how Dominion deals with cultural sites, such as Freedom Park, along the corridor.

Mr. Briggs stated that feedback on the corridor is still being collected.

Mr. McGlennon asked who monitors environmental impacts for the project.

Mr. Briggs stated that he has a staff member that collects and monitors environmental data.

Mr. McGlennon asked if there were any issues at the Skiffe's Creek station.

Mr. Briggs stated there were some historical issues under review at the site.

Mr. McGlennon asked if there had been community outreach in that area.

Mr. Briggs stated not yet, although he intends to set one up. Dominion has held three public meetings so far: at Warhill High School, in Charles City, and in Newport News.

Mr. Jim Icenhour asked if future hearings would be held in Richmond or in each locality.

Mr. Briggs stated that the State hearing examiner would make that decision and he has seen the examiner rule both ways.

Ms. Harrington stated that the Dominion project website links directly to the SCC email and mailing addresses to allow citizens to send feedback.

Mr. Briggs stated that Dominion wants to hear feedback for any issue and that plans are not finalized.

1. The first part of the report deals with the general situation of the country.

2. The second part of the report deals with the economic situation of the country.

3. The third part of the report deals with the social situation of the country.

4. The fourth part of the report deals with the political situation of the country.

5. The fifth part of the report deals with the cultural situation of the country.

6. The sixth part of the report deals with the environmental situation of the country.

7. The seventh part of the report deals with the international situation of the country.

8. The eighth part of the report deals with the future of the country.

9. The ninth part of the report deals with the conclusion of the report.

10. The tenth part of the report deals with the appendix of the report.

11. The eleventh part of the report deals with the bibliography of the report.

12. The twelfth part of the report deals with the index of the report.

13. The thirteenth part of the report deals with the list of figures of the report.

14. The fourteenth part of the report deals with the list of tables of the report.

15. The fifteenth part of the report deals with the list of references of the report.

Ms. Harrington stated that photo simulations from Hornsby Middle and Warhill High Schools are available on the project website at www.dom.com/about/electric-transmission/skiffes/index.jsp.

2. Stage II Zoning Ordinance Update for Nonpriority Items - Continued from September 27, 2011, Work Session

Ms. Tammy Rosario, Principal Planner, stated that high priority issues from the last work session included density calculation for residential and multiuse districts, the affordable housing opportunities policy, and green building policy.

Ms. Ellen Cook, Senior Planner, said that staff calculated various ways of determining density including: net acreage, gross acreage, the current calculation of 35 percent of non-developable acreage, and a stepped-scale approach.

Mr. Icenhour asked if staff changed the 35 percent calculation to 25 percent in the draft ordinance.

Ms. Cook stated that the 35 percent calculation was the current ordinance. Staff had initially changed it to 25 percent, but at the Board's direction, concentrated on the stepped-scale option.

Mr. Icenhour asked if the R-1 and R-2 districts were affected by the current proposal.

Ms. Cook said no, but that the stepped-scale option could be used in other districts if the Board wished.

Mr. Icenhour said that the districts calculate density differently. He preferred net density, but felt the acreage calculation was a good compromise. For consistency, if the acreage calculation was adopted, he would like to see it adopted in all districts. He asked staff if there were any issues with using the calculation everywhere.

Mr. Allen Murphy, Acting Manager of Development Management and Planning Director, stated that the calculations could be used everywhere if the Board wanted a consistent policy.

Ms. Rosario said that staff wants feedback on how consistent the Board wants density. Using a step-scale in Mixed Use (MU) would not have much effect, but using it in Economic Opportunity (EO) could actually increase density since this was already adopted using net acreage.

Mr. Jason Purse, Senior Planner, stated that there are other density checks in EO to limit residential development.

Mr. Icenhour stated that if there are no negative impacts to MU or EO he would like to see all districts use the same density. He said that using the same standard would clean up different density methods while still allowing a bonus.

Mr. Kennedy stated that he would like to review additional information on the topic.

Mr. McGlennon stated that as a principle, he would like all densities to be calculated the same way, although upon further review, it may not work for all districts.

Ms. Jones stated that she would like to see additional examples showing the density methods.

1. The first part of the report deals with the general situation of the country and the position of the various groups of the population.

2. The second part of the report deals with the economic situation of the country and the position of the various groups of the population.

3. The third part of the report deals with the social situation of the country and the position of the various groups of the population.

4. The fourth part of the report deals with the cultural situation of the country and the position of the various groups of the population.

5. The fifth part of the report deals with the political situation of the country and the position of the various groups of the population.

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7. The seventh part of the report deals with the future of the country and the position of the various groups of the population.

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16. The sixteenth part of the report deals with the conclusion of the report and the position of the various groups of the population.

17. The seventeenth part of the report deals with the appendix of the report and the position of the various groups of the population.

18. The eighteenth part of the report deals with the bibliography of the report and the position of the various groups of the population.

Ms. Rosario stated that while staff examples are hypothetical, the Board ultimately controls the number of units through the legislative process.

Mr. Murphy that stated the process can be either more predictable or give the Board more discretion.

Ms. Kate Sipes, Business Development Coordinator and former Senior Planner, stated that staff drafted an affordable housing policy based on feedback from the Board to provide affordable units with future residential proposals, including making expectations for developers clearer. Based on Policy Committee input, staff was considering combining the definitions for 'affordable' and 'workforce' by targeting households earning between 30 and 120 percent of the area median income.

~~Ms. Rosario stated that developers would get additional benefits for homes offered at the lower end of the area median.~~

Mr. Icenhour stated that he wanted to maintain the distinction between 'affordable' and 'workforce.' The market was taking care of workforce housing and the program should be focused on the affordable end. He asked staff to elaborate on changes to the affordable proffer language.

Ms. Sipes stated that staff does not want to overlook the category of greatest-need households at 30-60 percent of area median income and wants to give additional benefit to those providing it.

Mr. McGlennon asked what in the policy addressed housing needs at the lowest income level.

Ms. Sipes stated that developers will be asked to provide the entire spectrum of affordable housing targeted at households earning from 30 to 120 percent of area median income. She said that units targeting the lowest income levels would have no cash proffers.

Ms. Rosario stated that there are additional density bonuses in the districts to further incentivize affordable housing.

Mr. Icenhour asked staff to research whether soft second provisions apply to workforce housing, including the new Candle Factory proposal. He also asked how taking cash in lieu of affordable housing helps the County.

Mr. Vaughn Poller, Administrator of Housing and Community Development, stated that staff envisions using the in lieu funds to develop other affordable units around the County.

Ms. Sipes stated that staff included the in lieu policy in cases where a development's having affordable housing may not be practical, but that the County would still want to uphold the policy.

Ms. Jones stated that she was comfortable with the policy.

Mr. Poller stated that the policy provides 10 percent of affordable units below 30 percent of area median. He said the in lieu fund could also be used to address people at the lowest end by subsidizing home renovations.

Ms. Cook stated that staff drafted an incentive-based green building policy for commercial and residential based on Economic Development Authority (EDA) comments. The draft submitted to the Board could be expanded from commercial to include all development.

1. The first part of the report is a general introduction to the subject of the study.

2. The second part of the report is a detailed description of the methods used in the study.

3. The third part of the report is a discussion of the results of the study.

4. The fourth part of the report is a conclusion and a list of references.

5. The fifth part of the report is a list of appendices.

6. The sixth part of the report is a list of figures and tables.

7. The seventh part of the report is a list of footnotes.

8. The eighth part of the report is a list of acknowledgments.

9. The ninth part of the report is a list of abbreviations.

10. The tenth part of the report is a list of symbols.

Mr. Kennedy stated that the Green Building Roundtable intended green buildings to be voluntary. Many people feel the draft language is punitive. He asked what changed in the policy.

Ms. Cook stated that while many of the Green Building Roundtable's recommendations focused on incentives, staff used language from the recommendations for expectations on commercial buildings larger than 10,000 square feet and for residential units. Incentives would be revisited later.

Mr. Kennedy stated that he would like to see an incentive-based final policy.

Mr. Russell Seymour, Director of Economic Development, stated that the Office of Economic Development (OED) recommends various incentives for commercial green building, including expedited review and fee waivers as well as business education. Additional restrictions would be not helpful in the current economic climate.

Ms. Rosario stated that the latest staff version presented to the Board is incentive-based.

Mr. Icenhour asked if the same incentives would be possible for both commercial and residential green building.

Mr. Murphy stated that commercial green building could be expedited. However every case cannot be expedited.

Ms. Jones stated that the policy should use incentives while the green building deposit draft language moves away from that.

Mr. Icenhour stated that it would be better to give to businesses that comply rather than take away from businesses that do not and he would like the incentives policy clarified. He asked staff to come back and demonstrate, if the policy was adopted, how the County could verify its effectiveness and performance.

Mr. Kennedy stated that having more options gives businesses greater reason to locate here.

Mr. McGlennon stated green building was not being built into the ordinance and was only a staff policy.

Mr. Murphy stated that draft ordinance language included density bonuses for exceeding green building standards. That language can be modified based on Board feedback.

Mr. Kennedy stated expedited review may not matter as much with fewer planning cases under review, but could become a more important incentive when an improved economy causes a case backlog.

Mr. Seymour stated that expedited review was frequently requested by business owners. Expedited review would be taken off the table if the Board decided to extend green incentives to residential units.

Mr. Murphy stated that staff could develop residential incentives without losing business fast-tracking.

Mr. Kennedy stated that it was very important to have consistency and clear expectations.

Mr. Murphy stated that staff will draft supplemental material to accompany an incentive-based policy with clear expectations.

Mr. McGlennon stated that he would prefer expectations to incentives.

THE UNIVERSITY OF CHICAGO

DEPARTMENT OF THE HISTORY OF ARTS

AND ARCHITECTURE

OFFICE OF THE DEAN

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Ms. Jones stated that she did not want to see additional regulations.

Ms. Rosario stated that the Board seemed to have consensus on commercial incentives, but was divided on whether to go beyond that for either commercial or residential. Staff could draft an incentives policy now with an evaluation period before reporting findings to the Board.

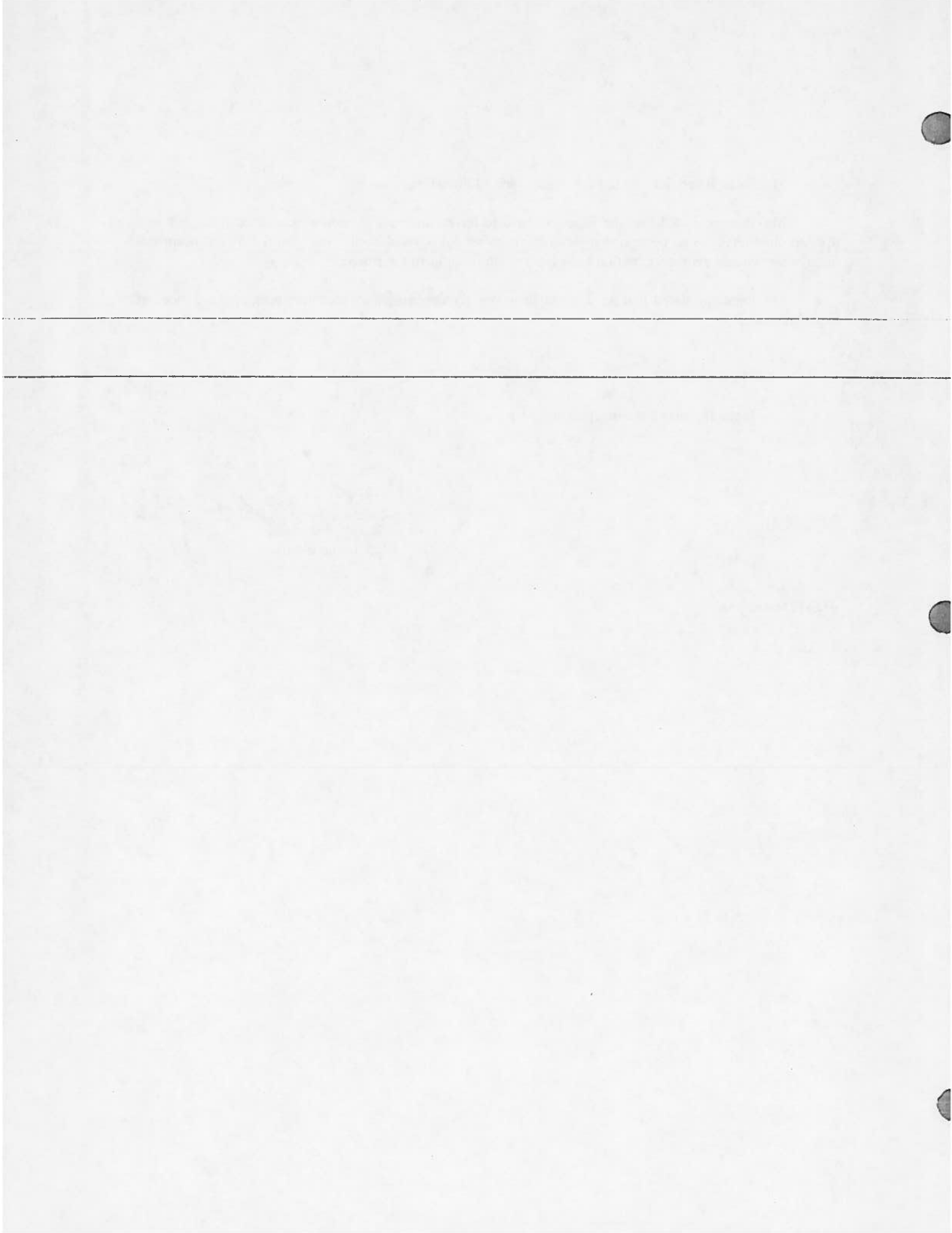
Mr. Icenhour stated that he would like to see whether voluntary incentive programs are meeting expectations.

D. ADJOURNMENT

Ms. Jones adjourned the meeting at 6:01 p.m.


Robert C. Middaugh
Clerk to the Board

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AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 28TH DAY OF FEBRUARY 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSION

1. Stage II Zoning Ordinance Update for Non Priority Items – Continued from the January 24, 2012 Work Session

Ms. Tammy Rosario, Principal Planner, began the work session discussion on the topics of density calculations and density bonuses, which have an overlap with both residential and multiple use districts. Ms. Rosario stated that at last month's work session, there was review of the stepped-scale approach introduced by staff. The Board members requested specific examples from various developments. Ms. Rosaria stated that this information has been provided as Attachment No. 8.

Ms. Ellen Cook, Senior Planner II, explained the spreadsheet table and scale and stated that the department wanted to include as much information as possible on developable and non-developable properties.

Mr. Icenhour questioned some of the definitions and asked if the definitions are clear and easy to apply and understand from staff's and applicant's viewpoint.

Ms. Rosario stated that the new definitions make matters clearer because the terms used are more typically used in today's developmental process.

Ms. Jones questioned density measurements. She stated that currently the County requires an additional 15 percent of the developable area of the site be set aside as open space. Ms. Jones stated that this would be an additional imposition on a potential applicant.

Ms. Cook sated that the non-developable definition change did also affect open space requirements and that the open space percentage was adjusted down. Ms. Cook stated that there is a range.

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DEPARTMENT OF THE HISTORY OF ARTS
AND ARCHITECTURE
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CHICAGO, ILLINOIS 60637

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Mr. McGlennon questioned the net developable area formula and inquired as to how recognition is given to parcel developability.

Mr. Allen Murphy, Acting Manager of Development Management and Planning Director, responded that the 35 percent formula was a compromise reached when the County involved the development community in the ordinance process.

Mr. Icenhour inquired if the existing 35 percent system actually provided an incentive for putting density where you really would not want it.

Mr. Murphy responded that when the Board considers a residential development, it would consider the suggested densities in the Comprehensive Plan. He stated that the current formulas in the zoning ordinance would allow more units given recognition that part of the undevelopable land could be counted in the density calculation. He further stated that as part of legislative approval, the Board would know just how many units were being proposed on how many developable acres. The total build out could be compared to what is suggested by the Comprehensive Plan, which is currently in gross density.

Ms. Jones recognized that Mr. Tim O'Connor, Chairman of the Planning Commission, was present at the work session. Ms. Jones asked Mr. O'Connor to provide the details of the discussion that the Policy Committee had on net developable versus gross density issue.

Mr. O'Connor responded that the meeting discussions focused on language being clear to the applicant and process streamlining.

Mr. Icenhour stated that under the current regulations, there are three different ways to calculate density. He suggested that the County consider choosing one method and utilizing it across the board.

Ms. Rosario commented that the Board has been working towards this method with the stepped-scale approach and asked whether the Board would be comfortable with this method.

Mr. Icenhour stated, while he prefers the net because it allows building at a consistent density on developable property, that the stepped-scale approach is a reasonable alternative he could support.

Ms. Jones stated that she could be supportive of the stepped-scale approach.

Mr. McGlennon stated that his preference is the net. He stated that the net developable provides a better indication of what is going to actually fit.

Ms. Rosario introduced the density bonus provisions in residential and mixed use areas as the next item for discussion.

Mr. Icenhour questioned whether or not there are different density bonus options in R5, cluster, and mixed use developments. He questioned whether they had the same point status. He questioned if the cluster category had the varying point values.

Ms. Rosario responded that only the cluster had the varying point values. She also noted that there is an additional density bonus provided in the cluster category which is adherence to open space principles.

1. The first part of the report is a general introduction to the subject of the study.

2. The second part of the report is a detailed description of the methods used in the study.

3. The third part of the report is a discussion of the results of the study.

4. The fourth part of the report is a conclusion and a list of references.

5. The fifth part of the report is a list of appendices.

6. The sixth part of the report is a list of figures and tables.

7. The seventh part of the report is a list of footnotes.

8. The eighth part of the report is a list of abbreviations.

9. The ninth part of the report is a list of symbols.

10. The tenth part of the report is a list of acronyms.

11. The eleventh part of the report is a list of definitions.

12. The twelfth part of the report is a list of acknowledgments.

13. The thirteenth part of the report is a list of references.

14. The fourteenth part of the report is a list of appendices.

15. The fifteenth part of the report is a list of figures and tables.

Mr. Icenhour expressed concern over several density bonuses that do not measure up to the level of some of the other items in providing benefit to County citizens. He stated that some items should not be on the chart. He stated that there should be a weighting system across the board which should be consistent from one zoning category to another.

Mr. McGlennon questioned if it could be determined which points were used more frequently than others.

Ms. Cook responded that she researched past proffers and master plans, but that she could not produce that tally.

Mr. McGlennon questioned if the bonus list could be more simplified and prioritized. He stated that there are good reasons to provide density bonuses.

Ms. Jones expressed concern regarding grading the different types of open space designs. She stated that she didn't want to see the process complicated because the County would lose predictability of land use for the citizens, property owners, and developers.

Mr. McGlennon stated that he believed that there would be less predictability when a bonus is provided for a much wider range of options.

Mr. Icenhour expressed concern that the County will give density bonus for open space, regardless if the open space is a soccer field with 100 children using it or a path through a swamp. He indicated that there is value in both, but has difficulty with open space being generally categorized.

Ms. Cook stated that the department tried to put more specifics in the ordinance as to what they would like to see in open space, some of which is limited by State code.

Ms. Jones questioned if the Chesapeake Bay Preservation Ordinance is currently required.

Mr. Murphy stated that the Chesapeake Bay Preservation Ordinance is required, but that the density bonus item listed in this ordinance is above and beyond what the Chesapeake Bay Ordinance requires because it is directed towards exclusive or majority use of low impact site design measures.

Mr. McGlennon questioned as to what extent the State Code prevents the County from mandating better site designs for stormwater management.

Ms. Cook responded that she did not believe this particular item was restricted by State Code.

Ms. Jones inquired as to what areas are limited by State Code.

Ms. Cook stated that the State limits pertain to the cluster category.

Ms. Rosario inquired if the Board had any more questions or concerns on what options the Board considered necessary or unnecessary density bonuses.

Mr. Icenhour discussed the bonus density options that he felt would provide the greatest benefit to the community.

1. The first part of the report deals with the general situation of the country and the position of the various groups of the population.

2. The second part of the report deals with the economic situation of the country and the position of the various groups of the population.

3. The third part of the report deals with the social situation of the country and the position of the various groups of the population.

4. The fourth part of the report deals with the cultural situation of the country and the position of the various groups of the population.

5. The fifth part of the report deals with the political situation of the country and the position of the various groups of the population.

6. The sixth part of the report deals with the international situation of the country and the position of the various groups of the population.

7. The seventh part of the report deals with the future of the country and the position of the various groups of the population.

8. The eighth part of the report deals with the conclusion of the report and the position of the various groups of the population.

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Mr. Kennedy expressed his thoughts and concerns on affordable and work force housing density bonus. He expressed his thoughts on the Williamsburg Area Transit Authority (WATA) bus stops being important with mass transit and the green design.

Mr. McGlennon stated that he felt it important to have a good transportation system. However, he stated that many parcels would be ineligible for the density bonus. He stated that a development cannot have a WATA stop if there is no service to that area.

Mr. Kennedy stated that with the increased gas prices, maybe more people would take the bus. He stated that if an item is removed from getting the density bonus he did not want to see it become a proffered requirement.

Ms. Rosario asked the Board if they would examine the weighting of the bonus density items.

Mr. Icenhour questioned that if property is being rezoned and it comes to the Board for legislative action, does the Board still have an opportunity to take a look at whether or not the Board thinks the particular density bonus option provided meets what the Board would like to see in the community. He questioned that if the property were already zoned, would it become a by-right or an administrative application.

Ms. Jones and Mr. Icenhour both expressed concern with leaving in-fill as a density bonus option.

Ms. Rosario questioned whether there was a consensus to remove in-fill as a density bonus.

Ms. Jones stated that this could be a case-by-case decision and that maybe it should not be removed as a bonus density option.

Mr. Icenhour stated that he would not have a problem with the in-fill density bonus if the matter came before the Board and not staff.

Mr. Kennedy stated that it would be appropriate to discuss in-fill density bonus on a case-by-case issue.

Ms. Rosario opened the discussion to include R4, PUD, Mixed Use, and R5 topics.

Mr. McGlennon questioned changes in the Mixed Use district.

Mr. Jason Purse, Senior Planner II, responded that the only changes to the permitted/specially permitted uses in the mixed use district were ones that were discussed at the Economic Opportunities (EO) stage as well. He stated that there were very few changes to the actual uses in Mixed Use.

Ms. Rosario stated that any discussion pertaining to density calculations and bonuses would be applied to multiple use districts and residential districts.

Mr. Icenhour questioned if there are any R5 properties that have not been developed.

Ms. Cook responded that an open field by the church located near the James City County/Williamsburg Community Center was not developed.

Mr. Icenhour questioned if there was R5 zoned property on Croaker Road.

1. The first part of the report deals with the general situation of the country and the position of the various groups of the population. It is a very interesting and informative study of the social and economic conditions of the country.

2. The second part of the report deals with the political situation of the country. It is a very interesting and informative study of the political conditions of the country.

3. The third part of the report deals with the cultural situation of the country. It is a very interesting and informative study of the cultural conditions of the country.

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17. The seventeenth part of the report deals with the social situation of the country. It is a very interesting and informative study of the social conditions of the country.

18. The eighteenth part of the report deals with the political situation of the country. It is a very interesting and informative study of the political conditions of the country.

19. The nineteenth part of the report deals with the cultural situation of the country. It is a very interesting and informative study of the cultural conditions of the country.

20. The twentieth part of the report deals with the economic situation of the country. It is a very interesting and informative study of the economic conditions of the country.

Ms. Cook stated that yes, there was a rezoning, but it is subject to a binding master plan.

Mr. Icenhour stated his concern about the terminology of "or otherwise" on page 54 - Cluster Ordinance Chart regarding low density, moderate density, and open space.

Mr. Kennedy stated that he could support stepped-scale, however, he prefers net on EO.

Mr. McGlennon stated he prefers net.

Ms. Jones stated she supports stepped-scale

Mr. Icenhour stated that he prefers net, but stated that he could support stepped-scale, leaving EO at net. He also questioned Mixed Use language and asked how the staff defines the 80 percent ratio in regards to housing units and commercial square footage. He stated that he would like a clearer definition on defining that ratio.

Ms. Rosario responded that this information is in the ordinance in concept form and she recognized that moving through Stage 3, the County will need to refine some of the specifics. She stated that if the Board concurs with the concept of ensuring a basic level of mixture, the County would then look to quantifying specifications either through ordinance or policy form.

Mr. McGlennon questioned if a site was being developed for residential or commercial developers, would the residential developer have to wait until the commercial developer has developed to the threshold required.

Ms. Rosario responded that the construction phasing guidelines are in policy form and stated that this concluded her meeting on residential and mixed use. Ms. Rosario turned the discussion over to Mr. Christopher Johnson, Principal Planner.

Mr. Johnson spoke to the Board on updating administrative and procedural changes and also on clarifying references to non-conforming use and non-conforming structures. He inquired of the Board if they had any question.

Mr. Icenhour asked how much impact the County had from the development community in preparing the Fiscal Impact Study template.

Mr. Johnson stated that the County got a fair amount of input from the development community and stated that the development community thought it was fair.

Mr. McGlennon inquired if the template was going to replace the analysis the developer was previously providing and if the analysis would still be required to be submitted.

Mr. Jose Ribeiro, Senior Planner, responded that only the template would be required to be submitted, although the applicant would have the option of providing any supplemental information he or she thought was appropriate.

Ms. Jones questioned the Environmental Constraint Analysis for Legislative Cases Resolution. Ms. Jones also questioned how the Natural Resource Policy determined rare or endangered animal and plant species and how frequently this was determined.

1. The first part of the report is a general introduction to the subject of the study. It discusses the importance of the study and the objectives of the research. It also provides a brief overview of the methodology used in the study.

2. The second part of the report is a detailed description of the study area. It includes information about the location of the study area, the population of the study area, and the characteristics of the study area. It also discusses the data sources used in the study.

3. The third part of the report is a detailed description of the study results. It includes information about the findings of the study, the conclusions drawn from the findings, and the implications of the findings. It also discusses the limitations of the study and the need for further research.

4. The fourth part of the report is a detailed description of the study conclusions. It includes information about the overall findings of the study, the conclusions drawn from the findings, and the implications of the findings. It also discusses the limitations of the study and the need for further research.

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Mr. Johnson responded that the State Department of Conservation and Recreation (DCR) had a wealth of information available that the County can now incorporate into the County's existing data. He stated that there are maps available that provide locations of rare and threatened animal and plant species.

Mr. McGlennon questioned the source of the endangered species policy study.

Mr. Johnson believed the study refers one back to the State to put one in touch with the people who know more about the study.

Mr. McGlennon inquired as to the level of expectation when an applicant stated an endangered study has been done.

Mr. Johnson responded that the department would inquire to see a copy of the study.

Mr. McGlennon questioned if the Natural Resource Policy requires a report to be submitted.

Ms. Rosario stated the policy does have standards referring back to the clearinghouse agency and their standards.

Mr. McGlennon questioned what standard the County was going to expect the applicant to meet.

Mr. Johnson assured the Board that his department is encouraging applicants to submit a project conceptually and taking the project to the Development Review Committee (DRC) for initial feedback. They can bring in consultants to meet with staff, ensuring that everyone is on the same page.

Ms. Jones inquired if the Board had any more questions.

Mr. Icenhour made a motion to go into closed session for consideration of a personnel matter, involving the mid-year performance of the County Administrator pursuant to Section 2.2-3711(A)(1) of the Code of Virginia.

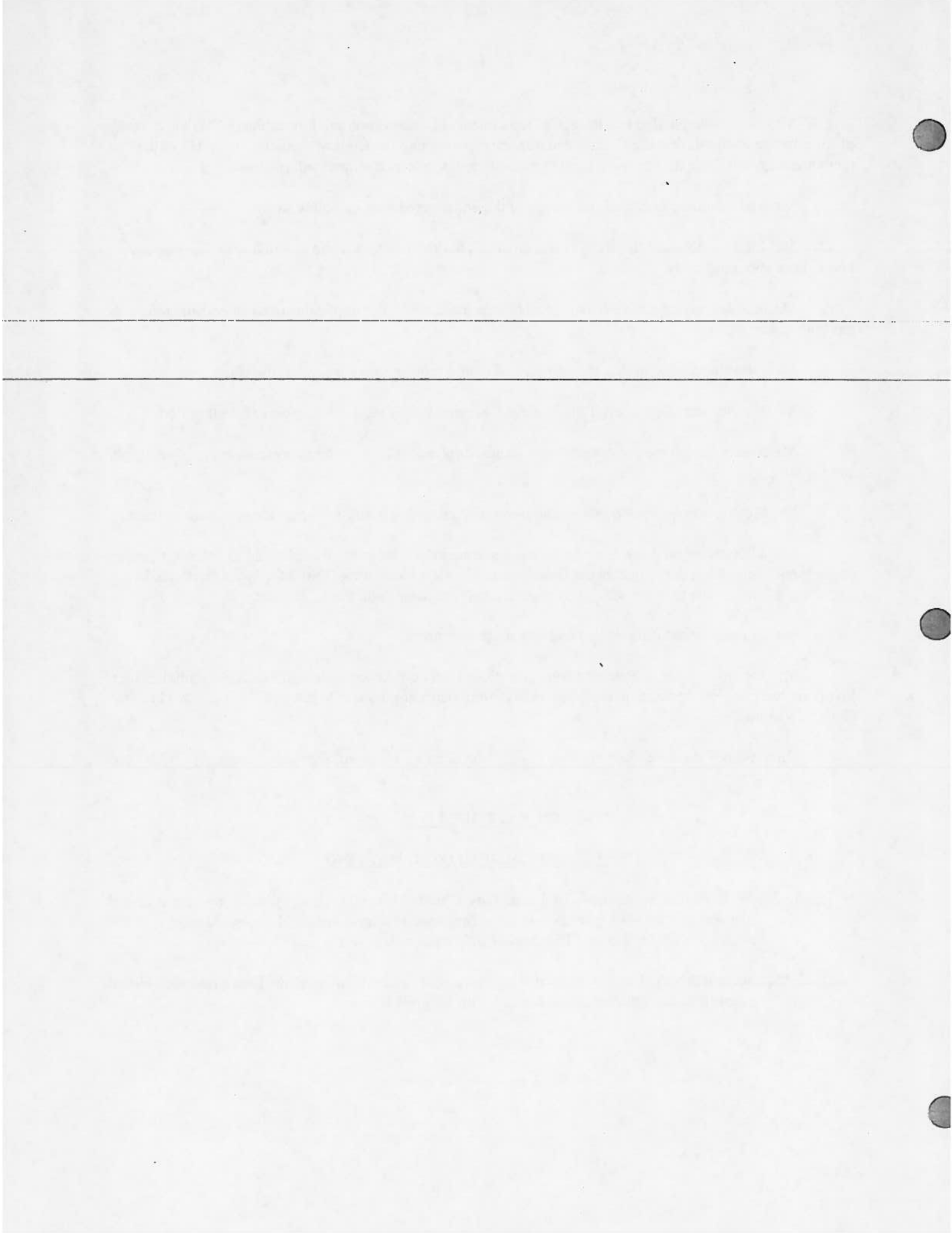
On a roll call the vote, the vote was: AYE: McGlennon, Icenhour, Kennedy, Jones (4). NAY: (0)

RESOLUTION

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.



NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(1) of the Code of Virginia, consideration of a personnel matter, involving the mid-year performance of the County Administrator.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

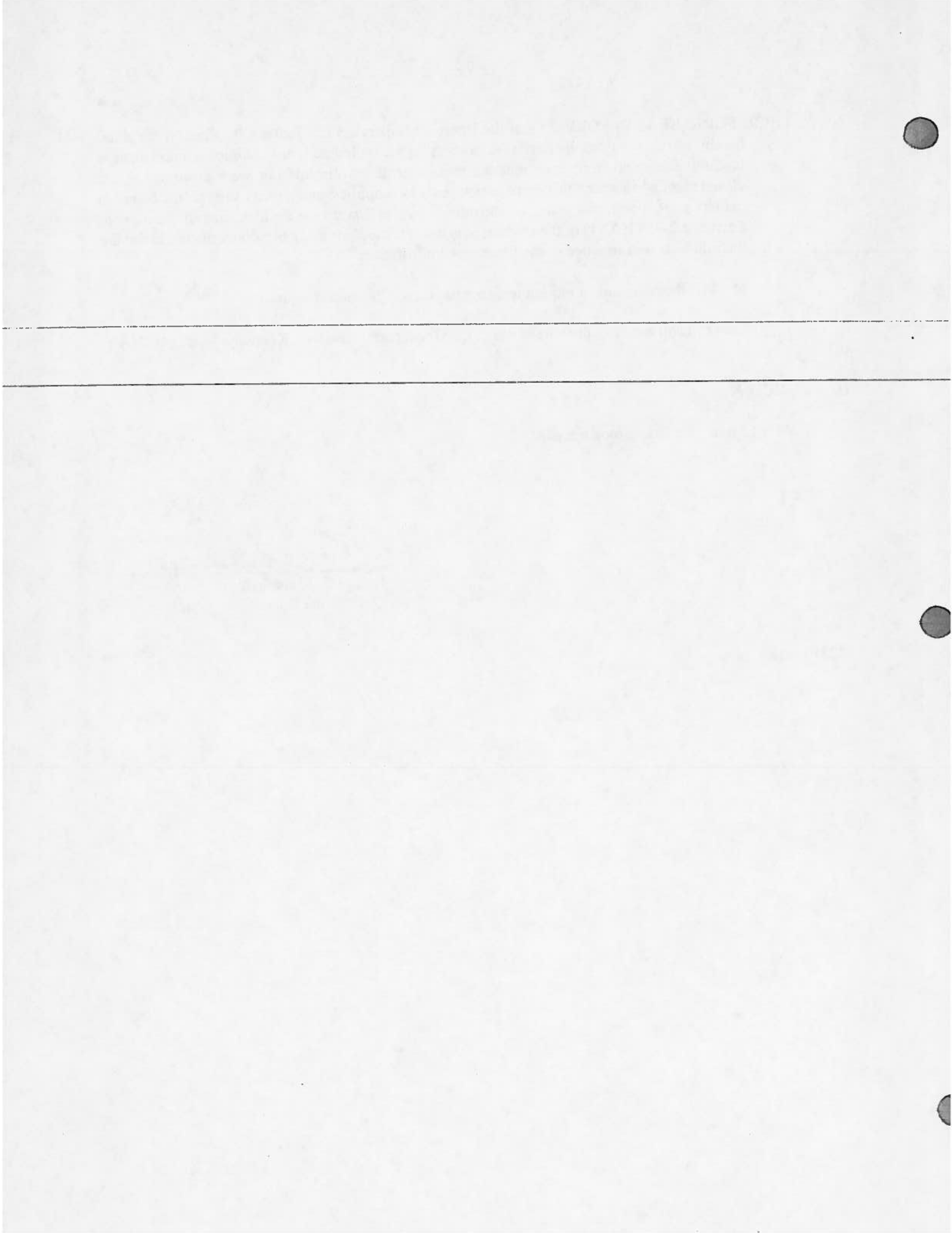
(0) On a roll call the vote, the vote was: AYE: McGlennon, Icenhour, Kennedy, Jones (4). NAY:

D. BREAK

At 6:55 p.m., the Board took a break.


Robert C. Midhaugh
Clerk to the Board

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE 5, DISTRICTS, DIVISION 5, RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4, BY AMENDING SECTION 24-276, DOCUMENTS REQUIRED FOR SUBMISSION; BY DELETING SECTIONS 24-577, ADMINISTRATIVE REVIEW FEES; 24-278, APPROVAL OF MASTER PLAN; RELATIONSHIP TO FINAL PLANS; AMENDMENTS; 24-279, FINAL PLANS- SUBMISSION; CONTENTS GENERALLY; VARIATIONS FROM APPROVED MASTER PLAN; 24-280, SAME- ADMINISTRATIVE REVIEW FEE; 24-281, SAME- CONTENTS; PROPOSED DEED OF EASEMENT; AND 24-282, SAME- ACTION; BY RENUMBERING SECTION 24-283, ADDITION OF LAND TO EXISTING COMMUNITY, TO NEW NUMBER; 24-277; BY AMENDING AND RENUMBERING SECTION 24-284, PERMITTED DENSITY OVERALL WITH NEW NUMBER 24-278; BY AMENDING AND RENUMBERING SECTION 24-285, PERMITTED DENSITY WITHIN RESIDENTIAL AREAS WITH NEW NUMBER 24-279; BY RENUMBERING SECTION 24-286, OPEN SPACE REQUIREMENTS WITH NEW NUMBER 24-280; BY AMENDING, RENAMING, AND RENUMBERING SECTION 24-287, PERMITTED USES, WITH NEW NUMBER AND NAME 24-281, USE LIST; BY RENUMBERING SECTION 24-288, LIMITATIONS, WITH NEW NUMBER 24-282; BY AMENDING AND RENUMBERING SECTION 24-289, UTILITIES, WITH NEW NUMBER 24-283; BY RENUMBERING SECTION 24-290, STREET IMPROVEMENTS, WITH NEW NUMBER 24-284; BY DELETING SECTION 24-291, EFFECT OF OTHER PROVISIONS OF ZONING AND SUBDIVISION REGULATIONS WITH NEW NUMBER 24-285; BY AMENDING AND RENUMBERING SECTION 24-293, HEIGHT LIMITS, WITH NEW NUMBER 24-286; BY DELETING SECTION 24-294, USES PERMITTED BY SPECIAL USE PERMIT ONLY; AND BY RESERVING SECTION 24-287 THROUGH 24-294.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended by amending Article V, Districts, Division 5, Residential Planned Community District, R-4, by amending Section 24-276, Documents required for submission; Section 24-277, Addition of land to existing community; Section 24-278, Permitted density overall; Section 24-279, Permitted density within residential areas; Section 24-280, Open space requirements; Section 24-281, Use list; Section 24-282, Limitations; Section 24-283, Utilities; Section 24-284, Street improvements; Section 24-285, Sign regulations; Section 24-286, Height limits, and by reserving Section 24-287.

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.

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.

Sec. 24-276. Documents required for submission.

(a) *Generally.* The applicant shall submit the following documents in accordance with section 24-23 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) 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 ~~P~~planned ~~C~~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) ~~I~~ 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	Attached structures Multi-family dwellings containing two up to and including four dwelling units
C	Attached structures less than three stories and Multi-family dwellings containing more than four dwelling units
D	Attached structures of three or more stories and containing more than four dwelling units Apartments

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 ~~commission~~ director 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 24-285 279, the planning ~~commission~~

director 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 2) 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 3) Schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans.
- (7 4) 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.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

~~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.~~

Sec. 24-283 277. 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.

Sec. 24-284 278. 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) 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>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

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

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

Illustration of Gross Acreage Calculation

(a) If a 400 acre parcel has 56 acres of non-developable land, then the non-developable area of the site is 14 percent. Since 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

(b) If the 400 acre parcel instead had 112 acres of non-developable land, then the non-developable area of the site is 28 percent. Since 28 percent is between 21 percent and 40 percent, the total developable area of the parcel (288 acres) and 20 percent of the total parcel acreage (80 acres) are added together to obtain the gross acreage used to calculate allowed density (368 acres).

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

~~(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.~~

Sec. 24-285 279. 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:

<i>Area Designation</i>	<i>Dwelling Type</i>	<i>Maximum Gross Density as defined in section 24-278 (Dwelling Units Per Acre)</i>
A	Single-family	4
B	Attached structures <i>Multi-family dwellings</i> containing two up to and including four dwelling units	9.6
C	Attached structures less than three stories and <i>Multi-family dwellings</i> containing more than four dwelling units	12
D	Attached structures of three or more stories and containing more than four dwelling units <i>Apartments</i>	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.

Sec. 24-286 280. 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 rights-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.

Sec. 24-287 281. Permitted uses *Use list*.

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:

~~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, resort 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.~~

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<i>Accessory buildings or structures, as defined</i>	<i>P</i>	
	<i>Accessory apartments</i>	<i>P</i>	
	<i>Apartments</i>	<i>P</i>	
	<i>Group homes or residential facilities for eight or fewer adults</i>	<i>P</i>	
	<i>Group homes or residential facilities for nine or more adults</i>		<i>SUP</i>
	<i>Independent living facilities</i>		<i>SUP</i>
	<i>Multi-family dwellings (up to and including four dwelling units)</i>	<i>P</i>	
	<i>Multi-family dwellings (more than four dwelling units)</i>	<i>P</i>	
	<i>Single-family dwellings</i>	<i>P</i>	
	<i>Townhouses and condominiums</i>	<i>P</i>	

	Two-family dwellings	P	
<i>Commercial Uses</i>	<i>Accessory buildings or structures, as defined</i>	<i>P</i>	
	<i>Assisted living facilities</i>		<i>SUP</i>
	<i>Automobile service stations; if fuel is sold, then in accordance with section 24-38</i>	<i>P</i>	
	<i>Banks and other similar financial institutions</i>	<i>P</i>	
	<i>Barber and beauty shops</i>	<i>P</i>	
	<i>Business, professional and governmental offices</i>	<i>P</i>	
	<i>Continuing care retirement facilities</i>	<i>P</i>	
	<i>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</i>	<i>P</i>	
	<i>Dinner theaters</i>	<i>P</i>	
	<i>Dry cleaners and laundries</i>	<i>P</i>	
	<i>Funeral homes, cemeteries and memorial gardens</i>	<i>P</i>	
	<i>Home occupations, as defined</i>	<i>P</i>	
	<i>Horse and pony farms, riding stables, horse show areas, horse racing tracks and polo fields</i>	<i>P</i>	
	<i>Hospitals, nursing homes and rest homes</i> <i>and mental care facilities</i>	<i>P</i>	
	<i>Hotels, resort hotels, motels, tourist homes and convention centers</i>	<i>P</i>	
	<i>Hunting clubs, conservation areas and preserves</i>	<i>P</i>	
	<i>Indoor theaters, museums, public meeting halls and outdoor entertainment, other than drive-in theaters</i>	<i>P</i>	
	<i>Medical clinics and offices</i>	<i>P</i>	
	<i>Off-street parking as required by section 24-53 of this chapter</i>	<i>P</i>	
	<i>Parks, playgrounds, golf courses, tennis courts, swimming pools and other public or private recreation areas</i>	<i>P</i>	
	<i>Photographer, artist and sculptor studios</i>	<i>P</i>	
	<i>Property maintenance facilities, sheds or garages</i>	<i>P</i>	
	<i>Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other centers of amusement</i>	<i>P</i>	
	<i>Rental of rooms to a maximum of three rooms</i>	<i>P</i>	
	<i>Restaurants, fast food restaurants, tea rooms and taverns</i>	<i>P</i>	

	<i>Retail food stores, bakeries and fish markets</i>	<i>P</i>	
	<i>Skilled nursing facilities (nursing homes)</i>	<i>P</i>	
	<i>Yacht clubs, private or commercial marinas, boat storage and service facilities; if fuel is sold, then in accordance with section 24-38</i>	<i>P</i>	
<i>Civic Uses</i>	<i>Fire stations</i>	<i>P</i>	
	<i>Libraries</i>	<i>P</i>	
	<i>Post offices</i>	<i>P</i>	
	<i>Houses of worship</i>	<i>P</i>	
	<i>Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations</i>	<i>P</i>	
	<i>Private clubs, civic or service clubs, lodges and fraternal organizations</i>	<i>P</i>	
	<i>Schools</i>	<i>P</i>	
<i>Utility Uses</i>	<i>Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities</i>		<i>SUP</i>
	<i>Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities</i>	<i>P</i>	
	<i>Telephone exchanges and telephone switching stations</i>	<i>P</i>	
	<i>Tower mounted wireless communication facilities in accordance with division 6, Wireless Communication Facilities, only in areas with a designation other than residential on a board adopted master plan</i>		<i>SUP</i>
	<i>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:</i>		<i>SUP</i>
	<i>(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;</i>		

	<i>(2) Distribution lines and local facilities within a development; including pump stations.</i>		
	<i>Water impoundments, new or expansion of, 50 acres or more with dam heights of more than 25 feet with a special use permit</i>		<i>SUP</i>
	<i>Water impoundments, new or expansion of, less than 50 acres and dam heights of less than 25 feet</i>	<i>P</i>	
	<i>Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	<i>P</i>	
<i>Open Uses</i>	<i>Timbering in accordance with section 24-43</i>	<i>P</i>	

All uses are subject to the limitations hereinafter provided.

Sec. 24-288 282. 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.

Sec. 24-289 283. 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 ~~of building safety and permits~~ 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 building safety and permits. 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 ~~P~~lanned ~~C~~ommunity.

~~(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.~~

Sec. 24-~~290~~ 284. 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 more stringent. Such public streets shall be coordinated with the major transportation network shown in the Comprehensive Plan.

(b) Private streets may be permitted in accordance with the provisions of section 24-62.

~~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~~

Sec. 24-~~292~~ 285. 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.

Sec. 24-~~293~~ 286. 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, ~~and~~ 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.

~~Sec. 24-294. Uses permitted by special use permit only.~~

~~—Tower mounted wireless communication facilities in accordance with Division 6, Wireless Communications Facilities.~~

Secs. 24-295 ~~287~~ - 24-303. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE 5, DISTRICTS, DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, BY AMENDING SECTION 24-484, DOCUMENTS REQUIRED FOR SUBMISSION; BY DELETING SECTION 24-485, MASTER PLAN ADMINISTRATIVE REVIEW FEES; SECTION 24-486, PROCEDURES; SECTION 24-487, RELATIONSHIP OF FINAL PLANS TO MASTER PLAN; SECTION 24-488, FINAL PLANS- CONTENTS; SECTION 24-489, SAME- ADMINISTRATIVE REVIEW FEES; AND SECTION 24-490, SAME- ACTION/ BY AMENDING AND RENUMBERING SECTION 24-491, MINIMUM AREA OF DISTRICTS WITH NEW NUMBER 24-486; BY AMENDING AND RENUMBERING SECTION 24-492, DENSITY WITH NEW NUMBER 24-487; BY RENUMBERING SECTION 24-493, ADEQUACY OF PUBLIC FACILITIES AND ROADS WITH NEW NUMBER 24-485; BY RENUMBERING SECTION 24-494, OPEN SPACE WITH NEW NUMBER 24-488; BY AMENDING AND RENUMBERING SECTION 24-495, ADDITION OF LAND TO AN EXISTING PLANNED UNIT DEVELOPMENT WITH NEW NUMBER 24-489; BY AMENDING AND RENUMBERING SECTION 24-496, HEIGHT AND SPACING OF STRUCTURES WITH NEW NUMBER 24-491; BY AMENDING AND RENUMBERING SECTION 24-498, SETBACK REQUIREMENTS AND YARD REGULATIONS WITH NEW NUMBER 24-492; BY AMENDING, RENAMING AND RENUMBERING SECTION 24-499, PERMITTED USES WITH NEW NUMBER AND NAME 24-493, USE LIST; BY RENUMBERING SECTION 24-500, ACCESS POINTS WITH NEW NUMBER 24-494; BY AMENDING AND RENUMBERING SECTION 24-501, REQUIREMENTS FOR COMMERCIAL USES IN THE PUD-R DISTRICT WITH NEW NUMBER 24-495; BY AMENDING AND RENUMBERING SECTION 24-502, REQUIREMENTS FOR LIGHT INDUSTRIAL USES IN THE PUD-C DISTRICT WITH NEW NUMBER 24-496; AND BY RESERVING SECTIONS 24-497 THROUGH 24-502.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended by amending Article V, Districts, Division 14, Planned Unit Development Districts, PUD, by amending Section 24-484, Documents required for submission; Section 24-485, Adequacy of public facilities and roads; Section 24-486, Minimum area of districts; Section 24-487, Density; Section 24-488, Open space; Section 24-489, Addition of land to an existing planned unit development; Section 24-490, Height and spacing of structures; Section 24-491, Requirements for improvements and design; Section 24-492, Setback requirements and yard regulations; Section 24-493, Use list; Section 24-494, Access points; Section 24-495, Requirements for commercial uses in the PUD-R District; and Section 24-496, Requirements for light industrial uses in the PUD-C District, and by reserving Sections 24-497 through 24-502.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICTS, PUD

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 ~~the following documents~~ *in accordance with section 24-23 to the zoning administrator 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) ~~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:

<u>Area Designations</u>	<u>Type of Development</u>
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. 24-485. Adequacy of public facilities and roads.

Planned unit development districts shall be 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. 24-486. 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. 24-491 486. Minimum area of districts.~~

~~Planned unit development districts shall be located on a single parcel of land or separate but contiguous adjacent parcels which are under one ownership or control and which shall total not less than five acres or more.~~

~~Sec. 24-492 487. 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 in any area designation are:~~

<i>Area Designation</i>	<i>Dwelling Type</i>	Maximum <i>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	4-2	4
B	Attached structures <i>Multi-family dwellings containing two up to and including four dwelling units, or townhouses</i>	9-6-5	10
C	Attached structures less than three stories and <i>Multi-family dwellings containing more than four dwelling units</i>	12-6	12
D	Attached structures of three stories or more and containing more than four dwelling units <i>Apartments</i>	18-9	18

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

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

Illustration of Gross Acreage Calculation

(a) If a 50 acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Since 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

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

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

(c) In addition to the base density standards from section 24-487 (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, proffers, or other documents approved by the county attorney for the density bonus items.

<i>Bonus Increase from Base Density</i>	<i>Required Density Bonus Points from List Below</i>
<i>Up to the base density</i>	<i>0</i>
<i>Greater than the base density, up to and including 33 percent above the base density</i>	<i>2</i>
<i>Greater than 33 percent above the base density, up to and including 66 percent above the base density</i>	<i>4</i>
<i>Greater than 66 percent above the base density, up to and including 100 percent above the base density</i>	<i>6</i>

	<i>Bonus Item Options</i>	<i>Bonus Points</i>
<i>A.</i>	<i>For every 10 percent of the units committed to provision of workforce housing (starting above the threshold set in the county's workforce housing opportunities policy)</i>	<i>2, up to a max of 4</i>
<i>B.</i>	<i>Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of better site design/low impact development techniques, as approved by the engineering and resource protection division</i>	<i>1.5</i>
<i>C.</i>	<i>Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division.</i>	<i>1.5</i>
<i>D.</i>	<i>Achieving green building certification using EarthCraft, LEED or equivalent program for all units</i>	<i>1</i>
<i>E.</i>	<i>Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee.</i>	<i>1</i>
<i>F.</i>	<i>Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the parks and recreation director or designee.</i>	<i>1</i>
<i>G.</i>	<i>Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present.</i>	<i>1</i>
<i>H.</i>	<i>Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size.</i>	<i>1</i>

I.	Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least five percent of the developable area of the site. <ol style="list-style-type: none"> <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 <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer</u> (retain at least 50 percent of these soils on site) <u>Conservation area as identified by an approved watershed management plan</u> <u>Wildlife habitat corridors</u> that: <ul style="list-style-type: none"> Protect a corridor at least 100 feet in width from one protected area (on or off the development property) to another protected area, and Consist of mature forestland 	1
J.	Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter.	1
K.	Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director.	0.5
L.	Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least five percent of the developable area of the site).	0.5
M.	Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the comprehensive plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.	0.5

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.~~

Sec. 24-494 488. 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~~ steep slopes or slopes exceeding 25 percent gradient, low lying areas, ~~marshes~~ resource protection areas 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. 24-495 489. 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. 24-496 490. 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. 24-497 491. 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 ~~sewage~~ sewer 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 ~~of building safety and permits~~ 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 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;~~
 - (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 planning director. 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) 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;~~
 - (5) *No more than one structure served by an individual well and septic system shall be permitted at one time within a planned unit development.*
 - ~~(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 (~~attached structures~~ *multi-family dwellings* containing ~~two up~~ to four dwelling units), C (~~attached structures less than three stories~~ *multi-family dwellings containing more than four dwelling units*) or D (~~attached structures of three or more stories~~ *apartments*) 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) *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 county subdivision ordinance, whichever is more stringent. Such public streets shall be coordinated with the major transportation network shown in the Comprehensive Plan. Private streets may be permitted upon the approval of the board of supervisors in accordance with the provisions of section 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.~~
- ~~(e) *Pedestrian accommodation.* Pedestrian accommodations shall be provided in accordance with section 24-35.~~
- (f) ~~*Streetlights*~~ *Outdoor lighting.* ~~Streetlights~~ *Outdoor lighting* shall generally be provided, ~~at each intersection and adequately spaced in parking lots and other public areas. as required by article II, division 7 of this chapter and the county subdivision ordinance.~~ 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)~~ (g) *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) (h) *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 commission *director* where such sign systems contribute significantly to the character of the 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.

Sec. 24-498 492. Setback ~~and/or buffer~~ requirements and yard regulations.

- (a) *Peripheral ~~setbacks~~ buffers.* Any planned unit development, PUD, district approved under this article, shall adhere to the following ~~setback buffer~~ requirements:

(1) Residential.

- a. *Perimeter ~~setbacks~~ buffers.* For residential uses a minimum landscape ~~setback~~ *buffer* 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, ~~R-3~~ 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~~ *buffer* shall be 75 feet.
- b. *Right-of-way buffers ~~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 24-96, general landscape area standards. 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, the planning ~~commission~~ *director* may reduce the buffer depth requirements *specified in (1)a and b* of this section for residential developments when:
 1. *The development is less than five acres and A* a majority of the development's units are dedicated to ~~affordable~~ *workforce* housing; or
 2. The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
 3. The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be

supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The planning ~~commission~~ *director* may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

- d. *Modifications to the landscape requirements.* The planning ~~commission~~ *director* may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.
- e. *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the ~~director of planning~~ *director* or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~commission~~ *director* under the following circumstances:
 1. The buffer in which the temporary stockpile is to occur is nonwooded, defined as having no mature trees.
 2. The stockpile ~~should~~ *shall* not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
 3. Stockpiles shall not exceed 35 feet in height.
 4. Stockpiles shall be temporary, with a time limit of six months.
 5. Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
 6. *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*
- f. *Limitations on buffers.* ~~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 of engineering and resource protection 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 the 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 the items specified in (c), (d), (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~~ buffer 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~~ buffer 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~~ buffer shall be increased to 125 feet.
- (b) *Waiver Provisions.* In instances where adjoining properties are zoned for commercial or industrial uses, and are designated general business, limited industrial, or general industrial on the comprehensive plan, the planning director may reduce the buffer depth requirements specified in 2 and 3 of this section for developments when:
- 1. *The zoning and comprehensive plan designation of adjoining properties are compatible with the proposed uses of the PUD development; and*
 - 2. *The developer demonstrates that the development will be adequately screened and buffered from the adjacent property using berms and/or landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.; or*
 - 3. *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) *Appeals.* In the event the planning director disapproves the items specified in 1(c), (d), (e), (f), (g), (h), and (b) 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.

- (bd) *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.
- (ee) *Yard regulations.* Except for ~~setbacks~~ *buffers* specified in section 24-498 ~~492~~ (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.
- (df) *Parking restrictions in setbacks buffers.* Landscape ~~setbacks~~ *buffers* shall not be used for streets or for parking except for entrances which may penetrate the ~~setback~~ *buffer*.

Sec. 24-499 ~~493~~. Permitted uses *Use list*.

- (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:

~~(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 handieraft 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.~~

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<i>Accessory buildings or structures, as defined</i>	<i>P</i>	
	<i>Accessory apartments</i>	<i>P</i>	
	<i>Apartments</i>	<i>P</i>	
	<i>Group homes or residential facilities, for eight or fewer adults</i>	<i>P</i>	
	<i>Group homes or residential facilities, for nine or more adults</i>		<i>SUP</i>
	<i>Home occupations, as defined</i>	<i>P</i>	
	<i>Independent living facilities</i>	<i>P</i>	
	<i>Multi-family dwellings up to and including four dwellings</i>	<i>P</i>	
	<i>Multi-family dwellings more than four dwellings</i>	<i>P</i>	
	<i>Single-family dwellings</i>	<i>P</i>	
	<i>Townhouses</i>	<i>P</i>	
	<i>Two-family dwellings</i>	<i>P</i>	
<i>Commercial Uses</i>	<i>Accessory buildings or structures, as defined</i>	<i>P</i>	
	<i>Assisted living facilities</i>	<i>P</i>	
	<i>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</i>	<i>P</i>	
	<i>Banks and other similar financial institutions</i>	<i>P</i>	
	<i>Barber and beauty shops</i>	<i>P</i>	

	<i>Business and professional offices</i>	<i>P</i>	
	<i>Coin laundries which are accessory to other residential uses and for the primary use of their residents</i>	<i>P</i>	
	<i>Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities</i>	<i>P</i>	
	<i>Continuing care retirement facilities</i>	<i>P</i>	
	<i>Drug stores</i>	<i>P</i>	
	<i>Dry cleaners and laundries</i>	<i>P</i>	
	<i>Funeral homes</i>	<i>P</i>	
	<i>Golf courses, country clubs</i>	<i>P</i>	
	<i>Indoor theaters</i>	<i>P</i>	
	<i>Marinas, docks piers, yacht clubs, boat basins and waterfront activities, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38</i>	<i>P</i>	
	<i>Medical clinics or offices</i>	<i>P</i>	
	<i>Motels, hotels and resort facilities</i>	<i>P</i>	
	<i>Museums</i>	<i>P</i>	
	<i>Nursing homes and facilities for the residence and/or care of the aged</i>	<i>P</i>	
	<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
	<i>Photography studios and sales, artist and sculptor studios, arts and crafts and handicraft shops, antique shops, reproduction and gift shops</i>	<i>P</i>	
	<i>Plants and garden supply, hardware and paint, and home appliance sales and service, with storage in a fully enclosed building</i>	<i>P</i>	
	<i>Restaurants, tea rooms and taverns</i>	<i>P</i>	
	<i>Restaurants which are accessory to permitted private clubs and marinas</i>	<i>P</i>	
	<i>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</i>	<i>P</i>	
	<i>Retail food stores, bakeries, fish markets</i>	<i>P</i>	
	<i>Retail shops associated with community recreation facilities</i>	<i>P</i>	
	<i>Skilled nursing facilities (nursing home)</i>	<i>P</i>	
	<i>Veterinary hospitals</i>	<i>P</i>	
	<i>Wineries</i>	<i>P</i>	
<i>Civic Uses</i>	<i>Fire stations</i>	<i>P</i>	

	Houses of worship	P	
	Libraries	P	
	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations	P	
	Post offices	P	
	Public meeting halls	P	
	Schools	P	
	Open Uses	P	
Utility Uses	Timbering in accordance with section 24-43	P	
	Camouflaged wireless communication facilities that comply with division 6, Wireless Communication Facilities		SUP
	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 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. However, the following are permitted generally and shall not require a special use permit.		SUP
	<p>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;</p> <p>b. Distribution lines and local facilities within a development; including pump stations</p>		
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	

(a) 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.~~

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<i>Apartments, townhouses and condominiums</i>	<i>P</i>	
	<i>Group homes or residential facilities, for eight or fewer adults</i>	<i>P</i>	
	<i>Group homes or residential facilities, for nine or more adults</i>		<i>SUP</i>
	<i>Home occupations, as defined</i>	<i>P</i>	
	<i>Independent living facilities</i>	<i>P</i>	
	<i>Multi-family dwellings</i>	<i>P</i>	
<i>Commercial Uses</i>	<i>Commercial uses: Same as paragraph (2) of subsection (a) above</i>		
	<i>Assisted living facilities</i>	<i>P</i>	
	<i>Continuing care retirement facilities</i>	<i>P</i>	

	<i>Skilled nursing facilities (nursing home)</i>	<i>P</i>	
	<i>Golf courses</i>	<i>P</i>	
	<i>Theme parks</i>	<i>P</i>	
<i>Civic Uses</i>	<i>Civic uses as listed in (a) above</i>		
<i>Utility Uses</i>	<i>Utility uses as listed in (a) above</i>		
	<i>Camouflaged wireless communication facilities that comply with division 6, Wireless Communication Facilities, only in areas with a designation other than residential on a board adopted master plan</i>	<i>P</i>	
	<i>Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities</i>		<i>SUP</i>
	<i>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.</i>		<i>SUP</i>
	<p><i>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;</i></p> <p><i>b. Distribution lines and local facilities within a development; including pump stations</i></p>		
<i>Industrial Uses</i>	<i>Printing and publishing</i>	<i>P</i>	
	<i>Private streets within "qualifying industrial parks" in accordance with section 24-55</i>	<i>P</i>	
	<i>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</i>	<i>P</i>	
	<i>Research, design and development facilities or laboratories</i>	<i>P</i>	
	<i>Wholesale and warehousing, with storage in a fully enclosed building</i>	<i>P</i>	

Sec. 24-500 494. 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. 24-501 495. Requirements for commercial uses in the PUD-R District.

If commercial uses specified in section 24-499 493(a)(2)(commercial) 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. 24-502 496. Requirements for light industrial uses in the PUD-C District.

If light industrial uses specified in section 24-499 493(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. 24-503 497 - 24-513. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 15, MIXED USE, MU, BY AMENDING SECTION 24-514, STATEMENT OF INTENT; SECTION 24-515, DOCUMENTS REQUIRED FOR SUBMISSION; BY DELETING SECTION 24-516, MASTER PLAN ADMINISTRATIVE REVIEW FEES; SECTION 24-517, PROCEDURES; BY AMENDING AND RENUMBERING SECTION 24-518, DEVELOPMENT PLANS WITH NEW NUMBER 24-516; BY DELETING SECTION 24-519, ADDITION OF LAND TO AN EXISTING MIXED USE DEVELOPMENT; BY AMENDING AND RENUMBERING SECTION 24-520, MINIMUM AREA OF DISTRICTS WITH NEW NUMBER 24-517; BY AMENDING, RENAMING AND RENUMBERING SECTION 24-521, PERMITTED USES WITH NEW NUMBER AND NAME, 24-518, USE LIST; BY DELETING SECTION 24-522, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-523, DENSITY WITH NEW NUMBER 24-519; SECTION 24-524, OPEN SPACE WITH NEW NUMBER 24-520; BY RENUMBERING SECTION 24-525, HEIGHT OF STRUCTURES WITH NEW NUMBER 24-521; BY AMENDING AND RENUMBERING SECTION 24-526, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN WITH NEW NUMBER 24-522; BY AMENDING, RENAMING AND RENUMBERING SECTION 24-527, SETBACK REQUIREMENTS WITH NEW NUMBER AND NAME 24-523, SETBACK AND BUFFER REQUIREMENTS; BY RENUMBERING SECTION 24-528, STREET IMPROVEMENTS WITH NEW NUMBER 24-524; AND BY RESERVING SECTION 24-525 THROUGH 24-534.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article V, District 15, is hereby amended and reordained by amending Section 24-514, Statement of intent; Section 24-515, Documents required for submission; Section 24-516, Development plans; Section 24-517, Minimum area of districts; Section 24-518, Use list; Section 24-519, Density; Section 24-520, Open space; Section 24-521, Height of structures; Section 24-522, Requirements for improvements and design; Section 24-523, Setback and buffer requirements; Section 24-524, Street improvements; and by reserving Sections 24-525 through 24-534.

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 ~~mMixed uUse dDistrict, MU~~, 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 ~~driver~~ *driving* 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 ~~mMixed uUse dDistrict, MU~~, 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 ~~mMixed uUse dDistrict, MU~~, is the preferred ~~Zoning D~~istrict for development within those areas designated ~~Mixed Use~~ in the Comprehensive Plan.

Sec. 24-515. Documents required for submission.

(a) *Required documents.* The applicant shall submit ~~the following documents~~ *documents in accordance with section 24-23* 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:~~

~~—Area~~

~~Designation~~

~~Type of Development~~

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
H	Industrial uses
I	Institutional or public uses
J	Areas of common open space, with recreation areas
noted	
M*	Structures containing a mixture of uses
X	Other structures, facilities or amenities

~~*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.~~

- (51) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:
- The use;
 - ~~Approximate development~~ **Construction** phasing;
 - Maximum number of dwelling units and density for residential areas;
 - Maximum square feet of floor space for commercial, office or industrial areas;
 - Maximum square feet of floor space and percentage mix of floor space of each use for those structures containing a mixture of uses; and
 - 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, rights-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 by the board of supervisors.~~ 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 construction phasing guidelines adopted by the board of supervisors. 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.~~

~~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.~~

~~Sec. 24-517. 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 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 building safety and permits 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.~~

Sec. 24-~~518~~ 516. Development plans.

(a) 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~~ **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 the items specified in section 24-516 (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.

~~(b-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.

Sec. 24-~~519~~. 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.~~

Sec. 24-~~520~~ 517. Minimum area of districts.

Mixed use districts shall be located on a single parcel of land, or separate but ~~contiguous~~ **adjacent** 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~~ **Mixed Use** in the Comprehensive Plan.

Sec. 24-~~521~~ 518. Permitted uses *Use list*.

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:

~~(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.~~

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.~~

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<i>Accessory structures, as defined in section 24-2</i>	<i>P</i>	
	<i>Accessory apartments</i>	<i>P</i>	
	<i>Apartments</i>	<i>P</i>	
	<i>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</i>	<i>P</i>	
	<i>Group homes or residential facilities, for eight or fewer adults</i>	<i>P</i>	
	<i>Group homes or residential facilities, for nine or more adults</i>		<i>SUP</i>
	<i>Group quarters for agricultural workers</i>	<i>P</i>	
	<i>Home care facilities</i>	<i>P</i>	
	<i>Home occupations, as defined</i>	<i>P</i>	
	<i>Independent living facilities</i>	<i>P</i>	
	<i>Multiple-family dwellings up to and including four dwelling units</i>	<i>P</i>	
	<i>Multi-family dwellings more than four dwelling units</i>	<i>P</i>	
	<i>Single-family dwellings</i>	<i>P</i>	
	<i>Townhouses</i>	<i>P</i>	
	<i>Two family dwellings</i>	<i>P</i>	
<i>Commercial Uses</i>	<i>Accessory structures, as defined in section 24-2</i>	<i>P</i>	
	<i>Adult day care centers</i>	<i>P</i>	
	<i>Antique shops</i>	<i>P</i>	
	<i>Arts and crafts shops</i>	<i>P</i>	
	<i>Assisted living facilities</i>	<i>P</i>	
	<i>Automobile rental</i>	<i>P</i>	
	<i>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</i>	<i>P</i>	
	<i>Automobile service stations; if fuel is sold, then in accordance with section 24-38</i>	<i>P</i>	
	<i>Banks and other similar financial institutions</i>	<i>P</i>	
	<i>Barber and beauty shops</i>	<i>P</i>	
	<i>Business, professional and governmental offices</i>	<i>P</i>	
	<i>Campgrounds</i>		<i>SUP</i>
	<i>Child day care centers</i>	<i>P</i>	
	<i>Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities</i>	<i>P</i>	

<i>Continuing care retirement facilities</i>	<i>P</i>	
<i>Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property</i>	<i>P</i>	
<i>Convenience stores; if fuel is sold, then in accordance with section 24-38</i>	<i>P</i>	
<i>Data processing centers</i>	<i>P</i>	
<i>Drug stores</i>	<i>P</i>	
<i>Dry cleaners and laundries</i>	<i>P</i>	
<i>Employment services or agencies</i>	<i>P</i>	
<i>Farmer's markets</i>	<i>P</i>	
<i>Fast food restaurants</i>		<i>SUP</i>
<i>Feed, seed and farm supply stores</i>	<i>P</i>	
<i>Fish farming</i>	<i>P</i>	
<i>Flea markets</i>		<i>SUP</i>
<i>Funeral homes, cemeteries and memorial gardens</i>	<i>P</i>	
<i>Gift stores</i>	<i>P</i>	
<i>Golf courses</i>		<i>SUP</i>
<i>Greenhouses and nurseries</i>	<i>P</i>	
<i>Handicrafts stores</i>	<i>P</i>	
<i>Health clubs, exercise clubs and fitness centers</i>	<i>P</i>	
<i>Home occupations as defined</i>	<i>P</i>	
<i>Hotels, motels, tourist homes and convention centers</i>	<i>P</i>	
<i>Indoor sport facilities</i>	<i>P</i>	
<i>Indoor theaters</i>	<i>P</i>	
<i>Janitorial service establishments</i>	<i>P</i>	
<i>Limousine service</i>	<i>P</i>	
<i>Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property</i>	<i>P</i>	
<i>Manufactured home or mobile home sales</i>		<i>SUP</i>
<i>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</i>		<i>SUP</i>
<i>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</i>		<i>SUP</i>
<i>Museums</i>		<i>SUP</i>
<i>Nonemergency medical transport</i>	<i>P</i>	
<i>Nursing homes</i>	<i>P</i>	
<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
<i>Office supply stores, secretarial and duplicating services</i>	<i>P</i>	
<i>Parking lots and garages</i>	<i>P</i>	
<i>Photographer, picture, artist and sculptor stores and studios</i>	<i>P</i>	

	Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
	Printing and publishing 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, plant 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
	Skilled nursing facilities (nursing homes)	P	
	Taxi services	P	
	Theme Parks		SUP
	Truck stops; 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	
Agricultural Uses	Wineries		SUP
Civic Uses	Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations	P	
	Fire station	P	
	Houses of worship and cemeteries accessory hereto	P	
	Libraries	P	
	Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations	P	
	Post offices	P	
	Public meeting halls	P	
	Schools	P	
Utility Uses	Camouflaged wireless communications facilities that comply with division 6, Wireless Communication	P	

	Facilities		
	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 Communications Facilities		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	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
	Water impoundments, new or expansion of	P	
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
Open Uses	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 and accessory uses		SUP
	Hospitals and mental health facilities	P	
	Industrial and technical training schools	P	

	<i>Machinery sales and service with major repair under cover</i>	<i>P</i>	
	<i>Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps</i>	<i>P</i>	
	<i>Manufacture and bottling of soft drinks and wine</i>	<i>P</i>	
	<i>Manufacture and processing of textiles and textile products in structures of not more than 2,000 5,000 square feet</i>	<i>P</i>	
	<i>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 5,000 square feet</i>	<i>P</i>	
	<i>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 5,000 square feet and greater</i>		<i>SUP</i>
	<i>Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products</i>	<i>P</i>	
	<i>Manufacture of carpets and carpet yarns in structures of not more than 2,000 5,000 square feet</i>	<i>P</i>	
	<i>Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity</i>	<i>P</i>	
	<i>Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment</i>	<i>P</i>	
	<i>Manufacture or assembly of electronic instruments, electronic devices or electronic components</i>	<i>P</i>	
	<i>Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments</i>	<i>P</i>	
	<i>Petroleum storage</i>		<i>SUP</i>
	<i>Private streets within "qualifying industrial parks" in accordance with section 24-55</i>	<i>P</i>	
	<i>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</i>	<i>P</i>	
	<i>Publicly owned solid waste container sites</i>		<i>SUP</i>
	<i>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 rights-of-way and track and safety improvements in existing railroad right-of-ways rights-of-way are permitted generally and shall not require a special use permit</i>		<i>SUP</i>

	Research, development and design facilities or laboratories	P	
	Resource recovery facilities		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	
	Water well drilling establishments		SUP
	Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	

Sec. 24-523 519. 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 24-519 (c))</u>
A	Single-family structures	63	6
B	Attached structures Multi-family dwellings containing two up to four dwelling units, or townhouses	105	10
C	Attached structures less than three stories and Multi-family dwellings containing more than four dwelling units	126	12
D	Attached structures of three or more stories and containing more than four dwelling units Apartments	189	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>
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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.~~

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

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

Illustration of Gross Acreage Calculation

(a) If a 50 acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Since 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

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

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

(c) In addition to the base density standards from section 24-519 (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.

<i>Bonus increase from base density</i>	<i>Required density bonus points from list below</i>
<i>Up to the base density</i>	<i>0</i>
<i>Greater than the base density, up to and including 33 percent above the base density</i>	<i>2</i>
<i>Greater than 33 percent above the base density, up to and including 66 percent above the base density</i>	<i>4</i>
<i>Greater than 66 percent above the base density, up to and including 100 percent above the base density</i>	<i>6</i>

	<i>Bonus Item Options</i>	<i>Bonus Points</i>
A.	<i>For every 10 percent of the units committed to provision of workforce housing (starting above the threshold set in the county's workforce housing opportunities policy)</i>	<i>2, up to a max of 4</i>
B.	<i>Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of better site design/low impact development techniques, as approved by the engineering and resource protection division</i>	<i>1.5</i>
C.	<i>Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division.</i>	<i>1.5</i>
D.	<i>Achieving green building certification using EarthCraft, LEED or equivalent program for all units</i>	<i>1</i>
E.	<i>Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee.</i>	<i>1</i>
F.	<i>Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the parks and recreation director or designee.</i>	<i>1</i>
G.	<i>Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present.</i>	<i>1</i>
H.	<i>Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5 percent of the developable area of the site.</i> <ol style="list-style-type: none"> <i>1. <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</i> <i>2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer (retain at least 50 percent of these soils on site)</u></i> <i>3. <u>Conservation area as identified by an approved watershed management plan</u></i> <i>4. <u>Wildlife habitat corridors</u> that:</i> <ul style="list-style-type: none"> <i>o Protect a corridor at least 100 feet in width from one protected area (on or off the development property) to another protected area, and</i> <i>o Consist of mature forestland</i> 	<i>1</i>
I.	<i>Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter.</i>	<i>1</i>
J.	<i>Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director.</i>	<i>0.5</i>
K.	<i>Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least five percent of the developable area of the</i>	<i>0.5</i>

L.	<i>Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the comprehensive plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>	0.5
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(d) To achieve the intent of a mixed use development, no single use or use category shall exceed 80 percent of the developable land area within a mixed use area, as delineated on the master plan.

Sec. 24-524 520. 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)),~~ *onsite that is set aside to meet the county's natural resource policy* where preservation of such area is not required by *other* 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-~~525~~ 521. 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.

Sec. 24-~~526~~ 522. 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, mixing 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 24-520 for more details on open space.

(ab) *Water and sewer.* All structures and uses within a mixed use districts shall be served by publicly owned and operated water and sewer systems.

(bc) *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~~ *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.

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

(de) ~~Streetlights~~ *Outdoor lighting.* ~~Streetlights~~ *Outdoor lighting* shall ~~generally be provided at each intersection and other public areas as required by article II, division 7 of this chapter and the county subdivision ordinance. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development.~~

(ef) *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.

(fg) *Signs.* All signs within a mixed use district shall comply with article II, division 3 of this chapter.

(gh) *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 ~~524~~.

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

(j) Dwelling units, regardless of structure type, 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.

(k) Pedestrian accommodation. Pedestrian accommodations shall be provided in accordance with Section 24-35.

Sec. 24-~~527~~ 523. Setback and buffer requirements.

(a) *Location of structures.* Structures shall be ~~located~~ **set back** 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~~ **set back** 75 feet or more from the centerline of the external existing or planned or internal arterial public road.

(b) *Required ~~setback~~ buffer from mixed use districts.* For commercial, industrial, office, residential and mixed uses a ~~setback~~ **buffer** of 50 feet shall be maintained from the perimeter of a mixed use district. The ~~setback~~ **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.

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

- (1) The proposed setback **and/or buffer** is for the purpose of integrating proposed mixed use development with adjacent development;
- (2) The proposed setback **and/or buffer** substantially preserves, enhances, integrates and complements existing trees and topography;
- (3) The proposed setback **and/or buffer** is due to unusual size, topography, shape or location of the property, **existing structures** or other unusual conditions, excluding the proprietary interests of the developer.

Reduction of the width of the setbacks **and/or buffers** may also be approved for a mixed use zoning district that is not designated ~~Mixed Use~~ **Mixed Use** by the Comprehensive Plan upon finding that the proposed setback **and/or buffer** 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 **and/or buffer** must be compatible;
- (2) The proposed setback **and/or buffer** 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 the items specified in section 24-523 (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.

(ef) No minimum lot size or yard requirements. Except for required setbacks and/or buffer 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, MU, other than as specified in approved final plans.

(fg) Uses prohibited. Setbacks and/or buffers shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback and/or buffer.

Sec. 24-528 524. 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 section 24-62.
(Ord. No. 31A-205, 5-8-01; Ord. No. 31A-255, 11-22-11)

Secs. 24-529 525 - 24-534. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

RESOLUTION

CASE NOS. ZO-0008-2011. MULTIPLE USE DISTRICTS AND MIXED USE

CONSTRUCTION PHASING POLICY

WHEREAS, the task of updating the Mixed Use Zoning District was undertaken as a part of the Board of Supervisors adopted methodology for the zoning ordinance update in May 2010; and

WHEREAS, the 2009 Comprehensive Plan referenced the importance of construction phasing to ensure residential development did not take place before a majority of commercial/industrial development was completed; and

WHEREAS, after meeting with the Policy Committee, the Planning Commission, and the Board of Supervisors, the following policy is recommended for all Mixed Use area development.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

Construction within Mixed Use developments 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 percent of the residential units may be issued prior to commencing any commercial construction; and
- (2) Certificates of Occupancy (CO) must be issued for at least 25 percent of the commercial square footage as shown on the master plan prior to building permits being issued for any residential unit above 50 percent 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 percent of the residential units, CO must be issued for at least 80 percent of the commercial square footage as shown on the master plan.
- (4) If no residential development is proposed, the construction phasing shall still make assurances that all infrastructure is installed in coordination with the planned build-out of the development.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of
September, 2012.

ZO-8-11MUConsPol_res

MEMORANDUM COVER

Subject: Authorization of Conveyance of J.B. Blayton Elementary School and Lois S. Hornsby Middle School Property to Williamsburg-James City County School Board

Action Requested: Shall the Board approve a resolution that authorizes the County Administrator to convey J. B. Blayton Elementary School and Lois S. Hornsby Middle School Property to Williamsburg-James City County School Board?

Summary: James City County owns a parcel identified as James City County Real Estate Tax Map No. 3020100011 (the "Property"), on which J.B. Blayton Elementary School and Lois S. Hornsby Middle School are located, further identified as 800 Jolly Pond Road and 850 Jolly Pond Road respectively.

Virginia Code indicates that title to all schools should be held by the School Board.

The attached resolution authorizes the County Administrator to execute all necessary documents to convey the Property to the School Board.

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. Resolution
3. Map

Agenda Item No.: I-8

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors


FROM: Adam R. Kinsman, Deputy County Attorney

SUBJECT: Authorization of Conveyance of J.B. Blayton Elementary School and Lois S. Hornsby Middle School Property to Williamsburg-James City County School Board

Attached is a resolution authorizing the County Administrator to convey the parcel identified as James City County Real Estate Tax Map No. 3020100011 (the "Property"), on which J.B. Blayton Elementary School and Lois S. Hornsby Middle School are located, further identified as 800 Jolly Pond Road and 850 Jolly Pond Road respectively, to the Williamsburg-James City County School Board. Under Section 22.1-125 of the Code of Virginia, (1950), as amended, title to all school property is to be held by the School Board.

James City County is the owner of the Property, which contains 80.546 acres. J.B. Blayton Elementary School and Lois S. Hornsby Middle School opened in October 2010.

Following a public hearing, I recommend adoption of the attached resolution authorizing and directing the County Administrator to execute any and all documents necessary to convey the Property to the School Board.


Adam R. Kinsman

CONCUR:

Leo P. Rogers

ARK/nb
SchProp_mem

Attachments

RESOLUTION

AUTHORIZATION OF CONVEYANCE OF J.B. BLAYTON ELEMENTARY SCHOOL AND

LOIS S. HORNSBY MIDDLE SCHOOL PROPERTY TO

WILLIAMSBURG-JAMES CITY COUNTY SCHOOL BOARD

WHEREAS, the County is the owner of certain real property identified as Parcel No. 3020100011 on the James City County Real Estate Tax Map (the "Property"); and

WHEREAS, the County desires to transfer ownership of the Property to the Williamsburg-James City County School Board under certain terms and conditions to be set forth by deed; and

WHEREAS, the Property to be conveyed contains 80.546 acres and is more commonly known as 800 and 850 Jolly Pond Road, Williamsburg, Virginia, 23188, on which J.B. Blayton Elementary School and Lois S. Hornsby Middle School have been operating since October 2010; and

WHEREAS, the Board of Supervisors of James City County, following a public hearing, is of the opinion that it is in the public interest to convey the Property to the School Board.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes and directs the County Administrator to execute any and all documents necessary to convey the Property to the School Board.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

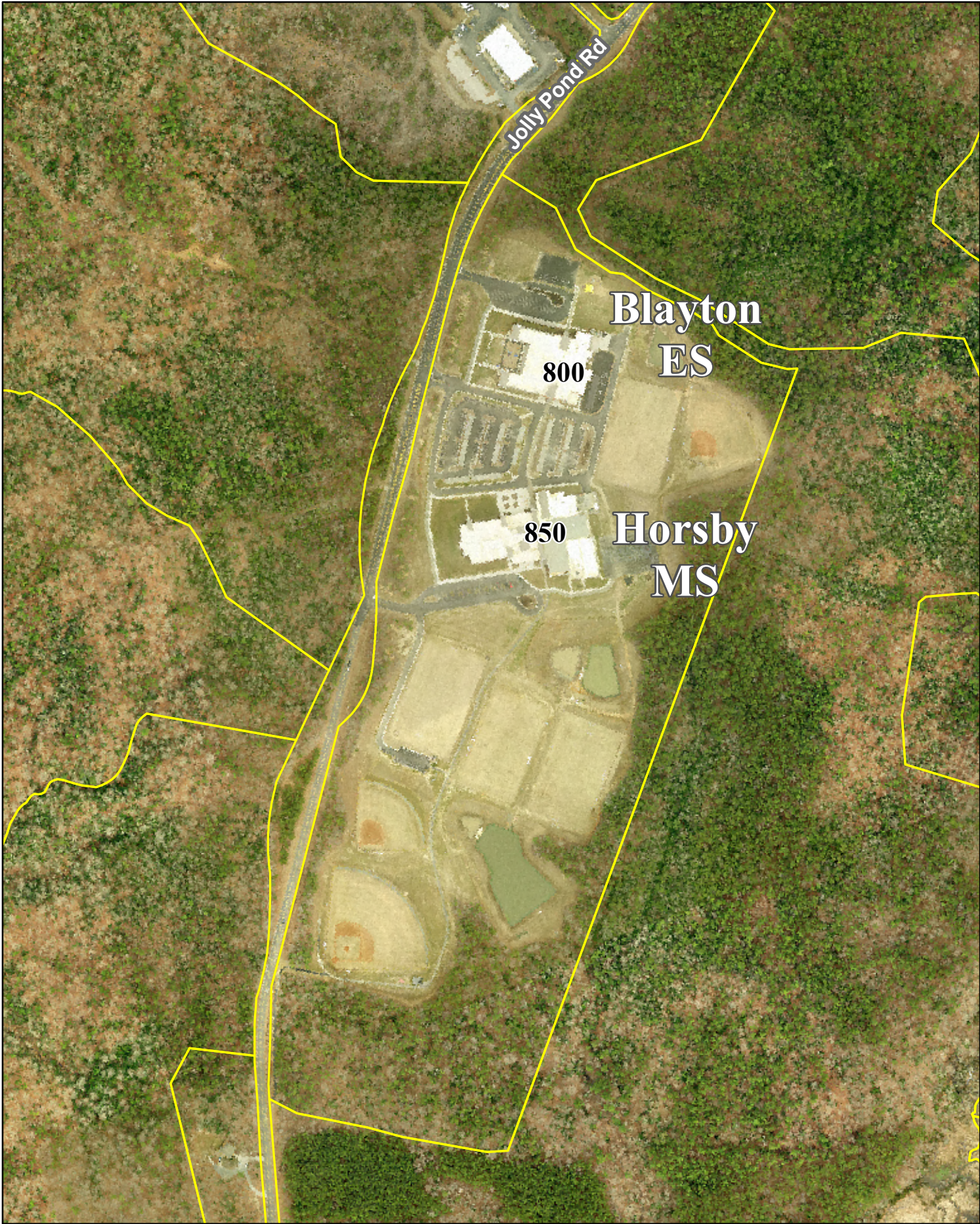
Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

SchProp_res

James City County - Real Estate Assessment Division - Mapping/GIS Section



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

1 inch = 450 feet
0 0.04 0.08 Miles



MEMORANDUM COVER

Subject: Legislative Application Deferral Policy

Action Requested: Shall the Board approve a Legislative Application Deferral Policy?

Summary: At its work session on May 22, 2012, the Board of Supervisors reviewed a proposed legislative application deferral policy and suggested modifications prior to consideration of the policy for adoption.

Attached is a resolution which incorporates the suggestions received from the Board at the May 22, 2012, work session.

Approval is recommended for 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. Resolution
3. Adopted Minutes from the May 22, 2012, Board Work Session

Agenda Item No.: J-1

Date: September 11, 2012

M E M O R A N D U M

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Robert C. Middaugh, County Administrator

SUBJECT: Legislative Application Deferral Policy

At its meeting on January 10, the Board of Supervisors (the “Board”) requested a legislative application deferral policy be prepared for consideration to address circumstances where an applicant requests that an application not be advertised for Board consideration following action by the Planning Commission (the “Commission”) or requests an indefinite deferral by the Board. Attached for your consideration is a resolution which incorporates suggested modifications received from the Board at a work session on May 22. The proposed policy addresses the following items:

- Establishes that a legislative application which has received action from the Commission shall be placed on the agenda for the first Board meeting the month following action by the Commission. This would eliminate requests made to staff to not advertise an application following Commission action absent a determination of consistency with an adopted set of deferral criteria.
- Allows the County Administrator or his designee (the “Administrator”) to determine whether to grant a one-month administrative deferral in accordance with the adopted criteria.
- Establishes that all legislative applications are expected to appear on a Board agenda, with an advertised public hearing, either as a request for deferral or consideration of approval, within a maximum of three months following action by the Commission.
- Establishes that an applicant may request a deferral of a legislative application by the Board for a period not to exceed three months and may request up to two additional deferrals within a 12-month period from the date the application was placed on a Commission agenda for action.

I recommend approval of the attached resolution.

Robert C. Middaugh

RCM/gb
LegisAppDef_mem

Attachments:

1. Resolution
2. Adopted Minutes of the May 22, 2012, Board of Supervisors Work Session

RESOLUTION

LEGISLATIVE APPLICATION DEFERRAL POLICY

WHEREAS, at its meeting on January 10, 2012, the Board of Supervisors (the “Board”) requested a legislative application deferral policy to address circumstances where an applicant requests that an application not be advertised for Board consideration following action by the Planning Commission (the “Commission”) or requests an indefinite deferral by the Board; and

WHEREAS, the Board held a work session on May 22, 2012 to review deferral procedures and criteria and suggested modifications to the draft policy.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the following policy to be used when considering requests for deferral of legislative applications:

1. Legislative applications (“applications”) that have received action from the Planning Commission (the “Commission”) shall be placed on the agenda for the first Board meeting the month following action by the Commission. An applicant may submit a written request to the County Administrator or his designee (the “Administrator”) for a one-month administrative deferral. In this circumstance, the Administrator shall determine whether to grant the deferral in accordance with the criteria expressed herein. If the administrator approves the deferral request, the application shall not be advertised and will instead be scheduled for the first Board meeting on the second month following action by the Commission.
2. All applications shall be placed on a Board agenda with an advertised public hearing, either as a request for further deferral or consideration of approval, no more than three (3) months following action by the Commission. The applicant may withdraw the application at any time.
3. An applicant may request a deferral for a period not to exceed three (3) months. In this circumstance, the application will be advertised and the Board shall determine whether to grant a deferral following a public hearing on the matter. If the Board grants a deferral, the application will be scheduled for a Board meeting requested by the applicant and approved by the Board and the applicant shall be required to pay a deferral fee to cover the costs of advertising the application. Such fee shall reimburse the County for expenses associated with deferring the application. If the Board does not grant the deferral, the Board may either approve or deny the application at that meeting.
4. An applicant may request two additional deferrals from the Board that shall, in total, be valid for no more than twelve (12) months from the date the application was placed on a Commission agenda for action. In this circumstance, the application shall be advertised and the Board shall determine whether to grant a deferral following a public hearing on the matter. If the Board grants a deferral, the application will be scheduled for a Board meeting requested by the applicant and approved by the Board

and the applicant shall be required to pay a deferral fee to cover the costs of advertising the application. Such fee shall reimburse the County for expenses associated with deferring the application. If the Board does not grant the deferral, the Board may either approve or deny the application at that meeting.

5. The Administrator and/or the Board may grant a deferral as noted above for one or more of the following reasons:
- The Commission requests substantive changes to the application, supplemental materials, proffers, or conditions that must be addressed prior to the Board hearing.
 - Substantive issues are raised by a County or external reviewing agency that must be addressed prior to the Board hearing.
 - Delays have occurred with County or external reviewing agency comments that affect the application.
 - Errors in legally required advertising are discovered and must be rectified.
 - Adjacent property owner concerns have been expressed that generate the need for substantive changes or additional public meetings.
 - The applicant demonstrates that there are extenuating circumstances that are unique to the application that require additional time.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

LegisAppDef_res

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 22ND DAY OF MAY 2012, AT 4:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
John J. McGlennon, Vice Chairman, Roberts District
W. Wilford Kale, Jr., Jamestown District
James G. Kennedy, Stonehouse District
James O. Icenhour, Jr., Powhatan District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. BOARD DISCUSSIONS

1. Joint Work Session with the Planning Commission

Mr. Tim O'Connor, Planning Commission Chairman, called to order the Planning Commission (PC) and advised the Board that all members, with the exception of Mr. George Drummond, were present. Mr. O'Connor thanked the Board for the opportunity to meet with them and advised them that the PC had three topics to discuss with the Board. He stated that the topics were a review of the Coordinated Comprehensive Plan Process to date; a review of the 2009 Comprehensive Plan's Goals, Strategies, and Actions as listed in the PC's Annual report; and, an update from staff on the Zoning Ordinance revision process.

Mr. O'Connor informed the Board that under the Coordinated Comprehensive Plan, the PC's goals were threefold: 1) special considerations or concerns regarding the Joint Comprehensive Plan and the process, 2) any individual considerations for the Board, including Quarterpath/Riverside Hospital, Busch Gardens, Marquis area, Lightfoot/Pottery area, the northeast triangle in Williamsburg, and lower York County and, 3) the preferred format the Board desires for the Comprehensive Plan update. He stated that the PC's recommendation would be to create an addendum to the Comprehensive Plan which could be easily updated/amended.

Ms. Tammy Rosario, Principal Planner, informed the Board that this topic was discussed with the Board in January 2012, at which time the Board received an overview regarding the project. She informed the Board of the progress made on the project since January, which included three community forums. She stated that following the forums, there was a Joint Planning Commission meeting in April 2012. She stated that the staff prepared a Joint Transportation Study, Inventory of Existing Land Uses, and updated demographic and housing trends. She advised the Board that a website was created regarding the Historic Triangle. Ms. Rosario provided a recap of the April 2012 joint meeting and invited questions from the Board.

Ms. Jones stated that the PC is seeking guidance on whether or not to proceed with having an insert of the joint pages in the Comprehensive Plan. Ms. Jones stated that, from her perspective, it is always good to have leadership from the localities communicating, collaborating, and working together. She expressed her concerns about putting the same exact pages in the three Comprehensive Plans and moving toward the direction of regionalism. Ms. Jones stated that the public has expressed concerns regarding regionalism, private property rights, and is ensuring that the County government officials hear their voices and represent them. She stated that there is public support for communication and collaboration among the communities.

Mr. McGlennon inquired as to the motivation for the Regional Issues Committee in proposing the coordination of the Comprehensive Plans.

Ms. Jones stated that the matter arose in 2006 and it was referred to as the synchronization of the comprehensive plan so that all three comprehensive plans were updated at the same time. She also stated that the plan was to have all three Planning Commissions communicating because there are key areas that impact multiple jurisdictions.

Mr. Icenhour stated that when he was on the Regional Issues Committee, the issue was brought forward during the County's Comprehensive Plan update that there were border areas where land use designations in York County and the City of Williamsburg that did not mesh with the County's land use map. He stated that communication between the localities could minimize conflicts. He stated that in order to accomplish this, the plans had to be coordinated because the localities were on different schedules. He stated that it has taken six years to get to that point. He stated that the Comprehensive Plan did not have to have common pages. He stated that information should be gleaned from other jurisdictions and incorporated into the County's Comprehensive Plan. Mr. Icenhour questioned the time frame of the review process for updating the Comprehensive Plan.

Mr. Rogers responded that a review has to be done every five years after the date of adoption and advised the Board that if the plan was readopted, the five-year period would start from the time of adoption.

Mr. O'Connor stated that an important goal stressed at Regional Issues Committee meetings is that the comprehensive plans remain as individual plans for each locality.

Mr. McGlennon stated that the process does not require or allow for a regional comprehensive plan. He stated that authority rests with local jurisdictions.

Ms. Jones stated that she agreed with Mr. Icenhour that the comprehensive plan did not have to have common pages. She stated that for the first time in 15 years she attended a meeting with officials from James City County, the City of Williamsburg, and York County. She stated the meeting opened dialogue and built relationships with leadership and planning commissioners. She stated that in the 2009 Comprehensive Plan there are pages dedicated to recognizing corridors of other localities. She stated that there is value in opening the lines of communication between leadership in the localities. She expressed that the current Board and Planning Commission members are sensitive to proposed project impacts along jurisdictional corridors.

Mr. Kennedy stated that he believes in regional cooperation but does not believe in regional government. He stated that he believes it would be appropriate to develop shared revenue zones to create something unique such as a year-round tourist destination. He questioned if there are any proposals before the Planning Commission that concern jurisdictional lines.

Mr. O'Connor responded no. He stated that York County and the City of Williamsburg have just begun this process. He stated that York County has instructed its planning staff to inform the James City County Planning Commission when they hold public meetings regarding Lightfoot and areas adjacent to James City County. He stated that all jurisdictions are concerned about traffic impact along the corridors. He stated that staff has had conversations about creating a common history regarding a joint comprehensive plan with jurisdictions tailoring it to their individual regions.

Ms. Rosario stated that the County focus has always been a targeted review of the comprehensive plan for regional discussions and issues. She stated that a wealth of information has been produced and that she would like to document the updates to the demographics and highlight jurisdictional commonalities or differences.

Mr. Kennedy stated that there are a lot of fundamental differences between the localities and that an area he is concerned about is the Lightfoot corridor. He stated that there is still a lot of rural undeveloped land in Lightfoot.

Mr. Kale stated that the County should first determine the differences between each jurisdictional comprehensive plan and then determine the commonalities. He stated that he would not like an addendum to the comprehensive plan. He stated that he would like an inclusion in the comprehensive plan.

Mr. McGlennon questioned recent legislation passed by the General Assembly that transportation aspects of any comprehensive plan update have to be submitted to the Virginia Department of Transportation (VDOT) for review.

Ms. Rosario responded that based on prior legislation, the County had worked with VDOT on the 2009 Comprehensive Plan. Ms. Rosario summarized that the Board is interested in keeping the scope narrow and targeted to regional issues focused on common borders. She stated that the Board has varied opinions regarding common pages. Ms. Rosario advised the Board that York County and the City of Williamsburg are trying to get their comprehensive plans concluded and to their Planning Commissions at the end of this year or the beginning of next year. She stated that James City County will try to be on the same schedule.

Mr. Kale questioned that if the County added information and readopted the plan as other localities were adopting their plans, would all the localities then be on the same cycle.

Mr. Rogers responded that the adoption dates would be the same. He stated that the requirement of the State Code is that the localities would have to begin the review of the Comprehensive Plan at the same time.

Mr. Kennedy expressed his views on whether or not the municipalities had to synchronize comprehensive plans.

Mr. Richard Krapf, Planning Commission member, stated each locality develops their own goals, strategies, and actions and they all have different time tables.

Mr. Icenhour questioned staff as to the process and questioned if the plan would be adopted in early 2012.

Mr. Allen Murphy, Development Management Manager, responded that James City County will track what the other localities are doing, document the similarities and differences, and be prepared to talk about them. He requested guidance and direction from the Board on how to proceed.

Ms. Jones requested input from the Board on how they wanted to direct the Planning Commission on how to move forward.

Mr. Icenhour stated that he would be in favor of adding a modified update to the plan which can then be readopted.

Ms. Jones stated that she could be in favor of readopting the plan and synchronizing it with the other localities.

Mr. Murphy asked if the decision could be postponed until York County and City of Williamsburg were closer to the end of their process so that the County could fully examine the differences and commonalities. He stated that the Board could review the matter in a year.

Ms. Jones stated that she would like input from York County and City of Williamsburg regarding common pages.

Mr. Kennedy stated that he supported Mr. Murphy's suggestion. He stated that the matter could be looked at in a year or sooner. He stated that he did not want to start a process at this point, not knowing what the process was going to entail.

Mr. O'Connor thanked the Board for its direction. He advised the Board that Mr. Krapf is Chairman of the Policy Committee and stated that Mr. Krapf will be discussing the scorecard for goals, strategies, and actions with the Board.

Mr. Krapf stated that during the past 12 to 18 months the focus of the Policy Committee has been the zoning and subdivision ordinance re-write triggered by the 2009 Comprehensive Plan. He stated that to date, four priority topics have been completed and approved by the Board. He stated that the four policies included the Economic Opportunity, which was adopted in September 2011; Development Standards, adopted in November 2011; Commercial Districts, adopted in January 2012; and Wireless Communications Facilities, adopted in January 2012. Mr. Krapf discussed the key issues that still remained on the calendar for this year. Those issues included a sign ordinance, housing opportunity policy, green building policy. He stated that a majority of the adopted and pending ordinances are contained in the goal, strategies, and actions section of the comprehensive plan. He stated that most of the policies are in the zero- to five-year priority category that the County established.

Ms. Rosario stated that they also have rural land work to explore with the Board and will be looking for its direction.

Ms. Jones inquired of the Board if they had any further questions for the Planning Commission and staff. Ms. Jones thanked the staff and Planning Board for their work session participation.

2. Board of Supervisors Guidelines for Outside Communications with Applicants Requesting Legislative Approvals

Mr. Middaugh advised the Board that this item and the Legislative Action Deferral Policy were requested previously and deferred by the Board. He stated that the Board received a draft of each policy. He stated that for both policies, he provided suggestions, parameters, and comments from Board members. He stated that the material on the deferral policy provides some criteria that can be shaped by the Board.

Ms. Jones thanked Mr. Middaugh and asked the Board for input on Guidelines for Outside Communications. Ms. Jones stated that she appreciated the intent of transparency; however, she does not

believe the legislation is necessary because the Board does a good job of communicating and being transparent. She stated that she also had concerns that citizens might not talk to the Board if the matter has to be reported out.

Mr. Kale stated that he feels the Board of Supervisors is transparent and the Board functions as such due to the trustworthiness of its members. He believes that the policy is not necessary.

Mr. Icenhour stated that he agreed with Mr. Kale. He stated that he was comfortable with not passing the policy.

Mr. McGlennon stated that it was in the individual Board member's best interest to let people know when they have met with an applicant; however, he stressed that it was their responsibility to do that.

Mr. Kennedy stated that he has always believed in transparency. He stated that communication needs to be improved and cited an example about a current request for a donation for a courthouse statue.

Mr. McGlennon stressed to the Board that when talking about legislative approvals, someone is requesting an action by the Board. Mr. McGlennon stated that the Board is better off recognizing that it is in its best interest to be clear when meeting with an applicant.

Mr. Kennedy agreed but expressed his opinion that the Board needs to improve communications.

Ms. Jones stated that the Board will pass on the disclosure policy.

3. Legislative Action Deferral Policy

Mr. Middaugh stated that staff has developed a template for the Board to work with. He stated that the Board can give deferrals not in excess of 12 months based on certain criteria. He stated that if the matter has to be re-advertised and citizens had to be re-notified, the applicant would bear the expense. Mr. Middaugh questioned if the Board's 12-month limitation is from the time of submission to the Planning Division.

Mr. Rogers stated that for legislative approvals, the time period is 12-months from when the case goes to the Planning Commission.

Mr. Icenhour questioned about making the policy to reflect the State Code.

Mr. Rogers responded that was not necessary but that it would shorten what is permissible under the State Code.

Mr. Kale inquired as to when the 12-month clock begins.

Mr. Rogers responded that the 12-month clock begins when the case is put on the Planning Commissions agenda for action. He stated that if there is not an applicant deferral of the case at that point, it would begin the 12-month period.

Mr. Kale questioned if the 12-month period would encompass both the Planning Commission and the Board.

Mr. Rogers responded yes.

Mr. Kennedy stated that the time frame would really be 11 months for the Board. He stated that there is a period of 30 days if the application is approved by the Commission and 30 days later before it can be heard by the Board.

Mr. Rogers stated that the Planning Commission has 100 days to act on the application from the time it is submitted to the Commission for action.

Mr. Kennedy stated that would shorten the Boards time to nine months.

Mr. Middaugh stated that the provision is in the policy to ensure that the Board acts timely.

Mr. Icenhour stated that the intent of the Board was to rectify indefinite deferrals for unexplained reasons. He stated that he is not adverse in giving people as much time as they need and stated that the Board has to have that flexibility.

Mr. McGlennon questioned an alternative approach regarding the possibility of the Board setting an expiration date, absent an extension for cause, when a deferral has been granted.

Mr. Middaugh stated that would be an added discipline. He stated that if a case came before the Board and the applicant has requested a deferral based on certain criteria, the Board could grant a deferral not to exceed 90 days. He stated that in 90 days the deferral would expire and the applicant would have to come back for action or to request an extension.

Mr. Kennedy expressed concerns about the policy and stated that the Board has to be cognizant of deferrals for difficult economic times.

Mr. Middaugh addressed Mr. Kennedy's concerns and advised that the Board could ask the applicant to withdraw the application until they were ready.

Mr. Kale agreed with Mr. McGlennon's approach regarding an expiration date on the extension.

Mr. Icenhour also agreed with Mr. McGlennon's approach.

Mr. Rogers stated that the public hearing process identifies a date for a case to come back to the Board.

Mr. McGlennon inquired as to the process if the public hearing was closed.

Mr. Rogers responded that that Board is not required to identify a date.

Mr. McGlennon questioned if there is a requirement for public hearing to occur if the applicant comes before the Board, after the public hearing has been closed several months earlier, asking for a deferral.

Mr. Rogers responded that the County does re-advertise for those cases. He stated that it is a requirement because the Board is going to take action on a case. He stated that if the Board defers the case for two weeks to the next Board meeting, the County would not re-advertise the case even after the public hearing has been closed.

Mr. Icenhour stated that he would like modifications made to the policy and have the matter brought before the Board for consideration.

Ms. Jones queried the Board and the Board agreed.

Mr. Middaugh questioned the Board if they want to set a limit on themselves in terms of how long the deferral would be.

Ms. Jones stated that the matter should be determined case by case.

Mr. Icenhour stated that the State Code was written so that the Board does not excessively drag the matter out when the applicant wants to get through the matter quickly.

Mr. Kale questioned that if an applicant comes to the Board and they have had one deferral of three months and requests another deferral of two months which is one month beyond 12 months, what happens to the State law. He questioned that if the applicant is asking for the deferral, then the 12-month time frame does not apply.

Mr. Rogers stated that even though the applicant requests a deferral, the time clock keeps running. He stated that at the end of the time clock, it can be continued by an applicant.

Mr. Middaugh questioned if the deferral criteria were appropriate.

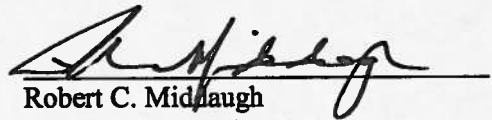
Mr. McGlennon responded that this is another reason why he suggested the alternative approach which would reduce the need to set criteria.

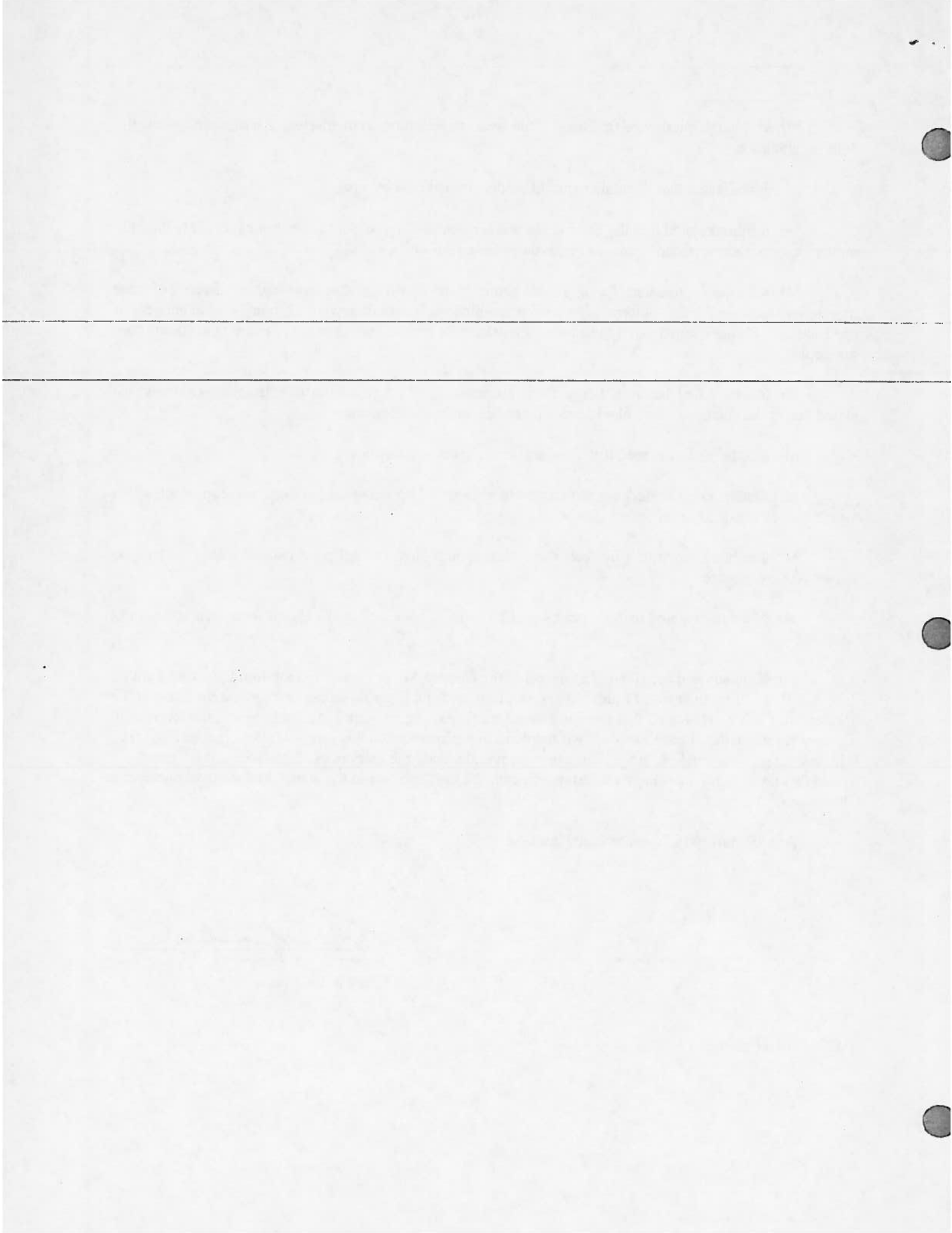
Mr. Icenhour stated that he feels the Board should have flexibility and stated matters should be reviewed case by case.

Mr. Middaugh stated that the policy will be brought back before the Board for action at a regular meeting.

Mr. Kale advised the Board that he asked the County Administrator to look into the speed limit on Longhill Road, from the area of Plumeri Park and Eastern State Hospital going west around the curve at the Recreation Center. He stated that there is a lot of traffic exiting Eastern State Hospital and the Recreation Center. He stated that there have been two accidents at the intersection this year. He stated that he also asked Mr. Middaugh to take a look at the drainage system underneath the entry road of the Recreation Center. He stated that there is not a drainage culvert underneath the road and that in the wintertime the road becomes a sheet of ice.

At 6:01 p.m., Ms. Jones recessed the Board.


Robert C. Middaugh
Clerk to the Board



MEMORANDUM COVER

Subject: Zoning Ordinance Transition

Action Requested: Shall the Board approve the resolution that sets forth provisions for vesting of rights in relation to the amendment of the residential and multiple use district zoning ordinances?

Summary: Developments which completely meet the criteria listed in the resolution would be vested under the old ordinances prior to the adoption of cases ZO-0007-11, Cluster Overlay District, ZO-0008-2011, Multiple Use Districts, and ZO-0009-2011 Residential Districts. The purpose of the transition resolution is to make clear through local governing body action, as well as the existing provisions in the Code of Virginia, the status of vested rights in relation to the changes to the residential and multiple-use districts. This is particularly important for these districts which relate to density and overall development patterns.

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. Resolution
3. Minutes of the July 11, 2012,
Planning Commission Meeting

Agenda Item No.: J-2

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Ellen Cook, Senior Planner II
Jason Purse, Senior Planner II

SUBJECT: Zoning Ordinance Transition

This item is brought forward in conjunction with Case Nos. ZO-0007-11, Cluster Overlay District, ZO-0008-2011, Multiple Use Districts, and ZO-0009-2011, Residential Districts, which were earlier on the Board's agenda. The Code of Virginia sets forth provisions for vesting of rights in relation to the amendment of zoning ordinances in Section 15.2-2307. The proposed transition resolution mirrors the provisions in the Code of Virginia, with a minor adjustment to Items 3b and 3c to reference master plans since these are customarily part of the rezoning and special use permit process in James City County. The purpose of the transition resolution is to codify the Code of Virginia provisions at the local level, thus making clear in a local ordinance the status of vested rights in relation to the changes to the residential and multiple-use districts. This is particularly important for these districts which relate to density and overall development patterns.

Developments which completely meet the criteria listed in the resolution would be vested under the old ordinances prior to the adoption of Case Nos. ZO-0007-11, Cluster Overlay District, ZO-0008-2011, Multiple Use Districts, and ZO-0009-2011, Residential Districts. In the past, the Board has followed this same procedure when adopting significant updates to the Zoning Ordinance.

At its July 11, 2012, meeting, the Planning Commission voted 7-0 to recommend approval of this item.

Staff recommends that the Board of Supervisors approve the attached transition resolution.


Ellen Cook


Jason Purse

CONCUR:

Allen J. Murphy, Jr.

EC/JP/nb
ZOTranstn_mem

Attachments:

1. Minutes of the July 11, 2012, Planning Commission
2. Resolution

RESOLUTION

ZONING ORDINANCE TRANSITION

WHEREAS, the Board of Supervisors has adopted comprehensive revisions and amendments to sections of Chapter 24, Zoning, of the Code of the County of James City, Virginia, as described in Case Nos. ZO-0007-11, ZO-0008-2011, and ZO-0009-2011; and

WHEREAS, the orderly transition from the existing zoning regulations to revised regulations requires a transition resolution to affect changes in law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby grandfathers proposed developments which meet the criteria identified below under the regulations in effect prior to the September 11, 2012, adoption of the comprehensive revisions to the James City County Zoning Ordinance, as described in Case Nos. ZO-0007-11, ZO-0008-2011, and ZO-0009-2011, if all of the following conditions were fully and completely met on or before September 11, 2012:

1. The landowner had obtained or was the beneficiary of a “significant affirmative governmental act” (as defined herein) which remains in effect allowing development of a specific project; and
2. Relied in good faith on the significant affirmative governmental act; and
3. Incurred extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

Each of the following are deemed to be a “significant affirmative governmental act”:

- a. The board of supervisors has accepted proffers or proffered conditions which specify use related to a zoning amendment;
- b. The board of supervisors has approved an application for a rezoning, with master plan, for specific use(s) or density;
- c. The board of supervisors or board of zoning appeals has granted a special exception or use permit, with master plan, with conditions;
- d. The board of zoning appeals has approved a variance;
- e. The board of supervisors or its designated agent has approved a preliminary subdivision plat, site plan, or plan of development for the landowner’s property and the landowner diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances;
- f. The board of supervisors or its designated agent has approved a final subdivision plat, site plan, or plan of development for the landowner’s property; or

- g. The zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification, or reversal under subsection C of section 15.2-2311 of the Code of Virginia, 1950, as amended.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
JONES	_____	_____	_____
KENNEDY	_____	_____	_____
ICENHOUR	_____	_____	_____
KALE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

ZOTranstn_res

Minutes of the July 11, 2012 Planning Commission Meeting

Zoning Ordinance Transition Resolution

Ms. Cook stated the transition resolution is for vesting or grandfathering those development projects that meet the development criteria listed in the resolution. She stated vesting or grandfathering would mean the proposed changes to the Residential and Multiple Use districts would not affect those developments as they move forward. The provision for vesting mirrors the provisions in the Code of Virginia.

Mr. Krapf moved to recommend approval.

In a unanimous voice vote, the Commission recommended approval (7-0).

MEMORANDUM COVER

Subject: Street Name Change: Longhill Connector Road (Route 615) to “DePue Boulevard”

Action Requested: Shall the Board approve the resolution to rename Longhill Connector Road (Route 615) to “DePue Boulevard”?

Summary: Section 19-54 (b) of the James City County Subdivision Ordinance requires street name changes to be reviewed and approved by the Board of Supervisors. The Board of Supervisors has requested to consider a change of the name of Longhill Connector Road (Route 615) to “DePue Boulevard.”

During his tenure on the Board, Mr. Perry M. DePue was instrumental in securing funding for the construction of the Longhill Connector Road which was vital to improving traffic flow between Ironbound Road and Longhill Road.

The James City County Fire Department, Police Department, Real Estate Assessments Division, and the Williamsburg Post Office have been consulted and have raised no objections to the proposed change.

Staff recommends adoption 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. Resolution
3. Location Map

Agenda Item No.: J-3

Date: September 11, 2012

MEMORANDUM

DATE: September 11, 2012

TO: The Board of Supervisors

FROM: Robert C. Middaugh, County Administrator

SUBJECT: Street Name Change: Longhill Connector Road (Route 615) to “DePue Boulevard”

Section 19-54 (b) of the James City County Subdivision Ordinance requires street name changes to be reviewed and approved by the Board of Supervisors. The Board of Supervisors has requested to consider a change to the name of Longhill Connector Road (Route 615) to “DePue Boulevard.”

Mr. Perry M. DePue served on the Board of Supervisors from 1980 to 1997, representing the Powhatan District. During his tenure on the Board, Mr. DePue was instrumental in securing funding for the construction of the Longhill Connector Road which was vital to improving traffic flow between Ironbound Road and Longhill Road.

The street is located between Ironbound Road at Plumeri Park and The Mews subdivision on Longhill Road near the intersection of Route 199. Planning staff has verified that the proposed street name, in accordance with Section 19-54 (a), does not duplicate existing street or subdivision names in James City County which are served by common zip code, post office, or interjurisdictional emergency services; and there appears to be no buildings that would use the road section for address purposes.

The James City County Fire Department, Police Department, Real Estate Assessments Division, and the Williamsburg Post Office have been consulted and have raised no objections to the proposed name change. The Director of Real Estate Assessments has confirmed that no one is using Longhill Connector Road as an address.

I recommend approval of the attached resolution that renames Longhill Connector Road (Route 615) to “DePue Boulevard.”

Robert C. Middaugh

RCM/nb
LonghillCntr_mem

Attachment

RESOLUTION

STREET NAME CHANGE: LONGHILL CONNECTOR ROAD (ROUTE 615) TO

“DEPUE BOULEVARD”

WHEREAS, Mr. Perry M. DePue was instrumental in pursuing construction of the Longhill Connector Road during his tenure on the Board of Supervisors; and

WHEREAS, the Board of Supervisors has requested to change the name of Longhill Connector Road (Route 615) to “DePue Boulevard;” and

WHEREAS, Section 19-54 (b) of the James City County Subdivision Ordinance provides for street names to be changed upon approval by the Board of Supervisors; and

WHEREAS, the proposed street name change has been discussed with the Fire Department, Police Department, Planning Division, Williamsburg Post Office, and Real Estate Assessments and these agencies have found it acceptable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve renaming the street called Longhill Connector Road (Route 615) to “DePue Boulevard.”

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	___	___	___
JONES	___	___	___
KENNEDY	___	___	___
ICENHOUR	___	___	___
KALE	___	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.

LonghillCntr_res