

A G E N D A  
JAMES CITY COUNTY PLANNING COMMISSION  
JULY 6, 2011 - 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES  
May 4, 2011 Regular Meeting
4. COMMITTEE / COMMISSION REPORTS
  - A. Development Review Committee (DRC)
  - B. Policy Committee
  - C. Regional Issues Committee / Other Commission Reports
5. PLANNING COMMISSION CONSIDERATIONS
  - A. Initiating Resolution – Zoning and Subdivision Ordinance Update
  - B. Section 24-43, Timbering
  - C. Section 24-147, DRC Triggers
6. PLANNING DIRECTOR'S REPORT
7. COMMISSION DISCUSSIONS AND REQUESTS
8. ADJOURNMENT

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FOURTH DAY OF MAY, TWO-THOUSAND AND ELEVEN, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

Jack Fraley  
Joe Poole III  
Al Woods  
Mike Maddocks  
Rich Krapf  
Tim O'Connor

Staff Present:

Allen Murphy, Director of Planning/Assistant  
Development Manager  
Adam Kinsman, Deputy County Attorney  
Chris Johnson, Principal Planner  
Tammy Rosario, Principal Planner  
Ellen Cook, Senior Planner  
John Carnifax, Director, Parks and Recreation  
Brian Elmore, Development Management Asst.

Mr. Jack Fraley called the meeting to order at 7:00 p.m.

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period. Seeing no one wishing to speak, the public comment period was closed.

3. MINUTES

A. April 6, 2011

Mr. Joe Poole moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (7-0).

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Poole stated the DRC met at a special meeting at 6:30 p.m. before the Commission meeting. He stated the DRC reviewed a landscape amendment for Case S-0048-2009, Stonehouse Tract 12, allowing additional clearing of approximately 3 acres to make additional lots ready for residential development. The DRC voted 4-0 to approve the request.

Mr. Mike Maddocks moved for approval of the minutes.

In a unanimous voice vote, the minutes were approved (7-0).

B. Policy Committee

Mr. Reese Peck stated the Policy Committee discussed the Economic Opportunity (EO) draft ordinance at the April 13<sup>th</sup> meeting and discussed traffic impact requirements, wireless communications, and Urban Development Areas (UDAs) at the April 25<sup>th</sup> meeting.

Mr. Fraley stated that due to technical issues on the UDA presentation, the Commission would discuss the public hearing first.

5. PUBLIC HEARING CASES

A. SUP-0003-2011 Mid-County Park Master Plan

Mr. Chris Johnson stated James City County Parks and Recreation has applied for a special use permit to bring the park into compliance with the Public Lands zoning district in advance of modifications to park facilities. Planning improvements include the removal of the baseball fields and lighting, moving the Ironbound Road entrance approximately 300 feet south, replacing the Kidsburg playground with a yet to be determined alternative, upgrading restrooms, fencing, and picnic shelters, and adding office space. The Parks and Recreation Advisory Committee (PRAC) unanimously recommended approval of the master plan. Staff recommends approval of the master plan with the four attached conditions.

Mr. Fraley opened the public hearing.

Mr. John Carnifax stated Parks held public meetings regarding the changes, including discussions with youth baseball programs. He stated baseballs hitting pedestrians and vehicles outside the park is a safety concern. To compensate for the loss of the Mid-County fields, Parks has agreed to light the varsity baseball fields at Warhill and Jamestown High Schools.

Mr. Peck asked about improved pedestrian access from Powhatan Secondary. He stated there was no safe crossing across Monticello Avenue, particularly at the News Road intersection.

Mr. Carnifax stated he discussed the Mid County project with the Virginia Department of Transportation (VDOT). He stated VDOT plans to improve the entire intersection with pedestrian cross walks and improved turn lanes on Ironbound and News. The improvements will take several years to complete, depending on funding.

Mr. Peck asked if he discussed the missing sidewalk near Rite Aid with VDOT.

Mr. Carnifax stated he did not.

Mr. Fraley stated there would be additional traffic improvement proffer funds from the Settler's Market and Courthouse Commons developments.

Mr. Tim O'Connor stated he had heard of a lack of practice facilities from the 10-and-under leagues. He asked if Parks planned to add any additional practice fields.

Mr. Carnifax stated Parks' goal was to make Mid-County more passive. He stated Parks meets the per capita baseball field standards in its master plan. A problem with sports is that everyone wants to practice on the best fields. Parks' challenge is to work with schools and youth leagues to upgrade fields around the county, including at Stonehouse and Norge.

Mr. Carnifax stated Parks would seek additional public input when it starts designing the Kidsburg replacement.

Mr. Fraley open the public comment session. Seeing none, Mr. Fraley closed the public comment session.

Mr. Rich Krapf moved to recommend approval with the attached conditions.

In a unanimous roll call vote, the Commission recommended approval (7-0).

#### COMMITTEE AND COMMISSION REPORTS (CONTINUED)

Mr. Fraley stated the Regional Issues Committee met on April 21<sup>st</sup>. He stated the Committee heard a presentation on the Tribe Square development on Richmond Road, incorporating four restaurants and almost 25,000 square feet of student housing. The Committee also listened to a Virginia Department of Rail and Public Transportation presentation on the future of Hampton Roads transit. The long-term plan includes commuter rail service from Newport News to Williamsburg and from the Southside to James City in 2035. The Committee also discussed the upcoming 2012 Comprehensive Plan synchronization between the jurisdictions, which would include a UDA discussion.

#### 6. PLANNING COMMISSION CONSIDERATIONS

##### A. URBAN DEVELOPMENT AREAS (UDAS)

Ms. Ellen Cook stated the County must comply with the State's UDA statute, based on its population and rate of growth, by July 1, 2011. She stated the law allows localities to amend the Comprehensive Plan to incorporate one or more UDAs or to adopt a resolution stating how the County plans to accommodate growth in a manner consistent with the legislation. The legislation states localities must provide areas appropriate for higher density development of at least 4 single family homes, 6 townhomes, 12 apartments per acre, or a commercial floor-area ratio of 0.4. The 2009 Comprehensive Plan already identifies mixed use areas as appropriate for higher density growth with recommended densities of up to 18 units per acre, and floor-area ratios of 0.4. The county's mixed use areas can accommodate 10 to 20 years of growth and already incorporate new urbanism and traditional neighborhood development principles required by the law. Based on feedback from the April 13<sup>th</sup> Commission work session, Five Forks could be removed from the UDAs list. Staff recommends the Commission endorse staff's certification proposal, remove Five Forks, and provide any additional comments for the Board.

Ms. Tammy Rosario stated she had researched whether New Kent and Williamsburg were in compliance with the state's UDA statute. Williamsburg's compliance date is 2013 and

during its current Comprehensive Plan review process, the city plans to use its mixed use areas rather than restructure its Comprehensive Plan. New Kent submitted compliance data to the state but has not yet passed a resolution. It, too, is presently updating its Comprehensive Plan and will include UDA considerations in the revisions.

Mr. Peck stated High Street should be included in regional UDA discussions.

Ms. Rosario stated there would be 3 public meetings in 2012 organized by focus area, including Quarterpath (Rt. 199 and Rt. 60), Capital Landing and Merrimac, and the Croaker area.

Ms. Cook stated York's mixed use Comprehensive Plan areas were an overlay, with more general language and no specific development standards.

Mr. Peck stated York's mixed use ordinance focuses on village style development with main street areas. He stated the UDA's origins are to reduce sprawl and return to more urban design.

Mr. Peck stated he disagreed with staff's population projection methodology. He asked staff to explain their approach and if new Virginia Economic Commission (VEC) population projection numbers affected that analysis.

Ms. Rosario stated the UDA ordinance requires Census, Weldon Cooper, or VEC numbers. She stated it was difficult to speculate what changes there may be in the VEC projected numbers.

Mr. Peck asked if staff intends to keep using the population growth model used in the memo.

Ms. Rosario stated staff is comfortable with the continued use of the population growth model. She stated the County used VEC projections instead of county projections, in accordance with the statute. She stressed the County used a conservative methodology for development potential. Staff's conservative projections reflect many unknown future growth factors.

Mr. Peck asked if staff used the same methodology used to project growth within the Primary Service Area (PSA) in the Comprehensive Plan.

Ms. Rosario stated the PSA development potential analysis in the Comprehensive Plan was a six- to eight-month effort. She said staff considered similar factors as the development potential analysis for its UDA research but with a bigger picture focus. In terms of the 2009 Comprehensive Plan, staff, working with URS, developed buildout analysis scenarios, using approved mixed use master plans and the Comprehensive Plan designations. Staff UDA projections used a similar approach.

Mr. Peck asked if staff used more or less aggressive population assumptions than the Comprehensive Plan.

Ms. Rosario stated staff used the Comprehensive Plan land use map as a basis for their calculations.

Mr. Krapf stated he was comfortable with staff's recommendations. He stated the Steering Committee was aware of both the UDA legislation and its uncertainties. The Comprehensive Plan consciously inserted terms, such as floor-area ratios, in order to be compliant with the UDA. Updated population projections can be address during the five-year Comprehensive Plan updates. Staff's UDA areas will be capable of handling ten years of growth.

Mr. Mike Maddocks stated he believes the County is in compliance and the Commission should recommend approval.

Mr. Peck stated according to the Steering Committee report, staff should have reviewed UDAs in 2009. He stated following that review, staff would report its findings to the Commission and Board. Certain inducements would be needed to move growth into the UDAs. The county has not yet met with other localities to coordinate growth and staff has failed to discuss all aspects of the law with the Commission.

Mr. Krapf stated the certification process used a narrow focus. He stated there would be additional discussion going forward, but he felt the County is in compliance.

Mr. Al Woods stated there were extensive discussions at the Policy Committee. He stated the Committee agreed that the County complies with the intent of the law. The Comprehensive Plan serves as a starting point for a process involving multiple future reviews. The community will review and adjust as appropriate. He stated he supports recommending staff's position. The alternate would be an extensive, expensive, resource-absorbing process.

Mr. Poole stated he supports staff's methodology and believes the County is in compliance.

Mr. Peck stated an option to use outside consultants could have been presented to the Commission. He stated the County's stated growth management policies, including the PSA, are often undermined by the County actions. He stated he would not support the certification and believed additional discussions with neighboring localities should be held.

Mr. Fraley stated his approach would have been to use the Stonehouse, Lightfoot, and New Town areas rather than staff's use of disparate UDAs across the County. He stated he would support staff's recommendation.

Mr. Krapf moved to recommend staff's proposal, including removing Five Forks from the UDA list.

In a roll call vote, the Commission recommended staff's proposal (6-1: Yes: O'Connor, Woods, Maddocks, Krapf, Poole, Fraley; No: Peck).

6. PLANNING DIRECTOR'S REPORT

Mr. Allen Murphy stated he had no comments.

7. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Fraley stated he was seeking the Republican nomination for the Board from the Roberts District. He asked if his continuing service as Commission chair presented any problems.

Mr. Maddocks stated everyone was aware of Mr. Fraley's intentions to run. He stated he was fine with Mr. Fraley continuing as Chairman.

Mr. Krapf stated he had no doubt Mr. Fraley would take the necessary actions if there was any overlap.

8. ADJOURNMENT

Mr. Woods moved to adjourn.

The meeting was adjourned at 8:17 p.m.

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Jack Fraley, Chairman

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Allen J. Murphy, Secretary

## MEMORANDUM

DATE: July 6, 2011

TO: The Planning Commission

FROM: Allen J. Murphy, Jr., Planning Director/Assistant Development Manager

SUBJECT: Zoning and Subdivision Ordinance Update - Initiating Resolution

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As the Commission is aware, an ordinance update methodology was adopted by the Planning Commission on April 7, 2010, and by the Board of Supervisors on May 11, 2010. In accordance with the methodology, the Commission has been considering ordinance update issues and options, and subsequently has been in the process of reviewing initial drafts of the amended ordinances. In the next couple of months, the first set of finalized proposed amendments will be brought forward to the Commission for public hearing consideration and action. Staff is therefore bringing forward the attached resolution to initiate consideration of upcoming proposed amendments to the Zoning and Subdivision Ordinances. Staff recommends the Planning Commission adopt the attached resolution.

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Allen J. Murphy, Jr.

Attachments:

- Initiating Resolution



## **RESOLUTION**

### **INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING AND SUBDIVISION ORDINANCES**

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code §15.2-2285 and §15.2-2251 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and a subdivision ordinance, and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, in order to make the Zoning Ordinance and Subdivision Ordinance more conducive to proper development, public review and comment on draft amendments is required, pursuant to Virginia Code 15.2-2204 et seq.; and

WHEREAS, the Planning Commission is of the opinion that the public necessity, convenience, general welfare, or good zoning practice warrant the consideration of amendments.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, does hereby request staff to review the entirety of Chapters 19 and 24, Subdivision Ordinance and Zoning Ordinance, respectively, of the James City County Code. The Planning Commission shall hold at least one public hearing on the consideration on each of the amendments associated with updating these ordinances and shall forward its recommendation thereon to the Board of Supervisors in accordance with law.

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Jack Fraley  
Chair, Planning Commission

ATTEST:

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Allen Murphy, Jr.  
Director of Planning / Assistant Development Manager

Adopted by the Planning Commission of James City County, Virginia, this 6th day of July,  
2011.

## MEMORANDUM

DATE: July 6, 2011

TO: Planning Commission

FROM: Leanne Reidenbach, Senior Planner

SUBJECT: Development Standards: Draft Timbering Ordinance

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Staff presented a framework for revisions to timbering requirements to the Policy Committee in February 2011.

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

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

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

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

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

Staff has provided three draft timbering ordinances for consideration:

Summary of Options	Option 1	Option 2	Option 3
State Code and DoF's suggested changes	X	X	X
Memorandum of Agreement with DoF for notification of timbering activity	X		
Pre-harvest plan required for timbering on any property		X	X
No buffers required for A-1 outside the PSA	X	X	
50' buffer for A-1 properties along Community Character Corridors outside the PSA			X

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

Staff presented the attached draft ordinance language at the Policy Committee meeting on June 7 and recommended that the Committee endorse Option 1, including developing a Memorandum of Agreement with DoF. The Committee requested that the options be presented to the Planning Commission to get feedback and discuss the alternatives since there were diverging opinions on the Committee. They also asked staff to verify whether a certified horticulturalist was the appropriate alternative contact to add into the ordinance. Staff consulted with the Department of Forestry and verified that this was the correct reference as the references pertained to buffer health and maintenance and not overall timbering or forest management of the property. This section of the ordinance is scheduled to be presented at a Board work session at the end of July.

Attachments:

1. Option 1 DRAFT: Staff's original recommended changes
2. Option 2 DRAFT: Pre-harvest plan submission
3. Option 3 DRAFT: Pre-harvest plan submission and required setbacks for timbering outside the PSA

## Option 1 DRAFT: Staff's original recommended changes

### Chapter 24 Article I. In General

#### Sec. 24-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 24-212. Permitted uses.**

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

*Timbering in accordance with section 24-43.*

**Sec. 24-215. Setback requirements.**

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

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



## Option 2 DRAFT: Pre-Harvest Plan submission

### Chapter 24 Article I. In General.

#### Sec. 24-2. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~no required setback for timbering.\* a setback for timbering shall be provided in accordance with section 24-215(c).~~

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

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

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

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

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

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

The planning director may allow some or all of the trees required by this paragraph to be planted outside the buffer or off-site when, in the opinion of the planning director, such

an alternative mitigates the environmental, buffering, or wildlife habitat impacts of the tree removal.

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

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

**Sec. 24-212. Permitted uses.**

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

*Timbering in accordance with section 24-43.*

**Sec. 24-215. Setback requirements.**

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

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

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

## Chapter 24 Article I. In General.

### Sec. 24-2. Definitions.

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

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

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

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

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

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

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

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

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

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

- (1) *property address, parcel identification number, legal acreage of the parcel, and a description of any land not included in the pre-harvest plan;*
- (2) *a description of the property to be timbered including its current condition, characteristics of adjacent property, identification of known cultural and historical resources, the presence of any known environmentally sensitive features, and the recommendations of a state forester or a certified horticulturist;*
- (3) *a narrative description of harvesting procedures, timing of harvest, and tree protection measures for required buffer and setback areas;*
- (4) *a map to scale showing the location of property lines, potential driveway entrances, resource protection areas, adjacent roadways, and required buffers and setbacks; and*
- (5) *a timber buffer modification application, if applicable.*

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

- (1) *Buffer along public roads.* This paragraph shall not apply to the General Agricultural District, A-1. An undisturbed buffer at least 75 feet wide shall be maintained along all public roads. No trees or other vegetation shall be removed from this buffer except as permitted under this section.
- (2) *Buffer along community character corridor.* This paragraph shall not apply to the General Agricultural District, A-1. On all other property fronting on roads that are identified as community character corridors on the Comprehensive Plan, an undisturbed buffer at least 150 feet wide shall be maintained along the community character corridor

on properties that are zoned residential. No trees or other vegetation shall be removed from this buffer except as permitted under this section.

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

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

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

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



than ~~14~~ *10 working* days from the filing of such application to approve or disapprove the application. If disapproved, the planning director shall write a letter to the applicant identifying the revisions to be made to gain approval.

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

shall be replaced at a ratio of one tree for each 800 square feet of area timbered. All replacement trees shall be of a species native to eastern Virginia. Such trees shall meet the standards for trees stated in section 24-2. The number and type of trees and their placement shall be approved by the planning director.

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

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

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

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

**Sec. 24-212. Permitted uses.**

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

*Timbering in accordance with section 24-43.*

**Sec. 24-215. Setback requirements.**

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

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

## MEMORANDUM

**DATE:** July 6, 2011  
**TO:** Planning Commission  
**FROM:** Christopher Johnson, Principal Planner  
**SUBJECT:** Commercial Districts: Section 24-147, DRC Review Criteria

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Staff presented the attached draft ordinance to the Policy Committee on June 7, 2011 and recommended that the Committee endorse the proposed changes. The Committee expressed support for continuing to shift the role of the DRC to being a strategic body that guides the development review process from the front end and as an appellate body for decisions made by staff during the site plan and subdivision review process. The Committee was not able to reach a consensus on staff's proposed changes and felt that it would be appropriate to solicit feedback from the entire Planning Commission prior to making any recommendation to staff. The Committee requested that staff present the draft ordinance to the Commission for consideration at the July meeting.

Staff requests the Planning Commission offer comment on the attached draft ordinance prior to Stage III when final ordinance language will be presented to the Commission later this summer.

Attachment:

1. Draft ordinance, Section 24-147, DRC Review Criteria

**Sec. 24-147. Criteria for review.**

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

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

PLANNING DIRECTOR'S REPORT  
June 2011

This report summarizes the status of selected Planning Division activities during the past month.

- **New Town.** The Design Review Board did not meet in May; however, the DRB did approve several signs and subdivision plats via e-mail.
- **Ordinance Update.** The Policy Committee did not hold any meetings in May. Meetings are currently scheduled for June 7<sup>th</sup> and June 16<sup>th</sup> to discuss development standards, commercial districts, and the policies and procedures manual.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – May 10<sup>th</sup> and May 24<sup>th</sup>  
SUP-0001-2011 Williamsburg Crossing Car Wash - Approved

A handwritten signature in blue ink, appearing to read "Allen J. Murphy, Jr.", is written over a horizontal line.

Allen J. Murphy, Jr.

## PLANNING DIRECTOR'S REPORT

July 2011

This report summarizes the status of selected Planning Division activities during the past month.

- **New Town.** At the June meeting, the Design Review Board approved several sign permits, placement of a Veterans Tribute Tower in the park adjacent to Discovery Park Boulevard, two alternate layouts for single-family housing in Section 7 Phase 10, and revisions to the New Town Main Street terminus parking. The DRB also considered and offered comments on revised plans for the 103 unit residential portion of Section 9 – Settler's Market. A master plan amendment has been submitted to the County and is tentatively scheduled for review by the Planning Commission in August.
- **Ordinance Update.** The Policy Committee held two meetings in June to discuss Stage 2 draft ordinance language for commercial districts and development standards and to get an update on the cumulative impact tracking database. The Committee requested that timbering and commercial districts be discussed at the July Planning Commission meeting. A Board work session was held on June 28<sup>th</sup> to discuss draft ordinances for the Economic Opportunity district and commercial districts. Another Board work session is scheduled for July 26<sup>th</sup> to discuss Stage 2 materials for development standards and cumulative impacts. Two Policy Committee meetings are tentatively scheduled for July 13<sup>th</sup> and 18<sup>th</sup> to discuss residential districts and green building items.
- **Training.** Staff members attended training sessions on using new U.S. Census data and on agri-tourism. Several staff members will also be attending the annual conference for the Virginia Chapter of the American Planning Association which will be held at the end of July.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – June 14<sup>th</sup> and June 28<sup>th</sup>  
Urban Development Areas Certification Resolution - Approved  
SUP-0003-2011 Mid County Park Master Plan - Approved



Allen J. Murphy, Jr.

**New Case Info for May 2011**

Case Type	Case Number	Case Title	Address	Description	Planner	District
Conceptual Plans	C-0018-2011	Greensprings West Ph. 7A	4200 LONGVIEW LANDING	Request exception to 1,000 foot cul-de-sac limit to subdivide 19 lots along extension of Thorngate Drive.	Jose Ribeiro	Berkeley
	C-0019-2011	Tucker, Bushneck Road Subdivision	2030 BUSH NECK ROAD	Confirm placement of second dwelling on parcel in accordance with Sec. 24-199.	Jason Purse	Powhatan
	C-0020-2011	Sentara Sidewalk, McLaws Circle	477 MCLAWS CIRCLE	Applicant proposes instillation of a concrete sidewalk to serve as a walking path to an existing parking lot.	Leanne Reidenbach	Roberts
	C-0021-2011	Sheperds Landing	2601 LITTLE CREEK DAM ROAD	Subdivision of 191 acre tract in VA Department of Forestry conservation easement. Allows 100 acre minimum lot sizes.	Jason Purse	Stonehouse
	C-0022-2011	Mid Atlantic Landscape Design Center	3737 STRAWBERRY PLAINS RD	Proposed setback waiver to allow a 25' front setback along Strawberry Plains Road.	Luke Vinciguerra	Jamestown
Master Plan	MP-0001-2011	St. Bede Catholic Church Mausoleum MP Amend	3686 IRONBOUND ROAD	Revise the master plan associated with SUP-15-00 to include a phased mausoleum building complex and associated parking and uses shown on the master plan.	Jose Ribeiro	Berkeley
Site Plan	SP-0036-2011	Greenwood Christian Academy at Williamsburg Crossing SP Amendment	120 KINGS WAY	Site Plan amendment – re-designation of existing fire lane at entry to school to loading zone for pick up and drop off of students.	Jose Ribeiro	Jamestown



	SP-0037-2011	Dixie Fuel Company Propane Distribution Facility SP Amendment	1576 MANUFACTURE DRIVE	Relocate access to avoid conflict with underground electricity.	Luke Vinciguerra	Roberts
	SP-0038-2011	New Town Sullivan Square SP Amend.	5200 CENTER STREET	Removal of the flagpole at Sullivan Square.	Sarah Propst	Berkeley
	SP-0039-2011	Lightfoot KFC, Kentucky Fried Chicken SP Amend.	6648 RICHMOND ROAD	Remodel of exterior and dining room, including new entrance and removal of solarium.	Leanne Reidenbach	Stonehouse
	SP-0041-2011	Williamsburg Moose Lodge Deck SP Amend.	5429 RICHMOND ROAD	Construction of a 12' x 30 deck.	Jose Ribeiro	Berkeley
	SP-0042-2011	Tidewater AAA Auto Service Center	6517 RICHMOND ROAD	The proposed site plan if for a AAA auto service center and office space. Required parking as well as connection to public water and sewer will be provided.	Jason Purse	Stonehouse
	SP-0043-2011	Ford's Colony Manchester Gate Improvements	FORD"S COLONY DRIVE	Improvements to Manchester Road/Centerville Road security gate.	Luke Vinciguerra	Powhatan
	SP-0044-2011	Stonehouse Recreation Storage Building SP Amend.	9701 MILL POND RUN	Proposed construction of a 1200 square foot recreation storage building and a 432 square foot picnic shelter.	Leanne Reidenbach	Stonehouse
	SP-0045-2011	John Tyler Commercial Center Parking SP Amend.	3317 VENTURE LANE	Expand front parking area with new entrance for customers/visitors, regarde rear loading entrance, expand rear loading/deliveries gravel lot to allow larger trucks to maneuver.	Jose Ribeiro	Berkeley

	SP-0046-2011	Riverside Doctors Hospital Parking	7381 POCAHONTAS TR	Additional parking for the James City portion of the site.	Jason Purse	Roberts
	SP-0047-2011	Jamestown H.S. Bike Shed SP Amend.	3751 JOHN TYLER HGWY	Relocate existing bike shed to accomodate new gymnasium.	Jose Ribeiro	Berkeley
	SP-0048-2011	Crosswalk Church Parking Expansion Lighting SP Amend.	7575 RICHMOND ROAD	Relocating two existing light poles along the parking lot expansion.	Luke Vinciguerra	Stonehouse
	SP-0049-2011	Patriots Colony Greenhouse SP Amend	3400 JOHN TYLER HGWY	Applicant proposes inatallation of freestanding greenhouse.	Leanne Reidenbach	Berkeley
	SP-0050-2011	SP Amendment, Decorative Water Tower, Go-Karts Plus	6910 RICHMOND ROAD	Adding a decorative structure which mimicks a wooden water tower approximately 20 feet tall by 5 feet wide.	Jose Ribeiro	Stonehouse
	SP-0051-2011	St Olaf Catholic Church Shed SP Amend.	104 NORGE LANE	Relocating a 10'x12' shed from the worship building to near the parish offices.	Jason Purse	Stonehouse
Special Use Permit	SUP-0004-2011	St. Bede Catholic Church Mausoleum SUP Amend	3686 IRONBOUND ROAD	Amend SUP-15-00 and the accompanying master plan to allow the construction of a phased mausoleum building complex and associated parking and uses shown on the master plan.	Jose Ribeiro	Berkeley
Subdivision	S-0021-2011	Claybank Landing, LLC BLA	1670 JOHN TYLER HGWY	Boundary line adjustment for three lots along John Tyler Highway.	Jason Purse	Berkeley
	S-0022-2011	Parcel 6A Norge Center	NORGE LANE	Subdivision at Norge Center for the Tractor Supply Company.	Luke Vinciguerra	Stonehouse

	S-0023-2011	John Tyler Highway Parcels 7, 8, 9 BLE and BLA	5109 JOHN TYLER HGWY	Boundary line adjustment and extinguishment associated with Williamsburg Crossing Car Wash along John Tyler Highway adjacent to LaFontaine.	Leanne Reidenbach	Jamestown
	S-0024-2011	Warburton, Jolly Pond Road	2514 JOLLY POND ROAD	Two additional lots.	Jason Purse	Powhatan
	S-0025-2011	New Town Sec. 7, Phase 10	4400 CASEY BLVD	Proposes 61 detached single- family lots in New Town off Rollison Drive in proximity to the Goddard School.	Leanne Reidenbach	Berkeley

New Cases for June 2011

Case Type	Case Number	Case Title	Address1	Description	Full Name	District
Conceptual Plans	C-0023-2011	White Hall Design Standards	3401 ROCHAMBEAU DR	Minor Revisions to approved Guidelines including addition of language regarding solar pannels, fences, and mulch	Jose Ribeiro	Stonehouse
	C-0024-2011	Bishop Centerville Road BLA	6100 CENTERVILLE RD	Approximately 1 acre BLA between 6100 and 6060 Centerville and approximately 2 acre BLA between 6100 and 6096 Centerville, adding 3 total acres to 6100 Centerville.	Leanne Reidenbach	Powhatan
	C-0025-2011	Addition to Chisel Run	Chisel Run Road	Two lot subdivision and open space area. All lots to have City water and sanitary sewer. Open space to be conveyed to JCC or an H.O.A. open space lot shall not be used as a residential building lot.	Jason Purse	
Height Waivers	HW-0001-2011	Kingsmill Marriott Tower Colocation	50 KINGSMILL ROAD	Requesting height waiver of 3 feet above height limit. Wireless communication facilty will sit approximately 5 feet above the Kingsmill Marriott roof line.	Jason Purse	Roberts
Site Plan	SP-0052-2011	Candle Factory Restaurant Ramp SP Amend.	7521 RICHMOND ROAD	Addition of access ramp for relocated Candlelight Kitchen restaurant.	Jose Ribeiro	Stonehouse
	SP-0053-2011	Jacobs Industrial Center Parcel 4 SP Amend	236 INDUSTRIAL BLVD	Amending Parcel 4 to change building layout and increase parking spaces.	Jason Purse	Stonehouse

SP-0054-2011	Williamsburg Christian Retreat Center, Youth Facility SP Amend.	9275 BARNES ROAD	Applicant proposes relocating future multipurpose building and parking .	Luke Vinciguerra	Stonehouse
SP-0055-2011	Mid Atlantic Landscape Design Center	3737 STRAWBERRY PLAINS RD	Proposal for a display area for landscape and garden ornamentals	Luke Vinciguerra	Jamestown
SP-0056-2011	WindsorMeade Marketplace SP Amend.	4830 MONTICELLO AVENUE	Removal of previously approved Buildings 6 and 9 from the shopping center plan. Amends SP-0093-2006 to remove square footage so could develop tire center on outparcel without going over master planned square footage cap.	Leanne Reidenbach	Powhatan
SP-0057-2011	Lumber Liquidators Recovery Building SP Amend	3000 JOHN DEERE ROAD	Constructing a 14' x 12' steel building to house two distillation units for water and solvent recovery. Building will be constructed on existing concrete pad.	Jason Purse	Stonehouse
SP-0058-2011	Blayton E.S. & Hornsby M.S. Teaching Shelter SP Amend.	800 JOLLY POND RD	Constructing a teaching shelter behind the Blayton Elementary playground.	Jose Ribeiro	Powhatan
SP-0059-2011	DJ Montague E.S. Site Plan Amend.	5380 CENTERVILLE RD	Addition of RPP and enclosure.	Jose Ribeiro	Powhatan
SP-0060-2011	Ford's Colony Sec. 10, SP Amend. Drainage Improvements for St. Andrews	8455 BECKENHAM	Replace existing culvert and ditch realignment on St. Andrews	Luke Vinciguerra	Powhatan
SP-0061-2011	Sno-To-Go Kiosk	4496 JOHN TYLER HGWAY	Applicant proposes 8-foot by 8-foot Sno-To-Go kiosk.	Jason Purse	Berkeley

	SP-0062-2011	Greenwood Christian Academy Playground SP Amend.	5251 JOHN TYLER HGWY	Greenwood Christian Academy requests to use an area adjacent to the school in Williamsburg Crossing as a playground to be curbed and fenced and six inches of mulch cover added. Two unused concrete walkways removed and rain drains extended to roadway. Speed bump also added to road.	Leanne Reidenbach	Jamestown
	SP-0064-2011	Hornsby M.S. & Blayton E.S. Pedestrian Bridge SP Amend.	800 JOLLY POND RD	Pedestrian bridge to connect playing fields. Work done as Eagle Scout Project by Holden Lipscomb.	Jason Purse	Powhatan
	SP-0065-2011	Treasure Island Road Cell Tower SP Amend.	1700 TREASURE ISLAND RD	Adjusting the final tower height from 120' with a 4' lightning rod to 120'8".	Luke Vinciguerra	Roberts
Subdivision	S-0026-2011	Ford's Colony Lot 9 & 10, Sect. 1, Block C, BLA	2 HAMLIN COURT	Boundary line adjustment between two lots.	Jose Ribeiro	Powhatan
	S-0027-2011	Windsor Ridge Sec. 3		Subdivision of 8 new lots at the intersection of Bridlington and Fairmount Drive.	Luke Vinciguerra	Stonehouse
	S-0028-2011	Greensprings West Ph. 7A	4200 LONGVIEW LANDING	Twenty new lots on 35.6 acres along Thorngate.	Jose Ribeiro	Berkeley
	S-0029-2011	Quarterpath at Williamsburg Route 60 BLE	7363 POCAHONTAS TR	Multiple boundary line extinguishments adjacent to the Quarterpath at Williamsburg hospital site.	Jason Purse	Roberts

	S-0030-2011	Quarterpath at Williamsburg ROW Plats	7341 POCAHONTAS TR	A boundary line extinguishment to consolidate parcels along Rt. 60.	Jason Purse	Roberts
	S-0031-2011	White Hall Sec. 2, Phase 1	3401 ROCHAMBEAU DR	Plat for 6 lots in Section 2 of White Hall off Hickory Neck Blvd.	Leanne Reidenbach	Stonehouse

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