

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
JULY 11, 2012 - 7:00 p.m.

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES
 - A. June 6, 2012 Regular Meeting
4. COMMITTEE / COMMISSION REPORTS
 - A. Development Review Committee (DRC)
 - B. Policy Committee
 - C. Regional Issues Committee / Other Commission Reports
5. PUBLIC HEARING CASES
 - A. Z-0003-2012/MP-0001-2012, New Town Section 12
 - B. SUP-0008-2012, Chickahominy Baptist Church Day Care
 - C. SUP-0007-2012, Jim's Well Service
 - D. SUP-0012-2011, nTelos, Route 199, Wireless Communication Facility
 - E. AFD-04-86-3-2012, Pates Neck Agricultural and Forestal District Addition
 - F. Zoning Ordinance Amendments, Chapter 24, Zoning; ZO-0002-2012, Definitions; ZO-0009-2011, Residential Districts; ZO-0008-2011, Multiple Use Districts; ZO-0007-2011 Residential Cluster Overlay; ZO-0005-2011, Green Building
6. PLANNING COMMISSION CONSIDERATIONS
 - A. Zoning Ordinance Transition Resolution
7. PLANNING DIRECTOR'S REPORT
8. COMMISSION DISCUSSIONS AND REQUESTS
9. ADJOURNMENT

SPEAKER'S POLICY

The Commission encourages public participation, but also wants to remind speakers to use decorum when speaking during the public comment or during public hearings.

Please keep in mind the following when speaking:

1. Courtesy between the speaker and the audience is expected at all times.
2. Speakers shall refrain from obscenity, vulgarity, profanity, cursing, or swearing.
3. Every petition, communication, or address to the Commission shall be in respectful language and is encouraged to be submitted in writing.
4. Public comments should be for the purposes of allowing members of the public to present planning or land use related matters, which, in their opinion, deserve attention of the Commission.
5. The public comment period shall not serve as a forum for debate with staff or the Commission.
6. Citizens should refrain from using words or statements, which from their usual construction and common acceptance are orchestrated as insults, personal attacks, or a breach of peace.
7. The public comment section at the beginning of meetings are provided as a courtesy by the Planning Commission for citizens to address the Commission regarding items not scheduled for public hearing. These public comment sections are not required by law.

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE SIXTH DAY OF JUNE, TWO-THOUSAND AND TWELVE, 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:

Rich Krapf
Tim O'Connor
Robin Bledsoe
Chris Basic
Mike Maddocks
George Drummond
Al Woods

Staff Present:

Chris Johnson, Acting Planning Director
Adam Kinsman, Deputy County Attorney
Ellen Cook, Senior Planner II
Luke Vinciguerra, Planner
Tal Luton, Fire Chief
Jason Purse, Senior Planner II

Mr. Tim O'Connor called the meeting to order at 7:00 p.m.

2. PUBLIC COMMENT

Mr. O'Connor opened the public comment period.

Seeing no one that wanted to comment, Mr. O'Connor closed the public comment period.

3. MINUTES

A. May 2, 2012 Regular Meeting

Mr. Rich Krapf moved to approve the minutes.

In a unanimous voice vote, the minutes were approved.

4. COMMITTEE/COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Chris Basic stated that on May 30, 2012, the DRC reviewed two cases. He stated that the first case was SP-0037-2012/S-0015-2012, The Settlement at Powhatan Creek, Phase 3. He stated that this case was before the DRC because it proposed buildings in excess of 30,000 square feet and more than 50 lots. He stated that following a motion by Mr. Mike Maddocks, the DRC voted (4-0), to recommend preliminary approval of the plan subject to agency comments with the exception of lots 221 and 222 as they will be removed to provide a safer turn-around area. He stated that the Committee recommended that the County's engineers review future revisions of the turn-around to avoid further DRC review. He stated that the second case was SP-0038-2012, New Town Section 9 (Settlers Market) Walmart Market. He stated that this case was before the DRC because it proposed

a building in excess of 30,000 square feet. He stated, following a motion by Mr. Rich Krapf, the DRC voted (4-0), to recommend preliminary approval of the plan subject to agency comments and the inclusion of excavating the landscape islands in accordance with Sec. 24-99(e) of the landscaping ordinance.

Mr. O'Connor made a motion to approve the DRC report.

In a unanimous voice vote, the report was approved.

B. Policy Committee

Mr. Krapf stated that there was no Policy Committee meeting to report on.

C. Other Commission Reports

Mr. Maddocks stated that there was no Regional Issues Committee meeting to report.

5. PLANNING COMMISSION CONSIDERATIONS

A. Z-0003-2012, Initiating Resolution, Sec. 24-13, Amendment of Chapter, Sec. 24-20, Amendments and Variations of Conditions, Sec. 24-23, Submittal Requirements

Mr. O'Connor stated that this consideration item was being pulled.

Mr. Adam Kinsman stated that this item is an initiating resolution to establish a formal process for staff to review applications to amend proffers pursuant to a new statute in Virginia Code that allows a governing body to waive a public hearing if the application does not affect use or density. He stated that at this time staff is requesting that this item be pulled from the agenda so that it can be discussed more in-depth with the Board of Supervisors (BOS). He stated that the item would be reviewed by the Planning Commission at a later date, after the discussion with the BOS. He stated that this would not affect the Stonehouse Conservation Easement Proffer Amendment.

B. Z-0006-2012, Stonehouse Conservation Easement Proffer Amendment

Mr. Krapf stated that he has a disclosure to make. He stated that he sits on the board of the Williamsburg Land Conservancy (WLC). He stated that in his view, his duties as a board member would not adversely impact his ability to make an impartial recommendation on this application.

Mr. O'Connor stated that he works for Wentworth Property Management, which manages the Stonehouse Glen association. He stated that he has had no other associations with the developer. He stated that he feels he can make a separate, independent decision on this case.

Ms. Ellen Cook stated that in 2007, GS Stonehouse Green Land Sub LLC received approval of a master plan and proffer amendment for the Stonehouse development. She stated that the amended proffers include several that relate to environmental protection, including one subsection on conservation easements. She stated that Vernon M. Geddy III, on behalf of GS Stonehouse

Greenland Sub LLC, is seeking approval of an amendment to this proffer to eliminate the obligation to grant conservation easements to the WLC or other land conservation organization, in addition to the County.

Ms. Cook stated that the applicant proposes to amend the proffers to strike this subsection altogether. She stated, as described in the applicant's request letter, that the owner is seeking this amendment as the Land Conservancy has indicated that it does not wish to hold conservation easements over the areas required by the proffer due to time and resource constraints. She stated that the County will still be granted the conservation easements for Chesapeake Bay Preservation Ordinance purposes, but since this will happen as part of standard practice and procedure during the administrative review process, including this in the proffers would not be necessary.

Ms. Cook stated that staff recommends that the Planning Commission recommend approval of the proposed proffer amendment to the BOS.

Mr. Krapf asked what land would be included in this easement.

Ms. Cook stated that this would not be one single track of land. She stated that it would be multiple pieces of land that would be placed in conservation easements over time as development plans were brought forward. She stated that the applicant would be meeting the Chesapeake Bay Preservation Ordinance requirements by placing additional pieces of land in with new developments. She stated that this would require more time on staff's part to maintain and oversee the growing inventory.

Mr. Krapf stated that most of this land would already be in a Resource Protection Area (RPA) or Stormwater Management area. He stated that due to the size of these parcels they would not be suitable for new housing anyways.

Ms. Cook stated that anything accepted as the Conservation easement for the Chesapeake Bay Preservation purposes would likely be undevelopable lands.

Mr. Al Woods stated that this would not change the amount or type of land that would be placed in the Conservation easement. He stated that this would improve management tools.

Ms. Cook responded affirmatively. She stated that the proffer before stated that both the County and the Conservancy would hold it and now the County will be holding those easements exclusively.

Mr. Vernon Geddy, representing GS Stonehouse stated that in 2007 a master plan amendment was made by GS Stonehouse. He stated that they offered an extensive set of environmental proffers, far above what the County requires. He stated that this addressed a number of items including compliance with special stormwater criteria, natural resource inventories, and a number of unique and innovative things at their amenities center. He stated that this proffer was a well-intentioned attempt to keep the Williamsburg Land Conservancy involved in the project but in practice it does not work. He stated that the proposed proffer amendment would not negatively affect the amount of land conserved. He stated that by definition the land that would have been

granted in an easement to the Conservancy, instead it would be granted in an easement to the County. He stated that the change is being made to the party responsible for overseeing the property being placed in the easement. He stated that he had met a couple of times with individuals from the Williamsburg Land Conservancy. He stated that they had reviewed the County Conservation policy. He stated that they were more than satisfied knowing that this land would continue to be protected.

Mr. Krapf stated that he would like to discuss why stewardship of the land was a major issue with the WLC. He stated that they did feel as though they could not adequately steward the land. He stated that every easement that the Conservancy holds requires annual inspection to ensure that the land is not being misused. He stated that because the land is in so many fragments doing inspections is difficult and often requires going thru private property to gain access.

Mr. Woods made a motion to approve the Stonehouse Conservation Easement Proffer Amendment.

In a unanimous roll call vote, the motion was approved (7-0).

Mr. O'Connor stated he wanted to remind everyone that within the bylaws Planning Commissioners are required to disclose any meetings held with applicants.

6. PUBLIC HEARING CASES

A. Z-0003-2012/MP-0001-2012, New Town Section 12

Mr. Basic stated that he was an active member of the applicant's team in 2008. He stated to avoid any appearance of bias he is recusing himself from voting on this case.

Mr. O'Connor opened the public hearing.

Mr. Greg Davis of Kaufman and Canoles stated he represents the applicant in this case. He stated that there is a joint request before the Planning Commissioners. He stated that both the applicant and staff request a deferral. He stated that this will allow the applicant to do some design work on the entrance way from Windsormeade Way. He stated that this will give staff and VDOT more time to address any concerns. He stated that this will also allow the applicant to complete the Small Whorled Pagonia survey in season.

Mr. O'Connor asked Mr. Kerr of Windsormeade if all the residents were aware of the deferral. He asked if they would find it satisfactory to wait another month.

Mr. Kerr responded affirmatively, and he felt the wait would not be problematic.

Mr. O'Connor asked the Commissioners if they would concur with his intention to grant the deferral. Hearing affirmatively from others, Mr. O'Connor granted that applicant's request.

B. 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 stated 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 will need to 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 of approval by the BOS, 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 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 for Health-E Community 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).

C. Z-0005-2012/SUP-0006-2012, Fire Station #4 Replacement

Mr. Jason Purse stated that Mr. Bernie Farmer, of the General Services Division of James City County, has applied to rezone a 1.1 acre property located at 5316 Olde Towne Road from R-2, General Residential, to PL, Public Lands. He stated that together with the adjacent property, already zoned PL, located at 5312 Olde Towne Road, Mr. Farmer has also applied for a Special Use Permit (SUP) to allow for the construction of a replacement fire station on the properties.

Mr. Purse stated that the existing fire station is 4,700 square feet and houses apparatus and provides office and living quarters for a staff of six. He stated that in order to allow continued use on-site, the existing fire station will remain in use while the new building is constructed. He stated that the replacement station will be a 12,500 square foot building for a projected staff of twelve.

Mr. Purse stated that currently, the site has two site accesses with Olde Towne Road, one for the staff and the other for the apparatus. He stated that under the new proposal, the apparatus entrance will be relocated and the public entrance will be shared with the adjacent property. He stated that the shared drive is currently aligned with Westmoreland Drive, and will provide better ingress/egress movements to and from the site. He stated that after receiving a question from Mr. Woods about the proposed entrances along Olde Towne Road, the applicant has agreed to add a condition that notes the specific entrances on the property.

Mr. Purse stated that the Comprehensive Plan designates these properties as Low Density Residential (LDR) and Federal, State, and County lands. He stated that staff finds that this application meets the recommendations of the Comprehensive Plan. He stated that the existing fire station is located on a site that is central to a large population in the County. He stated that as this area has grown it is anticipated that the fire protection service must be expanded. He stated that along with the newly acquired property, this site will be adequate for proposed expansion, as well as any needed expansion in the future. He stated that the new station will meet the standards for response time, and the building is striving for Silver LEED certification as well.

Mr. Purse stated that staff recommends that the Planning Commission recommend approval of the SUP application with the attached conditions to the BOS.

Mr. O'Connor asked if this is the station that does not have facilities for both men and women.

Mr. Tal Luton stated that the station was built in 1979 with a small sleeping room for women. He stated that the capacity for that room is one. He stated that at that time the Fire Department had about 40 employees with only two females. He stated that the makeup now is approaching 15%. He stated that the male sleeping room at this facility can accommodate six. He stated that building a new facility will provide more adequate sleeping arrangements for males and females. He stated that he had worked as a captain at this facility for ten years. He stated that the building is rather small. He stated that the apparatus floor where the fire truck sits is not spacious enough to open the passenger's side door inside the building. He stated that the new facility will be about 12,000 square feet which

will accommodate the apparatus at the facility now.

Mr. Woods asked if the enlarged facility will have an impact on service levels on Mooretown Road.

Mr. Purse stated that there will be minimal additional traffic associated with it. He stated that there will be few additional staff at the site. He stated not enough to require any additional improvements to the site.

Mr. Woods asked irrespective for the need for improvements, has staff determined whether there will be a change to service levels.

Mr. Purse stated that there will be no major changes.

Mr. Woods asked how staff would describe the character of the building and surrounding area.

Mr. Purse stated that it is similar to the adjacent buildings that are designated neighborhood commercial. He stated that it will be similar in style to the one, one and a half story buildings and similar to the architectural elevations included in the packet.

Mr. O'Connor opened the public hearing, seeing and hearing no one wanting to speak he closed the public hearing.

Mr. Maddocks stated that he supports the approval of this application.

Mr. Krapf stated that he would like to compliment Chief Luton for including the LEED building standard in this application. He stated that he feels this is something the County needs to move to with all its public facilities.

Mr. O'Connor stated that the new Admin building is also meeting the Silver LEED building standard.

Mr. Luton stated that the design is, yes.

Mr. Johnson asked Mr. Maddocks if his motion to approve includes the attachment of the condition that notes the specific entrances on the property.

Mr. Maddocks responded affirmatively.

In a unanimous voice vote the motion was approved (7-0).

D. AFD-04-86-2-2012, Pates Neck Agricultural and Forestal District Renewal

Mr. Luke Vinciguerra stated that the Pates Neck Agricultural and Forestal District (AFD) consists of 624 acres of wooded land and is generally located south of Little Creek Dam Road. He

stated that there are two properties in the AFD, both owned by the Pates Neck Timber Company. He stated that these properties have been in the AFD since 1986 without withdrawals or additions.

Mr. Vinciguerra stated that as required by State Code, the County must review all established AFD's prior to their expiration. He stated that this AFD is scheduled to expire in September, 2012. He stated at the May 7, AFD Advisory Committee meeting the committee recommended a continuation of the district for six years by a unanimous vote (9-0). He stated that staff recommends that the Planning Commission recommend a continuation of the district for six years with the conditions listed in the Staff report.

Mr. Vinciguerra used an illustration to point out two additional properties that have applied to be included in the Pates Neck AFD. He stated that if they are eligible the properties will be brought forward next month for Planning Commission consideration.

Mr. O'Connor opened the public hearing seeing and hearing no one wanting to speak he closed the public hearing.

Mr. Basic made a motion for approval.

In a unanimous voice vote the motion was approved (7-0).

7. PLANNING DIRECTOR'S REPORT

Mr. Johnson stated that he had nothing further to add to the report.

8. COMMISSION DISCUSSIONS AND REQUESTS

Mr. O'Connor asked if anyone had anything further to discuss.

Mr. O'Connor stated that he would send out an email to notify everyone of coverage for the BOS meetings.

9. ADJOURNMENT

Mr. Woods moved to adjourn.

The meeting was adjourned at 8:40.

Tim O'Connor, Chairman

Chris Johnson, Acting Secretary

REZONING–0003- 2012/MP-0001-2012. New Town Section 12
Staff Report for the July 11, 2012, Planning Commission 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.
August 14, 2012 (tentative) 7:00 p.m.

SUMMARY FACTS

Applicant: Mr. Greg Davis, Kaufman and Canoles

Land Owners: Oxford Properties, LLC (contract purchasers)

Proposal: Rezone the property to MU, Mixed Use with proffers and design guidelines to allow for up to 274 for-rent townhomes in accordance with the New Town master plan.

Location: 3950 WindsorMeade Way located between the WindsorMeade Retirement Community and WindsorMeade Marketplace shopping center.

Tax Map/Parcel Nos.: 3831900005

Project Acreage: 34.2 acres

Existing Zoning: R-8, Rural Residential with proffers

Proposed Zoning: MU, Mixed Use with proffers

Comprehensive Plan: Mixed Use

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposal to be in accordance with the overall New Town master plan and that sufficient density is available to transfer to this property while still keeping under New Town's overall density caps. Staff also finds the proposal to be consistent with the 2009 Comprehensive Plan and zoning ordinances. Staff recommends the James City County Planning Commission recommend approval of this application and acceptance of the voluntary proffers by the Board of Supervisors.

Staff Contact: Leanne Reidenbach

Phone: 253-6685

Proffers: Proffers are signed and submitted in accordance with the James City County Proffer Policy. The mechanism for accepting the cash proffers will be in lump sum amounts collected prior to the issuance of building permits for that phase of the development.

Cash Proffer Summary* (See staff report narrative and attached proffers for further details)	
Use	Amount
Water	\$983 per single-family attached dwelling unit
Recreation	\$35.24 per unit for fields \$229.70 per unit for trails (if not built on the property)
School Facilities	\$5,196.29 per unit
Library Facilities	\$61 per dwelling unit
Fire / EMS Facilities	\$71 per dwelling unit
Total Amount Per Unit (2011 dollars)	\$6,576.23 per dwelling unit
Road Improvement Contribution (lump sum)	\$21,116.70
Total Amount (2011 dollars)	\$1,757,241.42 total

**Note: the ten proffered work force housing units are not included in the calculation of cash proffers.*

BRIEF HISTORY AND DESCRIPTION OF NEW TOWN

The master plan for New Town was developed as part of a parallel design competition held in 1995. On December 22, 1997, the Board of Supervisors approved rezoning applications (Case Nos. Z-4-97 & Z-10-97) that set forth this New Town binding master plan and Design Review Guidelines by rezoning 547 acres of the Casey Tract to R-8 with proffers. The purpose of the R-8 zoning was to bind the property to the Proffers and Master Plan, which set maximum densities, major roads, major open spaces and types of uses. The rezoning also established Monticello Avenue and Ironbound Road through New Town as major urban arterials with design and operating standards more reflective of urban rather than suburban roads. Under the proffers, the R-8 area could not actually be developed until further rezoning to MU. The purpose for this was to gradually implement the full development. Also, by rezoning areas separately, the Planning Commission and Board has the opportunity to gauge proposed development against current situations (in an attempt to best mitigate impacts) and to evaluate the proposed development against the Master Plan, the proffers, the design guidelines and the current build-out situation.

The 1997 master plan was used as a launching pad to design and develop more detailed master plans and design guidelines for each section of New Town. Presently, all sections within New Town have been rezoned to MU, with the exception of Section 12.

On what is commonly referred to as the west side of New Town due to its location west of Route 199, the WindsorMeade Retirement Community/Section 13 rezoning application (Case Z-02-01/MP-02-01) was approved by the Board of Supervisors on October 23, 2001. The WindsorMeade Retirement Community master plan permits 343 dwelling units and 34,100 square feet of commercial and health care space (includes skilled nursing areas). Since the Section 13 proposal requested more dwelling units than originally allocated on the 1997 master plan, the Board of Supervisors approved a transfer of the dwelling units originally allocated to Section 11. WindsorMeade Marketplace/Section 11 (Case Z-05-03/MP-06-03) was approved on October 14, 2003 and permits approximately 200,000 square feet of commercial and retail space fronting Monticello Avenue. During the Section 11 rezoning, a density transfer was approved which relocated any remaining non-residential square footage in the west side of New Town and also converted 7 residential units from Section 12 to commercial square footage for use in Section 11. All of these transfers were accomplished without an increase to the overall residential and non-residential densities permitted in the 1997 New Town master plan.

PROJECT DESCRIPTION

Mr. Greg Davis of Kaufman and Canoles has applied to rezone New Town Section 12 from R-8, Rural Residential with proffers, to MU, Mixed Use with proffers to construct up to 274 for-rent townhomes.

Z-0003-2012/MP-0001-2012. New Town Section 12

The project consists of a mix of 1-bedroom and 2-bedroom units and is similar in design and style to the Pointe at New Town, which is located in Section 3&6 off of Ironbound Road. The current application is located at 3950 WindsorMeade Way in between WindsorMeade Marketplace and the WindsorMeade Retirement Community. This property was originally envisioned in the 1997 New Town master plan to include a mix of commercial and residential development, but as a result of changes related to the development of Section 11 and Section 13 (discussed previously) the most recent density table for New Town West allocated 209 residential units and no commercial density to Section 12. The project is surrounded by property zoned MU, Mixed Use and developed as part of New Town on two sides and is bordered by WindsorMeade Way and Route 199 on the other two sides. All surrounding property is designated Mixed Use on the 2009 Comprehensive Plan Land Use Map.

Community Meetings and Input

Both staff and the applicant have participated in meetings with the residents of the WindsorMeade Retirement Community to provide information about the project, answer questions and receive comments. Citizen comments are provided as an attachment to this report. Some comments have included:

- concerns about the safety of the entrance and increased vehicle traffic on WindsorMeade Way;
- the perceived need for an additional/alternative access to the property for construction vehicles and emergencies;
- security concerns given that the WindsorMeade Retirement Community entrance is gated;
- aesthetic concerns with the location of buildings 30, 31 and 32 adjacent to WindsorMeade Way;
- overall density concerns and its impact to environmental features on the property; and
- construction impacts.

As a result, the applicant has provided staff with detailed engineered plans and traffic counts for the proposed Section 12 entrance on WindsorMeade Way and has proffered safety improvements for that intersection. Transportation and the entrance plan are discussed in more detail below. The applicant has investigated alternative access points, specifically through WindsorMeade Marketplace and has been unable to secure permission from the owner. Staff confirmed with public safety officials that a second emergency access is not required for this development. The applicant has also proffered to hold a pre-construction meeting with the WindsorMeade community to address timelines, construction traffic, parking and safety concerns.

Plan Flexibility and Density

The Section 12 current request (274 units) is 65 residential units higher than what is approved in the current New Town West density chart (209 units) so the applicant is requesting a transfer of unused density from New Town East. The transfer also involves converting unused commercial density into residential units (see below for additional explanation). When New Town was originally rezoned in 1997, rather than set finite square footages and dwelling uses for each use in each section, the adopted master plan establishes certain uses for each section and then describes in tables the maximum and minimum square footages and dwelling units which would occur under two market scenarios (a maximum residential scenario and a maximum commercial square footage scenario). This continued to be the practice when the specific master plans for Section 2&4 and 3&6 were approved. Most other sections had density caps. Regardless, New Town is seen as an overall master planned community and shifts in units and square footage were anticipated during development and have been completed in the past.

The 1997 land use tabulation for the west side of New Town (Sections 11-13) is summarized below:

WEST SIDE OF NEW TOWN, SECTIONS 11-13		
	<u>Maximum Residential Scenario</u>	<u>Maximum Non- Residential Scenario</u>
Residential	650 dwelling units	560 dwelling units
	2.6 du/acre overall cap	2.3 du/acre overall cap
Non-residential	118,700 square feet	183,700 square feet

The 1997 land use tabulation for all of New Town (Sections 1-13) is summarized below:

NEW TOWN OVERALL, SECTIONS 1-13		
	Maximum Residential Scenario	Maximum Non- Residential Scenario
Residential	2,622 dwelling units	1,731 dwelling units
	4.8 du/acre overall cap	3.17 du/acre overall cap
Non-residential	1,526,500 square feet	2,239,000 square feet

With the proposal for Section 12 and the requested density transfer/conversion, staff has worked closely with the applicant and with New Town Associates to determine current and projected build-out in all sections of New Town and to revise the New Town density tables to reflect the density transfer to Section 12 so that units will not be double-counted in the future. Looking at the overall units and square footage built, with approved plans or anticipated to be built in the future by New Town, and using the maximum non-residential build-out scenario from earlier master plans, the applicant developed an overall project ratio of 1 residential unit to 839 non-residential square footage.

Summary of Densities at the Maximum Non-Residential Scenario*

Non-Residential	Total Square Feet Built, Planned or Projected	Residential	Total Units Built, Planned or Projected	Overall Project Ratio
2,148,757	2,007,356	1,597 units	1,679 units**	1:839

*Accounts for changes in density caps as a result of section-specific master plans so figures will not match the 1997 density table figures.

**Includes 209 units for Section 12

Under this scenario, there is 141,401 square feet available to convert to residential units before reaching the maximum non-residential master plan cap. Using the overall project ratio to complete the conversion, there are 169 dwelling units available. As the above table indicates, New Town is already over the residential cap by 82 units, leaving 87 units available for transfer. This is sufficient to allow Section 12 to use 65 units and still leaves an extra 22 units or 18,458 square feet available for use in other areas of New Town. As a result of the transfer, there is now only one market scenario and one set of unit and square footage caps.

The revised land use tabulations for the west side of New Town (Sections 11-13) are proposed as follows:

REVISED WEST SIDE OF NEW TOWN (SECTIONS 11-13) WITH TRANSFER	
Residential	617 dwelling units
	3.3 du/ac overall cap
Non-residential	234,100 square feet

The revised land use tabulations for all of New Town (Sections 1-13) are proposed as follows:

NEW TOWN OVERALL, SECTIONS 1-13 WITH TRANSFER	
Residential	1,744 dwelling units
	3.15 du/acre overall cap
Non-residential	2,148,757 square feet

With the exception of the non-residential square footage cap for New Town West, the revised density caps all fall within the range initially anticipated for New Town West and for the overall New Town project in 1997. One important item to note is that the proposed master plan splits Section 12 into a 12a and 12b. As

a result, should section 12b, which is approximately 10 acres, develop, it would have to go through a public hearing and a similar request to either transfer remaining density or raise the overall New Town cap.

Design Guidelines

Design guidelines were adopted with the original rezoning to ensure the vision of the winning town plan and establish the New Town Design Review Board (DRB) and a process from which to review and approve proposed developments. The Design Guidelines for Section 12 address street design, parking, architecture, housing types, pedestrian connections, building elevations, landscaping and open space. The New Town Design Review Board has reviewed the proposed master plan and revised design guidelines and has approved them for conformance with the 1997 master plan and original New Town Design Guidelines. As required by the initial 1997 New Town proffers, the applicant has included a proffer that requires the DRB to approve any site plan and building elevations for this project.

PUBLIC IMPACTS

Archaeology

A widespread Phase I archaeological study was conducted prior to the development of New Town West. As no potentially eligible archaeological sites were identified during this study, the applicant has not provided a proffer for any further work. Staff and the Virginia Department of Historic Resources concur with this approach.

Engineering and Resource Protection

Watershed: Powhatan Creek

Proffers:

- The master plan provides 50 foot non-RPA wetland buffers and an additional 10 foot construction setback from the buffer.
- Completion of a turf management plan.
- Completion of natural resource surveys for small whorled pogonia, Virginia least trillium, and bald eagle on the property in accordance with the County's Natural Heritage Resource Policy.

Staff Comments: The property is surrounded by non-RPA wetlands, which limits the developable area and access for the property. The applicant has provided staff with preliminary calculations for the BMPs and storm water management. These calculations indicate that the storm water management facilities as shown on the master plan will be sufficient to handle the size of the proposed development. Staff has reviewed the Community Impact Statement and Master Plan and concurs with the information, while noting that additional information will need to be addressed at the development plan design stage.

Public Utilities

The property is served by public water and sewer.

Proffers:

- Water conservation standards will be reviewed and approved by the JCSA.
- Only storm water can be used for outdoor irrigation.

Staff Comments: Staff has reviewed the Community Impact Statement and Master Plan and concurs with the information, while noting that additional information will need to be considered at the development plan design stage.

Transportation

DRW Consultants prepared two traffic studies for this project. The first was for the Monticello Ave. corridor west of Route 199. The second was for WindsorMeade Way, specifically at the proposed entrance to Section 12. Previous traffic impact studies, such as those for New Town Section 9 and Courthouse Commons, have accounted for the development of 300 for-rent units on Section 12.

2007 County Traffic Counts: The County does not maintain counts for WindsorMeade Way but generally speaking the two-lane road was designed to handle a maximum capacity of 15,000 vehicles per day. This load is similar to Jamestown Road between Boundary St. and Ukrop Way. On Monticello Ave. from Route 199 to News Road there were 25,355 trips.

2035 Daily Traffic Volume Projected (from 2009 Comprehensive Plan): The County does not maintain projected volumes for WindsorMeade Way but the traffic study prepared by DRW Consultants projects 3,000 vehicles per day at full build-out of WindsorMeade Retirement Community and Section 12. On Monticello Ave. between Route 199 and News Road, 47,569 average annual daily trips (AADT) are projected – this is in the category of warranting improvement (from 4 to 6 lanes). The Comprehensive Plan specifically addresses Monticello Avenue and notes that efforts should be made to maximize capacity of the segment from Route 199 to News Road through geometric improvements and signal coordination.

VDOT Comments: VDOT concurred that the 274 for-rent townhomes would be a minor traffic generator and have little impact on the operation of Monticello Ave. As a result, no improvements are recommended for Monticello Ave. VDOT has not yet provided comments on the traffic counts for WindsorMeade Way or on the proposed entrance detail.

Staff Comments: In the absence of VDOT comments, staff contracted with Kimley-Horn and Associates (KHA) to conduct a review of the WindsorMeade Way traffic counts and provide an analysis of the safety of the proposed Section 12 entrance to address adjacent property owner concerns. KHA specifically looked at trip generation rates, median break/crossover spacing, intersection improvements, turn lane warrant analysis, geometrics of the Section 12 entrance design and sight distance. The proposed Section 12 entrance is approximately 370 linear feet from the median break in front of the guardhouse and is 550 linear feet from the Windsor Hall Drive intersection. Both of these meet VDOT's Access Management Guidelines and are considered safe distances for the separation of intersections. As a point of comparison, the entrance to the County Government Center on Mounts Bay Road is less than 200 linear feet from the median break in front of the Kingsmill guardhouse and is about 320 linear feet from the guardhouse itself.

Overall, KHA concurred with the results of the trip generation and turn lane warrant analysis and indicated that the proposed entrance location is safe, but offered several suggestions for further improving the intersection design:

- Including a 100 foot full-width right turn lane and 50 foot taper on north-bound WindsorMeade Way at the Section 12 entrance;
- Posting intersection warning signs on north-bound and south-bound WindsorMeade Way and a multi-use path warning sign on the Section 12 entrance;
- Leaving a minimum of a four-foot-wide grass strip between the turn lane and the multi-use path; and
- Modifying the nose of the median break to accommodate the turning radius of vehicles turning left out of the Section 12 entrance.

Road Improvements and Proffers: No road improvements are recommended for Monticello Ave. In accordance with past practice, the applicant has proffered a cash contribution towards VDOT's West Monticello Plan improvements that are currently in the design and right-of-way acquisition phase. Construction for this project is estimated to begin in spring 2014. The amount of the contribution is calculated by determining the percentage of vehicles Section 12 brings to the News Road intersection and then calculating that percentage of the estimated cost of the improvements. The applicant has also proffered a 100 foot right turn lane with a 50 foot taper on northbound WindsorMeade Way.

Fiscal

The applicant submitted two fiscal impact analyses for this project. The first was conducted by Ted Figura Consulting and the second was completed using the County's fiscal impact worksheet and assumptions which was reviewed by the Planning Commission and Board of Supervisors in spring 2012. Each analysis followed slightly different assumptions and methodologies and so arrived at two different results. The

analysis by Ted Figura Consulting included additional revenue streams that are not used in the County's fiscal impact worksheet and this resulted in a determination that the project would be highly fiscally positive with more than \$6 million in cumulative cash flow for the County and JCSA over the initial 10 years of the project. On the other hand, the County's fiscal impact worksheet indicates that the project will be fiscally negative with a final fiscal impact of negative \$513,000 at build out.

Staff Comments: The Director of Financial and Management Services reviewed both of the above fiscal impact analyses. The County typically expects purely residential developments to be fiscally negative (with only one or two examples to the contrary). The initial concept of the larger New Town vision was that the commercial and retail investments would provide fiscal benefits for the County to offset the expected negative fiscal impacts of the residential developments that would follow. As a result, the fiscal impacts need to be considered as part of the whole of New Town where the initial assumptions included a broad range of uses and the overall fiscal impact, based on mixed uses and on a variety of housing types, did not negatively impact on the tax burdens of other County residents and businesses. Furthermore, this section was anticipated as a residential development to complete the mix in New Town West and serve to help support commercial businesses on that side of Route 199. As a result, a slightly negative fiscal impact for this specific project is acceptable.

Housing

According to the fiscal impact analysis, the applicant anticipates an annual renter income of between \$69,500 and \$101,500. One-bedroom and two-bedroom rents are anticipated to be about \$1,100 and \$1,400 per month respectively.

Proffers:

- 10 units rented at an affordable rate for a minimum of 20 years. Currently, affordable monthly rents for a one-bedroom and a two-bedroom unit per the definition in the proffer are \$798 and \$958 respectively.

Staff Comments: The Office of Housing and Community Development worked with the applicant to develop a method for proffering affordable rental units. While they concur with the structure of the proffer, they note that there is a greater need for rental housing that targets a lower income with monthly rent falling between \$665 and \$798.

Public Facilities

This project is located within the D.J. Montague Elementary School, Hornsby Middle School and Lafayette High School districts. Per the adequate public school facilities test adopted by the Board of Supervisors, all special use permit or rezoning applications should meet the test for adequate public school facilities. The test adopted by the Board uses the design capacity of a school, while the Williamsburg - James City County schools recognize the effective capacity as the means of determining student capacities. As shown in the table below, all three schools are projected to have sufficient capacity.

School	Design Capacity	Effective Capacity	Enrollment (2011)	Projected Students Generated by Proposal	Enrollment + Projected Students
D.J. Montague	618	590	431	19	450
Hornsby	*	952	919	11	930
Lafayette	1,230	1,314	1,077	17	1,094

** Note - The WJCC School System no longer lists or uses design capacity in its documents.*

Parks and Recreation

Proffers:

- Open space park along WindsorMeade Way and community open spaces totaling 2 acres;

- Minimum 880 linear feet of paved multi-purpose trail (or equivalent cash contribution);
- Cash contribution in-lieu of providing a field;
- One outdoor activity facility area (picnic shelter, grilling area or horseshoe pit); and
- One swimming pool.

Staff Comments: Staff has reviewed the project for compliance with the Parks and Recreation Master Plan and Proffer Guidelines. The project does not completely comply with the Guidelines and staff notes the following deficiencies:

1. The Guidelines recommend that a cash contribution for trails be provided if the project site cannot accommodate at least a 0.3 mile (or 1,584 foot) long paved trail located outside of environmentally sensitive areas. Staff does not believe that a paved trail of that length can be accommodated on this property.
2. The Guidelines state that any pool should be at least 25 meters. The proposed pool is smaller than 25 meters, which could be acceptable if the applicant provides evidence showing that the smaller pool provides the residents with an equivalent benefit. The applicant has noted that the pool is sized similar to the pool in The Pointe, but has not been able to provide figures justifying that the pool size is adequate to serve the population.
3. The Guidelines state that developments with more than 51 units should provide 1 playground. They also state that age-restricted communities can provide equivalent facilities to serve the targeted age group. The applicant has not proffered that the project will be age-restricted; however they are marketing the units to a non-family demographic. Staff concurs that the proposed activity areas will provide a benefit to the community, but notes that it does not meet the Guidelines. Staff recommends that a cash contribution be provided to use for County playgrounds elsewhere.

COMPREHENSIVE PLAN

The project is designated Mixed Use on the 2009 Comprehensive Plan Land Use Map and is in the New Town Community Character Area. Mixed Use areas should be in the Primary Service Area and should be centers for higher density development with a mix of uses served by adequate infrastructure and public services. The consideration of development proposals should focus on the development potential of a given area compared to the area's infrastructure and the relation of the proposal to the existing and proposed mix of uses and their impacts. Specifically, the New Town area calls for principal suggested uses as a mix of commercial, office, and limited industrial with residential as a secondary use and should be governed by design guidelines.

Again, this project should be considered in the context of the overall New Town development. Per the original master plan, this section was anticipated for a mix of residential and commercial development but through various iterations of the plan became solely residential. That said, the residential development is served by adequate water, sewer and road infrastructure; is in close proximity to commercial development and the wider New Town area; and provides strong pedestrian connectivity to these areas in an effort to reduce vehicle trips. The project also provides designated affordable rental units in further support of Comprehensive Plan Housing section goals, strategies and actions. Finally, the design guidelines and oversight by the New Town Design Review Board will ensure the architectural design, building scale, community open spaces and streetscapes are in line with expectations for the rest of New Town and are compatible with development on adjacent properties. Staff finds the proposed development to be consistent with the 2009 Comprehensive Plan.

RECOMMENDATION

Staff finds the proposal to be in accordance with the overall New Town master plan and that sufficient density is available to transfer to this property while still keeping under New Town's overall density caps. Staff also finds the proposal to be consistent with the 2009 Comprehensive Plan and zoning ordinances. Staff recommends the James City County Planning Commission recommend approval of this application and acceptance of the voluntary proffers by the Board of Supervisors.

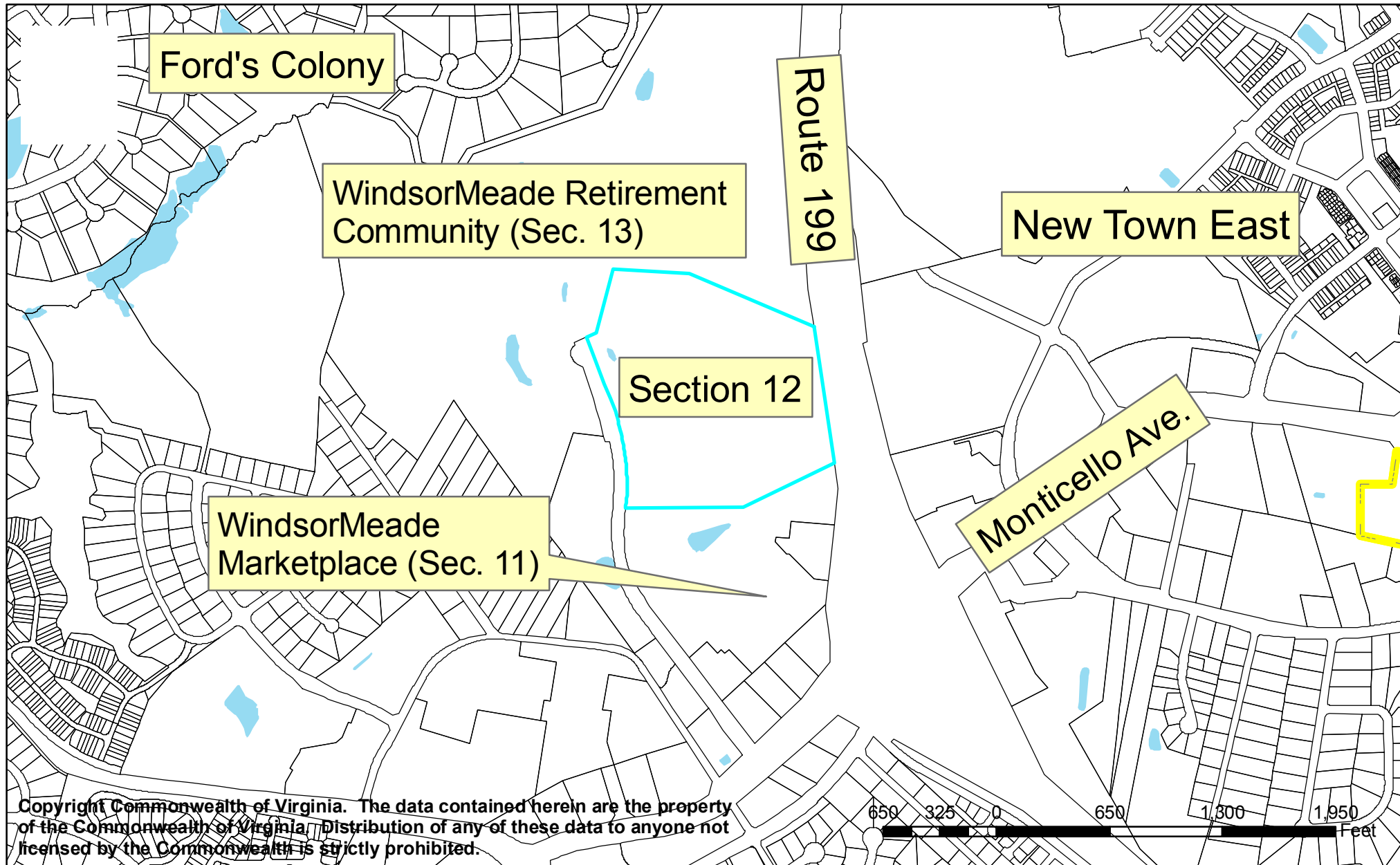

Leanne Reidenbach

ATTACHMENTS:

1. Location map
2. Supplemental materials binder (includes design guidelines, community impact statement, traffic studies, fiscal impact analysis, and proffers) – under separate cover
3. Master plan – under separate cover
4. New Town density letter
5. Public comment package – under separate cover

Z-0003-2012/MP-0001-2012

New Town Sec. 12



NEW TOWN

There's A New Revolution In Williamsburg, Virginia.

July 3, 2012

Ms. Leanne Reidenbach
James City County Planning Department
101-A Mounts Bay Road
Williamsburg, VA 23185

RE: New Town Density Calculations

Dear Ms. Reidenbach:

In follow up to our June 7, 2012 meeting held at James City County Planning Department and our follow-up telephone conference on June 18, 2012, attached are copies of four charts: Assigned Density, Density Summary by Section, Density Summary for New Town and Overall Project Ratio and Excess Density. We appreciate the substantial effort that you and others in the Planning Department have put forth in this process of establishing the New Town densities. This letter shall serve as New Town Associates' confirmation that it concurs with the numbers set forth on the enclosed charts and the use of the charts for the purpose of tracking density allocation and usage in New Town. So that this information is provided with the context in which it was developed, we offer our concurrence with the understanding that:

- The assigned density and dwelling units for every section and parcel were discussed and the most conservative density was assigned for each parcel. The "most conservative density" is the greater of (i) the density certificates signed by the original buyer or contained in the buyer's deed, (ii) the density submitted on the site plan on file with JCC Planning, or (iii) the actual square footage of building(s) on the section or parcel.
- To ensure future adequate capacity for anticipated future uses, included in the "Assigned Density" spreadsheet as "Square Footage Built, Planned or Projected" are reserved densities for future uses:
 - Section 2/4 – 98,000 sq. ft. reserved for future development use
 - Section 3/6 – 150,000 sq. ft. reserved for future development use
 - Section 7/8 – 400 Dwelling Units (some exist or are now under construction)
 - Section 11 – 25,000 sq. ft
 - Section 12 – 65 Dwelling Units (for a total of 274)

New Town Associates acknowledges that in order to use some of these reserved densities that the original section master plan may need to be amended. During the

period of development of New Town specific uses have not been required to be designated in connection with master plan amendments and New Town Associates anticipates that this course of conduct will remain applicable for future master plan amendments.

- You requested, with our concurrence, that Section 10 be removed from all spreadsheets as this section is not considered by the Planning Department to be part of New Town. Section 10 has its own Master Plan which governs the density allowed for that section. Any future adjustments to the density in Section 10 will have no adverse effect on New Town density numbers. Similarly, Section 5 was removed from New Town by a June 8, 2004 rezoning action and any future adjustments to the density in Section 5 will have no adverse effect on New Town density numbers.
- You requested that Langley Federal Credit Union be included in Section 9 for density purposes and clarified that the 16,000 sq. feet in density assigned to Langley will be in addition to the 350,000 sq. ft. assigned to all of Section 9 by the rezoning of this section on 12/13/11. Therefore, the total density assigned to Section 9 is 366,000 sq. ft.
- The Total Square Footage Built, Planned or Projected number includes all future uses as listed in the attached schedules. Using the Overall Project Ratio of 1:839 (1 du is comparable to 839 sq. ft. of nonresidential and vice versa), 22 dwelling units or 18,458 sq. ft. of non-residential use remains to be used in the future by New Town in addition to the anticipated future uses as listed in the attached schedules. This does not take into account the potential availability of density that might be reallocated as the project progresses and certain areas do not use their full density (e.g., in the event Settlers Market uses only 103 of the 120 dwelling units allowed by their revised master plan). The usage of less than the reserved density capacities will allow for unused density to be transferred to other sections of New Town.
- I have noted to you that the numbers and calculations do not account for the following:
 - 26 Ford's Colony unused dwelling units
 - Past discrepancies in Section 7/8 dwelling unit transfers that had the effect of reflecting a density reduction
 - Credits to New Town for dwelling units and density assigned to Section 9 prior to rezoning Section 9 on 12/13/11 and related master plan modifications to densities for that area

By concurring with the numbers presented on the spreadsheets, New Town Associates is not relinquishing any density that may be derived from the foregoing items indicated as not accounted for and expressly reserves the same if, in the future, subsequent information is

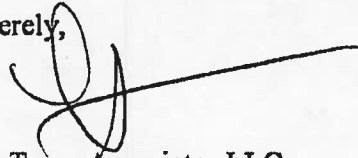
Ms. Leanne Reidenbach

July 3, 2012

Page 3

provided that will support the use of density that may be derived from those areas of concern. The above three items were not discussed in detail during this process so no concurrence was reached between the County and New Town Associates. These items may be discussed and evaluated at a future date should the need arise.

Sincerely,

A handwritten signature in black ink, appearing to be 'Lawrence Salzman', with a long horizontal stroke extending to the right.

New Town Associates LLC
Lawrence Salzman, President

Enclosures

cc: Paul W. Gerhardt, Esq.

11761786_3.DOC

Density Summary by Section - with County and New Town revisions (6/18/12)

Section	Maximum Non-Residential Square Feet at Maximum Residential Density	Maximum Non-Residential Square Feet at Maximum Residential Density	Maximum Dwelling Units at Maximum Residential Density	Maximum Dwelling Units at Maximum Residential Density	Dwelling Units Built, Planned or Projected	Square Footage Built, Planned or Projected
1	218,000	218,000	0	0	0	184,790
2&4	655,000	357,500	803	375	342	687,802
3&6	550,000	220,000	470	150	265	436,307
5*	63,357	63,357	0	0	0	63,357
7&8	62,300	62,300	400	400	400	10,000
9 (Settler's Market and Walmart Site)	350,000	350,000	120	120	120	350,000
9 (Langley Fed. Credit Union)	16,000	16,000				16,000
10 (N/A - Removed per request from L. Reidenbach, JCC Planning (6/7/12); Section 10 has separate Master Plan and not part of New Town)						
East Side						
West Side						
11	200,000	200,000	0	0	0	225,000
12	0	0	209	209	274	
VUMH	34,100	34,100	343	343	343	34,100
Totals	2,148,757	1,521,257	2,345	1,597	1,744	2,007,356

*Section 5 removed from NewTown by 4/23/2004 rezoning; any square footage used in Section 5 in excess of 63,357 square feet shall not be deemed to have been transferred from allowed New Town densities unless affirmatively approved by New Town Associates, its successors or assigns

Density Summary for New Town

	Maximum Non-Residential Square Feet at Maximum Residential Density	Maximum Non-Residential Square Feet at Maximum Residential Density	Maximum Dwelling Units at Maximum Residential Density	Maximum Dwelling Units at Maximum Non-Residential Density
1997 Master Plan	2,239,000	1,526,500	2622	1731
2011 (Cumulative Master Plan changes) ¹	2,148,757	1,521,257	2345	1597

Total Dwelling Units Built, Planned or Projected ²	Total Square Footage Built, Planned or Projected ¹
1744	2,007,356

Notes:

- 1 - Section 10 has been removed from these calculations and Langley Federal Credit Union is included in these calculations (Section 9) per request from L. Reidenbach, JCC Planning (6/7/12)
- 2 - Total Dwelling Units Built, Planned or Projected includes 274 dwelling units in Section 12 (Oxford)

Overall Project Ratio and Excess Density

Maximum Non-Residential Square Feet at Maximum Non-Residential Density	Total Square Footage Built, Planned or Projected	Overall Project Ratio	Maximum Dwelling Units at Maximum Non-Residential Density	Total Dwelling Units Built, Planned or Projected
2,148,757	2,007,356	1:839	1597	1744

2,148,757 sq. ft. - 2,007,356 sq. ft.= 141,401 Square Footage Available for Conversion to Dwelling Units

141,401 sq. ft. / 839 sq. ft.= 169 Dwelling Units Available via Conversion using Overall Project Ratio

1597 units - 1744 units = -147 Maximum Dwelling Units at Maximum Non-Res. Density less Dwelling Units Built, Planned or Projected

169 units - 147 units= 22 Excess Dwelling Units

22 units x 839 sq. ft.= 18,458 or
Excess Square Footage

TO JAMES CITY COUNTY PLANNING COMMISSION

We, the undersigned, residents of WindsorMeade Inc. of Williamsburg, Parcel 13 of New Town, a Continuing Care Resident Community, wish to express our objections in reference to the rezoning application of Parcel 12A of New Town by Oxford Properties.

We ask for your consideration and attention to several aspects of this rezoning that offer the potential of a serious and hazardous effect on the residents and employees of WindsorMeade.

1. The proposed occupancy density and lengthy construction period will seriously impact the ability of residents, employees and emergency vehicles to safely traverse WindsorMeade Way (State route 1299). Public testimony by residents will amplify these objections.
2. The residents of WindsorMeade question the impact and timing of the development of Parcel 12A, in relationship to the planned construction work on Monticello Avenue and Old News Road.
3. The construction site and five proposed buildings (#'s 28-32) intrude beyond the security gate of WindsorMeade (although they are on Oxford property). The proposed plan does not offer any remedy for that breach of our security.
4. Those same five structures do not offer adequate screening from WindsorMeade and we request they be eliminated from the plan.

This petition singles out specific concerns. Other environmental and congestion issues do trouble the residents and will be addressed by individuals in public testimony. We ask for your review of these concerns and ask that the rezoning request be denied until they are resolved.

<u>Julie Lee</u>	<u>3900 WINDSOR HALL DR E 353</u>
Name (first and last)	street address
<u>BAXTER CARR</u>	<u>E 158</u>
Name (first and last)	street address
<u>RUTH CARR</u>	<u>E 158</u>
Name (first and last)	street address
<u>Roxie Lee</u>	<u>E 354</u>
Name (first and last)	street address
<u>Martha Hardman</u>	<u>E 359</u>
Name (first and last)	street address
<u>Ronald Hardman</u>	<u>E 359</u>

<i>Osamu P. Miller</i>	<i>E-358</i>
Name (first and last)	street address
<i>Jean L. Graham</i>	<i>E-253</i>
Name (first and last)	street address
<i>Edson Looney</i>	<i>E-157</i>
Name (first and last)	street address
<i>Geaddy L. Looney</i>	<i>E-157</i>
Name (first and last)	street address
<i>Karen Anderson</i>	<i>E-156</i>
Name (first and last)	street address
<i>Maria Anderson</i>	<i>E-156</i>
Name (first and last)	street address
<i>Patricia Gray</i>	<i>E-254</i>
Name (first and last)	street address
<i>Angela Jimenez Benitez</i>	<i>E-255</i>
Name (first and last)	street address
<i>Rosemary E. Polcarista</i>	<i>E 257</i>
Name (first and last)	street address
<i>Kelly Biggs</i>	<i>3900 Windsor Hill Rd. APT E-259</i>
Name (first and last)	street address
<i>Mary Claire Carter</i>	<i>E-159</i>
Name (first and last)	street address
<i>Edam Bean</i>	<i>E 256</i>
Name (first and last)	street address
<i>Ernestine Kerkin</i>	<i>E 356</i>
Name (first and last)	street address

John Kerlin
Name (first and last)

Apt 356
street address

Mary F. Hoyle
Name (first and last)

154 (E)
street address

Name (first and last)

street address

Name (first and last)

street address

Name (first and last)

street address

Name (first and last)

street address

Name (first and last)

street address

Name (first and last)

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street address

Name (first and last)

street address

Name (first and last)

street address

[Handwritten signature] 3
with Berkshires 11

TO JAMES CITY COUNTY PLANNING COMMISSION

We, the undersigned, residents of WindsorMeade Inc. of Williamsburg, Parcel 13 of New Town, a Continuing Care Resident Community, wish to express our objections in reference to the rezoning application of Parcel 12A of New Town by Oxford Properties.

We ask for your consideration and attention to several aspects of this rezoning that offer the potential of a serious and hazardous effect on the residents and employees of WindsorMeade.

1. The proposed occupancy density and lengthy construction period will seriously impact the ability of residents, employees and emergency vehicles to safely traverse WindsorMeade Way (State route 1299). Public testimony by residents will amplify these objections.
2. The residents of WindsorMeade question the impact and timing of the development of Parcel 12A, in relationship to the planned construction work on Monticello Avenue and Old News Road.
3. The construction site and five proposed buildings (#'s 28-32) intrude beyond the security gate of WindsorMeade (although they are on Oxford property). The proposed plan does not offer any remedy for that breach of our security.
4. Those same five structures do not offer adequate screening from WindsorMeade and we request they be eliminated from the plan.

This petition singles out specific concerns. Other environmental and congestion issues do trouble the residents and will be addressed by individuals in public testimony. We ask for your review of these concerns and ask that the rezoning request be denied until they are resolved.

Ann Rytton 3900 Windsor Hall Way
Name (first and last) street address

Bar Ragborg 3900 Windsor Hall Dr. D322
Name (first and last) street address

Kathrina B. Duff 3900 Windsor Hall Dr. D225
Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

TO JAMES CITY COUNTY PLANNING COMMISSION

We, the undersigned, residents of WindsorMeade Inc. of Williamsburg, Parcel 13 of New Town, a Continuing Care Resident Community, wish to express our objections in reference to the rezoning application of Parcel 12A of New Town by Oxford Properties.

We ask for your consideration and attention to several aspects of this rezoning that offer the potential of a serious and hazardous effect on the residents and employees of WindsorMeade.

1. The proposed occupancy density and lengthy construction period will seriously impact the ability of residents, employees and emergency vehicles to safely traverse WindsorMeade Way (State route 1299). Public testimony by residents will amplify these objections.
2. The residents of WindsorMeade question the impact and timing of the development of Parcel 12A, in relationship to the planned construction work on Monticello Avenue and Old News Road.
3. The construction site and five proposed buildings (#'s 28-32) intrude beyond the security gate of WindsorMeade (although they are on Oxford property). The proposed plan does not offer any remedy for that breach of our security.
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Ruth Ann Perleth 3900 Windsor Hall Drive Apt C339
Name (first and last) street address

Richard Pemberty 3900 Windsor Hall Dr. Apt. C339
Name (first and last) street address

W. L. Battle, Ph.D 3900 Windsor Hall Dr C337
Name (first and last) street address

Janey Jester 3900 Windsor Hall Dr C332
Name (first and last) street address

John E. Gysler 3900 Windsor Hall Dr C238
Name (first and last) street address

Robert J. Shuck 3900 Windsor Hall Drive Apt 236
Name (first and last) street address

Carole Shoemaker 3900 Windsor Hall Drive Apt 236
Name (first and last) street address

Charlotte E. Copley 3900 Windsor Hall Dr Apt C238
Name (first and last) street address

Nancy Cook 3900 W. Windsor Hall Dr. Apt 234C
Name (first and last) street address

Sevela Cook 3900 W. Windsor Hall Dr. " "
Name (first and last) street address

Jane B. Griffith 3900 Windsor Hall Dr. -
Name (first and last) street address

Shirley M. Mitchell 3900 Windsor Meade C. 232
Name (first and last) street address

Walter Purdy 3900 Windsor Hall Dr. #135
Name (first and last) street address

Mary J. Purdy 3900 Windsor Hall Dr. #135
Name (first and last) street address

Jo. Zada 3900 " " " C241
Name (first and last) street address

Mary Zaida 3900 Windsor Meade Dr. C241
Name (first and last) street address

Beth J. Hatinger 3900 Windsor Hall Dr. C138
Name (first and last) street address

Paul A. Hatinger Windsor Meade C138
Name (first and last) street address

Arthur E. Brownell 3900 Windsor Meade C-141
Name (first and last) street address

Berkshire & Dees

TO JAMES CITY COUNTY PLANNING COMMISSION

We, the undersigned, residents of WindsorMeade Inc. of Williamsburg, Parcel 13 of New Town, a Continuing Care Resident Community, wish to express our objections in reference to the rezoning application of Parcel 12A of New Town by Oxford Properties.

We ask for your consideration and attention to several aspects of this rezoning that offer the potential of a serious and hazardous effect on the residents and employees of WindsorMeade.

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This petition singles out specific concerns. Other environmental and congestion issues do trouble the residents and will be addressed by individuals in public testimony. We ask for your review of these concerns and ask that the rezoning request be denied until they are resolved.

Harvey Henry B-330 3900 Windsor Hall Dr.
Name (first and last) street address

Kenneth 3-350 3900 Windsor Hall Dr.
Name (first and last) street address

Nancy Gibson Windsor Hall Dr.
Name (first and last) street address

Albert Oringini 3900 WINDSOR HALL DR APT B 352
Name (first and last) street address

Eleanor Bongione ✓ ✓ ✓
Name (first and last) street address

Ralph Luchessa, P.O. Box B 3900 Windsor Hall Dr
Name (first and last) street address

Linda F. Martin Apt B-351 3907 Windsor Hall
Name (first and last) street address

Anna Parker B-230 3900 Windsor Hall
Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

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Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

24

TO JAMES CITY COUNTY PLANNING COMMISSION

We, the undersigned, residents of WindsorMeade Inc. of Williamsburg, Parcel 13 of New Town, a Continuing Care Resident Community, wish to express our objections in reference to the rezoning application of Parcel 12A of New Town by Oxford Properties.

We ask for your consideration and attention to several aspects of this rezoning that offer the potential of a serious and hazardous effect on the residents and employees of WindsorMeade.

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Lane T. Allender
Name (first and last)

APT A216
3900 Windsor Hall Drive Williamsburg
street address

Kathryn Grinstead
Name (first and last)

3900 Windsor Hall Dr. VA
Apt. A214
Williamsburg, VA 23188
street address

Paul Rider
Name (first and last)

3900 Windsor Hall Dr. APT. A213
Williamsburg VA 23188
street address

Jane A. Rider
Name (first and last)

Apt. A213 - 3900 Windsor Hall Dr
Williamsburg, Va. 23188
street address

William Phillips
Name (first and last)

3900 WINDSOR HALL DRIVE UNIT A2
WILLIAMSBURG VA 23188
street address

Lorraine T. Phillips

3900 Windsor Hall Dr. Apt. A215
Williamsburg, VA 23188

Isabel M. Fischer 3908 Windsor
Name (first and last) street address

Stellman 3900 Windsor Hall Dr. A-115
Name (first and last) street address

Mildred Stillman 3900 Windsor Hall A-115
Name (first and last) street address

Angela Longgore 390 Windsor Hall Drive Apt. A-113
Name (first and last) street address

Laron J. Dalby
Name (first and last) street address

Jane E. Elliott A-118 - 3900 Windsor Hall Dr
Name (first and last) street address

Jeanne P. Vanderwee A-116 3900 Windsor Hall Dr.
Name (first and last) street address

A. Dallas Farnell A-114 3900 Windsor Hall Dr.
Name (first and last) street address

Umit Ergin, M.D. A-217 Windsor - a Drive
Name (first and last) street address

Adli A. Allis 3900 Windsor Hall Dr. Apt. A-218
Name (first and last) street address

Cherolee J. Allis 3900 Windsor Hall Dr. A-218
Name (first and last) street address

Prunum 3900 Windsor Hall Dr. A-214
Name (first and last) street address

Judith Easton (A-317) 39 Windsor Hall Dr.
Name (first and last) street address

Constance Koenen 3900 Windsor Hall Drive, A-316
Name (first and last) street address Williamsburg, VA 23188

Evelyn P. Gerstman 3900 Windsor Hall Dr. A-311
Name (first and last) street address

James P. Seides 3900 WINDSOR MEADE HALL DRV A 210
Name (first and last) street address

H. Brian Pense Windsor Meade A 210
Name (first and last) street address

John O. Dodgen Windsor Hall A112
Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Name (first and last) street address

Michael Funge	4219 Exbury Lane W'bury, VA 23187
Name (first and last)	street address
Renee Funge	" "
Name (first and last)	street address
Finrose Hausman	7223 Exbury Lane W'g 23182
Name (first and last)	street address
Finrose Hausman	" "
Name (first and last)	street address
Barbara Neary	4204 Corbridge Course
Name (first and last)	street address
Barbara Neary	4204 Corbridge Course
Name (first and last)	street address
Robert Lay Whamsee	4208 Corbridge Course
Name (first and last)	street address
Barbara Whamsee	4208 Corbridge Course
Name (first and last)	street address
Howard T. Perley	4212 CORBRIDGE COURSE
Name (first and last)	street address
Howard T. Perley	4212 Corbridge Crse
Name (first and last)	street address
Wesley Chesner	4735 Davedale
Name (first and last)	street address
Paul B. Vandyke	4200 Corbridge Course
Name (first and last)	street address
Name (first and last)	street address

Looking forward to
meeting you.

RECEIVED

MAY 09 2012

Board of Supervisors

Talk about Great Expectations!

WEDNESDAY, MAY 16, 4PM BALLROOM

**INFORMATION FROM JAMES CITY COUNTY
RE THE PROPOSED PLAN FOR 272 APARTMENTS
ON WINDSORMEADE WAY**

Supervisor James Icenhour, County Manager Mr. Robert Middaugh, Director of Planning Mr. Alan Murphy and other planning staff will meet with us to provide information on the layout of the proposed development with all the facts, all the figures.

Supervisor Icenhour has also been in touch with Firestone re the future of the tire store opposite the gas station between Old News Road and WindsorMeade Way and will advise re this issue.

Please plan to attend this meeting – if you have questions, the staff will stay as long as necessary to provide information.

The process is: the proposed development is being reviewed by the County Planning Staff. The final step will be a vote by the Board of Supervisors. During the process there will be public hearings. The May 16 meeting is for all residents to learn the facts and enable a discussion with County staff.

Mark your calendars for May 16, 4pm. This information arrived too late to be included in the May Whistler.

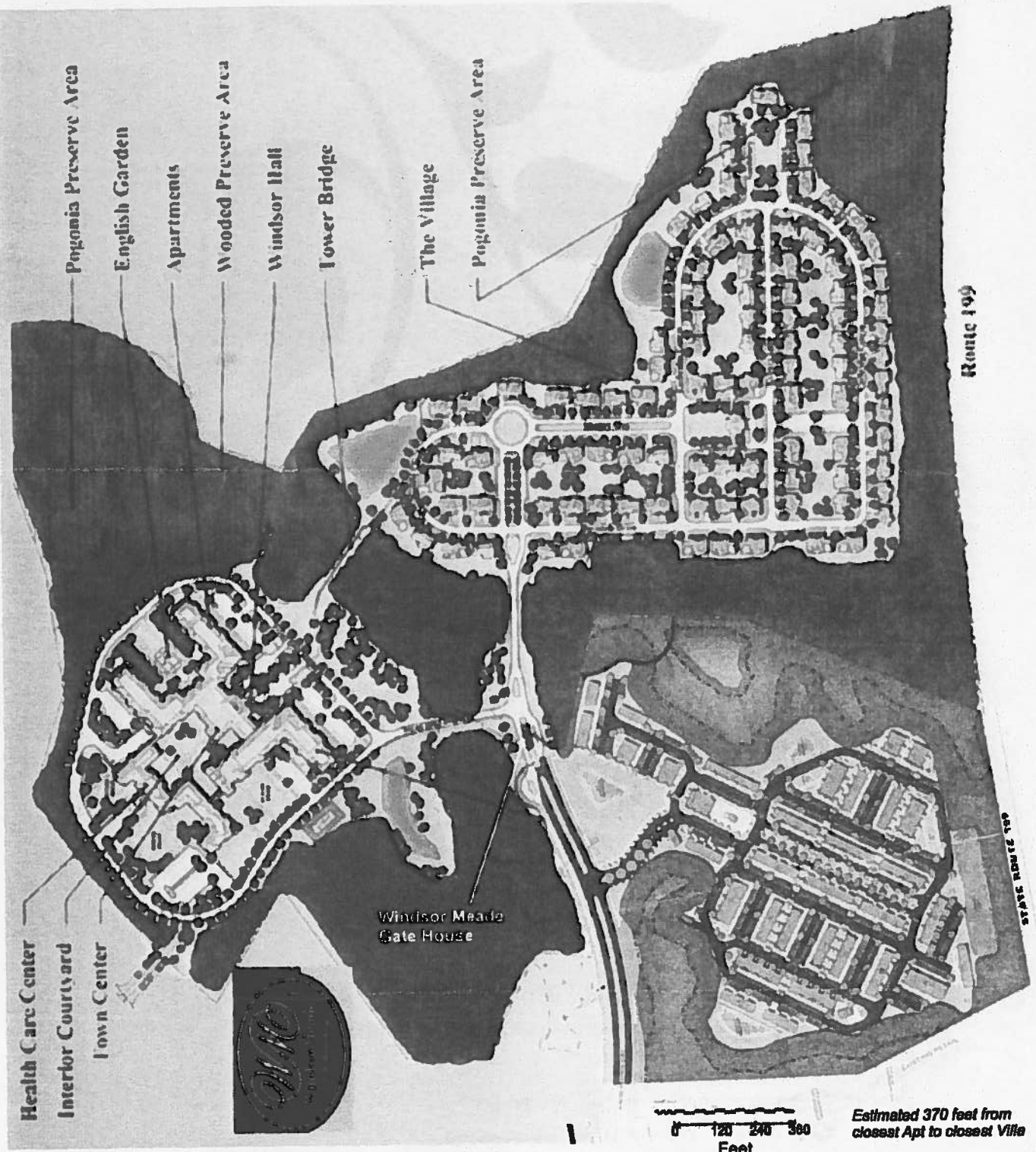
WOW!

Realistically, this is probably too much to hope for at this stage in the life of New Town West. But I lead off my document with that announcement, because this is what the 200+ residents of Windsor Meade are expecting. In an effort to help you folks out and to make the session as productive as possible, I have put together this short paper for you on the two major concerns that people here at Windsor Meade have.

#1 - Visual encroachment upon Windsor Meade, particularly at the Gate House

#2 - Traffic congestion, particularly at the AM Peak Hour workers are coming into Windsor Meade, and residents will be going out of New Town West, of necessity crossing the lane of incoming traffic.

Randolph W. Cabell - A Resident of Windsor Meade



Composite Map of Windsor Meade & New Town West

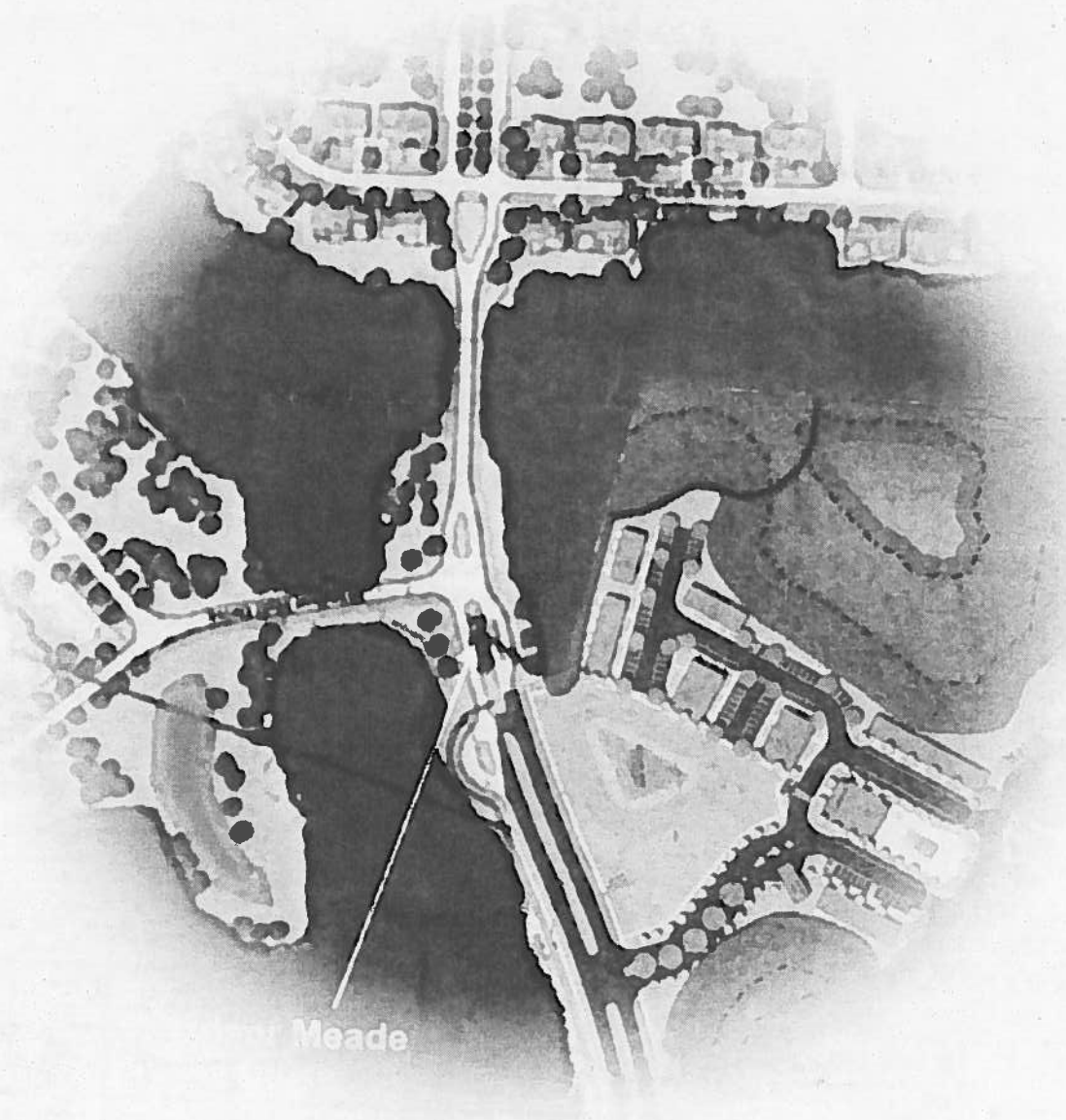
For Information Only

Prepared April 30, 2012 by R.W. Cabell

A Resident of Windsor Meade

Sources: Map of Windsor Meade - Windsor Meade of Williamsburg

New Town West - Document prepared 3/12/2012 by AES Consulting Engineers for Oxford Properties.



**A Blow Up of the Maps of
Windsor Meade and New Town West
In the Vicinity of the Windsor Meade Gate House**

**Prepared by R. W. Cabell, April 30, 2012
from The Larger Map**

Traffic Analysis and Projections

Some Background Material Relative to the Impact of The New Town West Development Upon Windsor Meade

A Paper Prepared by Randolph W. Cabell - A Resident of Windsor Meade
Monday, May 7, 2012

Background

There is considerable interest among the residents of Windsor Meade about the coming of the New Town West Development on Windsor Meade Way. There seem to be two major concerns. (1) The visual impact of the apartment buildings as seen from Windsor Meade and (2) the effect of increased traffic.

Re (1), I have prepared a couple of maps of Windsor Meade and New Town, and will not discuss them here. Re (2), this short paper discusses is divided into two parts.... First a study of today's (a typical weekday) traffic patterns in and out of Windsor Meade between 6:00 am and 9:15 am. Second an analysis of future traffic which might be expected.

Part I - Existing traffic - I understand that VDOT did a traffic count at some point in 2011. I have not been able to locate it, but understand it was further up Windsor Meade Way, probably counting all traffic coming from and exiting to Monticello Avenue. In any case, on the morning of May 2, my wife and I positioned ourselves at the Windsor Meade Gate, and counted vehicles coming in and going out. The approach was very simple.... just divide the observation time into 15-minute increments, and tally the vehicles going in each direction.

Here you see the results

The counts under "15-minute segments" are the actual number of vehicles. "Cumulative" tabulates the totals up to that time. The last column calculates the moving average of one hour of observations. The times and number 52.0 highlighted is found to be the "Peak AM" Hour. This will be used in the second part of the analysis.

Its pretty much as expected. Not much activity before 6:45, the probably some shift change. Things began to pick up.

This is a good start, but I suggest that counts be made for an entire day, certainly from 5:30 am to 10:00 pm. This will help establish the average daily trips for Windsor Meade today.

Traffic Counts at Windsor Meade by Randolph W. Cabell - A Resident May 21, 2012							
Number of Vehicles Coming In and Going Out							
Time	15-minute segments			Cumulative			Avg Avg
	In	Out	Total	In	Out	Total	1-Hour
Before 6 am	2	0	2	2	0	2	2
6:00	0	1	1	2	1	3	3
6:15	1	0	1	3	1	4	4.0
6:30	2	0	2	5	1	6	6.0
6:45	7	2	9	12	3	15	13.0
7:00	2	3	5	14	6	20	17.0
7:15	5	1	6	19	7	26	22.0
7:30	9	2	11	28	9	37	31.0
7:45	14	1	15	42	10	52	37.0
8:00	8	6	12	48	16	64	44.0
8:15	9	0	9	57	16	73	47.0
8:30	8	8	16	65	24	89	52.0
8:45	7	4	11	72	28	100	48.0
9:00	4	5	9	76	33	109	45.0

Identifies the "Peak Hour" Count, per definition of Wisconsin DOT

Part II - Traffic Projections - For this part, I went to the Internet and found a wealth of information from the Wisconsin Department of Transportation. VDOT probably has the same thing, but Wisconsin kept popping up so I used them. Two measurements of traffic are defined: ADT and AM Peak. "ADT" means average daily trips across a 24 hour period. Since I don't see people out there much counting traffic - my wife and I excepted - I am guessing that

automatic (roll-over) counters are mostly used. "AM Peak" is the one hour with the highest traffic in the morning. The actual time varies and is determined by the actual situation. You saw this for the Windsor Meade study on the prior page.

An Analysis of the Impact of New Town West Upon Traffic

Analysis by R.W. Cabell - A Resident of Windsor Meade

07-May-2012

I think that most of the data are pretty self explanatory. The box at the top shows the factors from the Wisconsin site. The second smaller box shows what Windsor Meade looks like today, using those Wisconsin factors.

The rest of the page are "Futures." Projections based upon Windsor Meade reaching full capacity, and New Town West filling up.

In general, we can expect to see traffic volumes three to four times heavier than we have today. These numbers are shown in Red.

The final box is my estimate of the AM Peak-Hour traffic based on the results of our Windsor Meade Traffic Count. This requires some more explanation. Unlike the boxes above, it does not look at Average Daily Trips (ADTs), but only looks at the peak hour. The peak-hour, by definition, is the time during which there are the most vehicles coming in and going out. Hence, this is a kind of "worst-case" traffic situation. It will be further "worst cased" in our particular situation since vehicles attempting to leave New Town West, and turn left through a newly created lane on to WindsorMeade Way. i.e. They must cross the lane of vehicles coming into Windsor Meade.

Average Daily Trips (ADT) from The University of Wisconsin Study			
From the Internet			
Land Use Base Unit	AM Peak	ADT	ADT Range
Retirement Community per dwelling unit	0.29	5.88	
Apartment Building per dwelling unit	0.41	6.63	2-11.87
Residential Single Family Home per dwelling unit	0.75	9.55	4.31-21.85
Condo/TownHome per dwelling unit	0.44	10.71	1.83-11.79
Mobile Home Park per dwelling unit	0.43	4.81	2.29-10.42
Recreational Home per dwelling unit	0.3	3.16	3-3.24

	Dwelling Units	AM Peak Hour Factor	Trips	Average Daily Trips Factor	ADTs
Windsor Meade Now	150	0.29	44	5.88	879

Futures....

Calculate the Impact on WindsorMeade Drive for Apartments

	Dwelling Units	AM Peak Hour Factor	Trips	Average Daily Trips Factor	ADTs
Windsor Meade Full	181	0.29	52	5.88	1061
New Town West	274	0.41	112	6.63	1817
Total	455		166		2877
Increase	3.0		3.8		3.3

Calculate the Impact on WindsorMeade Drive Using Condo/TownHome Factors

	Dwelling Units*	AM Peak Hour Factor	Trips	Average Daily Trips Factor	ADTs
Windsor Meade Full	181	0.29	52	5.88	1061
New Town West	274	0.44	121	10.71	2935
Total	455		173		3996
Increase	3.0		4.0		4.6

A Look at Peak-Hour Trips, Based on Actual Counts at Windsor Meade

	Dwelling Units	AM Peak Hour Factor# (Study)	Trips# Actual	Cars per Minute	Seconds Btwn Cars
Windsor Meade Full	181	0.36	63	1.0	57.4
New Town West					
Using same ratio as found for WM	274	0.53	144	2.4	25.0
Total	455		207	3.4	17.4
Increase	3.0		4.8		

Based on the 5/2/2012 Traffic Count

The number of vehicles that we counted in the peak AM hour, were greater than the Wisconsin factor predicted. They used .29 vehicles per dwelling unit, and actual calculated out to be .35. So I used that as my own worst-case sizing.

In an effort to get a better understanding of the peak-hour situation, I've added two more columns to that last "Peak-Hour" table. First, is a count of the cars-per-minute. Then more or less the inverse of that, the time between cars passing that point on Windsor Meade Way where New Town enters that road. You see that there will be about 17 seconds between cars, a pretty comfortable number if one car did arrive every 17 seconds. But life just does not work that way. Indeed, when we were counting cars, there were two or three instances where four cars entered Windsor Meade, more or less as a convoy. The effect of this bunching on the projections is that at times, there are going to be people backed up trying to get out of New Town West. Traffic professionals can tell you how often you can expect such lines and how long they may be. Back in my grad-student days, I kicked around such estoteric things like "Queuing Theory," and I could probably have been able to do this for you. But those days are long past, and the best I can do is resurrect a distribution of the probability that there are going to be bunches of cars appearing in any given minute. This is called the Poisson Distribution, and thanks to the power of the internet, it looks something like this chart. i.e. If we use the average number of cars per minute of 3.4 (time between cars of 17.4 seconds), we can find the probability that there are going to be more or less than that in any given minute.

Expected Number of Cars at AM Peak

Number of Cars in any minute	Probability	Probability of 6 or more cars in any one minute
0	3.3%	
1	11.3%	
2	19.3%	
3	21.9%	
4	18.6%	
5	12.6%	
6	7.2%	
7	3.5%	
8	1.5%	
		12.2%

Sorry for all the tekkie stuff, but I just want to make sure that you understand that there are going to be backups of people waiting to merge on to WindsorMeade Way.

In Conclusion - What you have just seen is just a start. James City County and VDOT will do a much more professional job on traffic. And of course the concern of both of those folks is not just the Windsor Meade/New Town West traffic, but the impact of the increased volumes on the intersection of WindsorMeade Way and Monticello Avenue.

My own observations on just the Windsor Meade/New Town Traffic - for what they are worth - is that the AM Peak hour is doable, but is going to require some well thought-out planning. Relative to average daily traffic, I think the number of vehicles projected using the Wisconsin factors is overstated. Instead of 879 ADTs today, I am guessing it is actually closer to 400-500. This can be easily determined by some hardy volunteers manning a counting station one day.

Recommendations -

#1 - I suggest that Windsor Meade Administration place in the library a "work book" of all pertinent documents (this one included), on the coming of New Town West.

#2 - James City County (and VDOT) really need to study and go on record with their best estimates of:
 (A) Traffic volumes for a filled-up Windsor Meade, and New Town West, say 2016
 (B) Total traffic volumes at Monticello and Windsor Meade Way in 2016

Leanne Reidenbach

Subject: FW: rezoning of section 12/ Newtown East

-----Original Message-----

From: Ethel Ashby [mailto: [REDACTED]]

Sent: Tuesday, May 22, 2012 10:00 AM

To: JCC Board

Subject: rezoning of section 12/ Newtown East

First thank you for the informative and well presented program presented to the residents of WindsorMeade.

We have several concerns as you know!

1. The density of the project appears to be an over use of the available land in area 12A. The original plan called for 209 units between sections 12A and 12B as I understand it. The 'dumping' of excess density from the Newtown plan onto one piece of land surrounded by wet lands seems inappropriate and unreasonable. Hopefully the Board of Supervisors will see this for what it is. Over use of land and greed.
2. The safety issue of the State road, called WindsorMeade Way is obvious. This is a single lane road each way and the cars emptying from both Section 12 and 13 will be excessive with this density. The danger of the new community having to cross the one lane ingress to get to the egress is highly dangerous. Road safety is a primary concern. The density of rentals, and the number of planned parking places clearly indicates a special problem for this road. This will be a special hazard for the senior community already living on WindsorMeade Way.
- I suppose only VDOT can tell us what the impact of such high volume will have on Monticello.
3. There is no emergency exit in these plans should there be a need. We do get a hurricane once in a while and fire is always a threat.
4. We (WindsorMeade) have concerns about security. We are a senior community and this plan permits easy access onto the property. What sort of security will the developer provide for the present community.

Thank you for taking time to read this

Ethel Ashby

[REDACTED]
Williamsburg, Va 23188

PLANNING DIVISION

MAY 24 2012

RECEIVED

**Williamsburg,
VA. 23188,
May 19th 2012.**

Dear Ms. Reidenbach,

Thank you very much for your presentation to the residents of WindsorMeade on Wednesday May 16th. As you could see from the turnout our residents are very interested in the project you presented.

There were several areas I would like to discuss further.

WindsorMeade Way is essentially a one-lane road in each direction with a median strip. It will be difficult for construction vehicles to enter the site. It would be better if a second entrance could be provided at the rear of the project to the shopping center parking lot giving a more direct entrance for large vehicles. This alternate entrance, could also be utilized when the project is completed if WindsorMeade Way should ever become impassible due to broken utilities, fallen trees or a breakdown etc. and emergency vehicles needed to reach either of the communities.

WindsorMeade Way will have the potential for multiple times the present traffic load especially if the parcel on the opposite side were ever developed. Younger families have more vehicles than retirement community residents. If the second parcel is ever developed their entrance should be from Old News Road rather than WindsorMeade Way.

There are several artificial ponds on the project to cope with storm water containment. I would consider these to be attractive nuisances especially with younger families living on the development. The developer should be required to provide safety barriers around these retention ponds.

On a more selfish note I feel the developer should be required to provide fencing between the new development and us. One of the features that we have enjoyed has been the relative isolation of WindsorMeade and our limited access. WindsorMeade could provide a controlled access gate but there are large lengths of easily crossable land between the developments allowing easy access from one to the other. This would be difficult for our security service to monitor, which could result in the potential for break-ins and vandalism.

Thank you for giving us the opportunity to provide comments and feedback. Good luck to you as you move through the process.

Sincerely,

Raymond Whitney.



RWH

PLANNING DIVISION

MAY 24 2012

RECEIVED

**Mrs. Leanne Reidenbach
Sen. Planner
101 A Mounts Bay Rt.
P.O.Box 8784
Williamsburg VA. 23187**

May 23, 2012

Subject: New Town West Development

Dear Mrs. Reidenbach,

We live in [REDACTED] and of course we are most concerned about the New Town West Development.

When we decided to move to Williamsburg and chose the 4704 lot we were told there would be no buildings in the back of our house because it's wetland.

Our biggest concerns are:

- I If the five buildings to the left of the main entrey way to the New Town West Development were eliminated our objections would be reduced to traffic and fencing.**
- II Our objections to the inclusion of those five buildings grows immensely.**
 - A Proximity of the building nearest to a villa (ours) and the other buildings adjacent to the Gatehouse and Windsor Meades Entry are unacceptable. Two are much too close to the property line.**
 - B The utility ends of three buildings will be in full view of, adjacent to, and over looking the gatehouse to Windsor Meade.**
 - 1. Windsor Meade is an upscale community**
 - 2. The rental condos will not be.**
 - 3. The setting is rural not urban**
 - 4. The Gate House would appear to be for the condos as well as Windsor Meade**

Rosemarie W. Hollerth, [REDACTED] Williamsburg, VA 23188 USA

RWH

- C After the builders clear cut the property the units with ground level garages will be visible over the trees to the neighbors.
- D Traffic will be greatly complicated. Windsor Meade Way with its curves and undulations leads to visibility issues with the condos entry/ exit road.

The crossover traffic at the top of the rise and left turn lane has been greatly complicated with the addition of the gas station. The crossover from "Belks" shopping center to "Martin's" is five lanes wide with the left turn lane in the center. The addition of the tire store and condos will almost guarantee serious accidents at the crossover. Traffic is now using the "second" crossover in both directions, in spite of the sign and little concrete island.

The "zig zag" crossover that serves "Belks", "Martin's" and the "Gas Station" is very poor now. With the addition of the tire store, it makes matters worse. The tire store entry should be rethought out.

Fencing should be included in the builders plans as was required of Windsor Meade. The builders, and others may even want fencing to protect the wetlands. The need to provide this to protect the neighbors from "errant children" and "pets run wild" would be common sense.

We do appreciate your attention to this matter.

We moved to Williamsburg area 4 years ago and have enjoyed it immensely but we are very concerned about how it is developing. Coming from North New Jersey we appreciated the unbuilt wooded areas and it is sad to see them go one by one. Furthermore urbanization is being encouraged.

Sincerely Yours

Richard Hollerith

Rosemarie Hollerith

Richard and Rosemarie Hollerith

Encl.

Rosemarie W. Hollerith, [REDACTED] Williamsburg, VA 23188 USA



Route 199

THE FIVE BUILDING

STATE ROUTE 199



Leanne Reidenbach

From: Brian Elmore
Sent: Thursday, May 17, 2012 3:16 PM
To: Leanne Reidenbach
Subject: FW: Parcel 3831800005, New town

From: Windows Live Cox.nett [mailto: [REDACTED]]
Sent: Thursday, May 17, 2012 2:59 PM
To: Planning
Subject: Parcel 3831800005, New town

I want to express my appreciation for the very fine presentation that was given to the Windsor Meade residents on May 16, 2012 regarding the proposed apartments that are to be built off Windsor Meade Way.

After reviewing the proposed development my suggestion is to eliminate the apartments that are on the western side of the project near the Windsor Meade Gatehouse and Dovetail Dr. This would reduce the number of units in the proposed development to more nearly the original number of 209, instead of the present proposal of 274.

In my opinion this change would eliminate many of the concerns of the Windsor Meade residents.

Sincerely,
James E. Elliott

[REDACTED]
Williamsburg, VA 23188

e-mail - [REDACTED]

Howard T. & Dorothy J. Perley

Williamsburg VA 23188-2852

May 22, 2012

Mr. James O. Icenhour, Jr.
James City County
P.O. Box 8784
Williamsburg VA 23187-8784

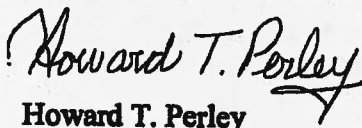
Dear Mr. Icenhour:

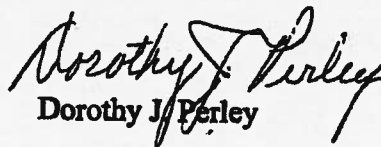
We both thank you, and also Ms. Leanne Reidenbach, Mr. Robert Middaugh and Mr. Allen Murphy, for your interesting and informative presentation at WindsorMeade of Williamsburg on May 16, 2012, regarding the proposed development of New Town Section 12, Case Number Z-0003-2012. As you suggested, we are providing you our comments and serious concerns.

1. As indicated during that May 16th meeting, WindsorMeade of Williamsburg is an upscale retirement community which pays well over a half-million dollars per year of real estate taxes. Some of its Entrance Fees exceed \$700,000, and many of its residents pay monthly fees that are more than three times the proposed development's highest projected monthly rental cost. To construct a much lower priced, high-density rental community for transient residents immediately outside of its only entrance will certainly have an unfavorable impact on WindsorMeade's ability to attract future residents, and to maintain its real estate property values.
2. Unless the Applicant Company satisfactorily shields the proposed rental development, and its lengthy, unsightly construction process, from the views of nearby WindsorMeade residents' homes, and from vehicles travelling along Windsormeade Way between Monticello Avenue and our only entrance, it will also add greatly to its unfavorable impact on prospective WindsorMeade residents, and also on our community's future property values.
3. Also of critical importance is the urgent need that all possible steps be taken to assure the complete security of the WindsorMeade community from any trespass whatsoever from the Applicant Company's new, lower-cost rental development.
4. Throughout, and even after the proposed Section 12 development's lengthy and disruptive construction activities, the traffic situation between WindsorMeade's only entrance onto Windsormeade Way, and thereby to and from Monticello Avenue, will be absolutely chaotic, with reportedly as many as 300 additional vehicle trips per day. This situation will be particularly egregious as all these additional vehicles, when leaving the Applicant Company's proposed development, attempt to cross in front of vehicles entering the WindsorMeade community, then attempt to join those that are leaving it. This dangerous situation, coupled with the additional traffic that will be entering and exiting the new Goodyear Tire Center via the already hazardous road crossing between the WindsorMeade Marketplace and Monticello Marketplace, must not be tolerated. At worst, one or more additional exit directions from the new Section 12 development must be constructed.

In summary, it is essential that James City County require, without exception, that the Applicant Company: (1) adequately shields all views of its proposed development from both WindsorMeade of Williamsburg and Windsormeade Way during and after its construction; (2) installs the most effective security measures possible around its property; (3) constructs one or more additional exits from its property; and (4) works closely with the James City County Police and Fire Departments, the Virginia Department of Transportation, the New Town Property Owners' Association, and WindsorMeade of Williamsburg's staff and residents, to resolve the potentially disastrous traffic situation along Windsormeade Way that would otherwise result.

Thank you very much for your support and assistance in ensuring that the New Town Section 12 development becomes an asset rather than a liability to WindsorMeade, New Town West, and of course to James City County.


Howard T. Perley


Dorothy J. Perley

cc: Ms. Leanne Reidenbach
Mr. Robert C. Middaugh
Mr. Allen J. Murphy, Jr.

PLANNING DIVISION

MAY 24 2012

RECEIVED

PLANNING DIVISION

May 24, 2012

MAY 29 2012

**Leanne Reidenbach
Senior Planner
Develop Management**

RECEIVED

Dear Ms. Reidenbach

Your presentation at the WindsorMeade meeting on the section 12 apartment development on Wednesday May 16 was very well done.

I am a resident of WindsorMeade and I am very concerned about a number of issues, the most notable being the traffic.

I don't know how the VODT measures its traffic flow, but I can tell you the traffic in the area of Martin's gasoline station, the two market places and WindsorMeade is a lot more congested and dangerous than has been indicated. I am in and out of WindsorMeade a minimum of 2 to 3 times a day and I can tell you the Martin's traffic and both plaza's in particular is already dangerous and I can't imagine how much worse it will be with all the new apartments, all the new buildings by the Fresh Market and all the new homes in New Town . There are 12 slots for cars in the gasoline station and I have never seen less than 6-11 cars in there at the same time. With the flow of traffic coming and going constantly between the station the two plaza's, and WindsorMeade, complicated by irresponsible drivers, the accidents and near accidents have been multiple.

The light at Monticello and WindsorMeade Way is already continually backed up. With all the additional traffic mentioned above, the logjam will certainly discourage people from using this group of stores. The lights, in this heavily used area, are bad enough as it is. I truly believe it is inconceivable that one would want to add more traffic to this location.

In addition the security of WindsorMeade will certainly be compromised to some extent, regardless of measures that may be taken to lessen this issue.

The one way in and out of WindsorMeade is of particular concern should that one way be closed for whatever reason. Emergencies are common in older people.

Construction vehicles coming and going for an extended period of time will cause mayhem, not only because of the noise factor (for residents), but also if cars have to be stopped by the movement of heavy equipment. The use of heavy equipment won't just impact WindsorMeade but others using this area of roads. There needs to be something in the way of a construction road available, for the new apartments.

The rental type apartments are certainly not conducive to an attractive facility which WindsorMeade is. I fear the property value will drop substantially, with rental apartments giving the appearance of a more commercial use. I also question the statement that these apartments will be rented by people with above average income. This may sound snobbish, but I've seen rental apartments before that are not well maintained, either inside or out and this is the result of I don't own, why should I care.

I hope you will give these concerns above, some serious consideration. In my mind the most important of all these issues is the traffic. It's not just WindsorMeade that is affected, but all the people driving in an around this location, that will be at risk.

I'm afraid in the final analysis it's always about "following the money"

Sincerely,

Barbara C. Brink


Williamsburg, VA. 23188

Ms. Heanne Reubenbach
Senior Planner, Development Management. James City County

Subject: Proposed New Town West – Section 12 – Town House Rental Apartment Development

My name is H. Donald Nelson and I live at [REDACTED] (WindsorMeade) here in Williamsburg, Virginia 23188 -2857. Phone [REDACTED]

We have lived at WindsorMeade for 4 ½ years, having moved here to enjoy our retirement years in the historic area and environment, great adult education programs at William and Mary, excellent church activities and support, and in residence life care here at Windsor Meade. We have been supporters and visitors to Colonial Williamsburg for over 50 years. I am also serving as the Vice President of the WindsorMeade Resident Association and Council this year.

I have great concerns in regard to the New Town West Development!!!

WindsorMeade Way – one lane divided road beyond the commercial area, that if developed as proposed will triple the amount of daily traffic and add rush hour congestion.

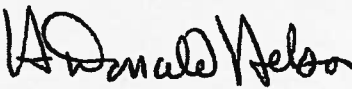
One Entrance/One Exit about 100 yards from the WindsorMeade Gatehouse – which has inadequate turn around for large vehicles and a median to cross for exit. It will pit drivers in their 20's with folks in their 80's creating a quick left and quick right look for on coming traffic. No construction entrance/exit or emergency exit/entrance are proposed.

Density - proposed density of 274 Town House Rental Apartments exceeds the plan of 209. Add to that over 450 parking spaces to create a very dense and not attractive area i.e. The Point at New Town.

Safety and Security – road, sidewalk, entrance area and space from WindsorMeade Way is unfenced and unsecured. Add the substantial water run off areas, the open and unsecured areas will create both safety and security issues for WindsorMeade.

Clear Cut and Minimal Buffer Areas – to build the proposed plan will require clear cut of substantial amount of trees and undercover, significant fill in the terrain, reduction and relocation of natural water flow, and the near elimination of the buffer tree lane of WindsorMeade Way that will not be restored.

While WindsorMeade residents have been described “as an average age of 82 “ we are very active, knowledgeable, educated, experienced, engaged in the community, with opinions, and looking forward to these last years of our productive lives. With your help we can minimize the effects of 2 ½ years of disruption and the forever change to our retirement environment by addressing the five major concerns of mine and of all of the residents of WindsorMeade.


H. Donald Nelson

Copies to James City County Planning Commission
Copies of James City County Supervisors

PLANNING DIVISION

MAY 30 2012

RECEIVED

Leanne Reidenbach

From: Shirely Mitchell [REDACTED]
Sent: Tuesday, June 05, 2012 1:35 PM
To: Leanne Reidenbach; rfm1@cox.net
Subject: Ox Prop

WindsorMeade residents thank you for attending May31 mtg. Oxford Properties presentation. Also your responses to our e-mails are fully appreciated.

Question today is. Has VDOT completed the traffic study for WindsorMeade Way since Oxford claimed that they did a complete study by May 31 2012? They said that at the meeting for informing WM residents that the study was done, they did a study on a rainy day for a few hours, not a good traffic read. An honest answer from them is expected.

Another objection to the Oxford Properties plan is the DENISTY it is a too small area for so many people and cars, as well as our SECURITY is going to suffer without a really good BERM, HIGH Fence and No Cutting of all the trees(which builders seem to like to do regardless of rules!)

Thank you for recording these objections from an active involved citizen at WMeade. Shirley M. Mitchell

June 4, 2012

Dear Ladies and Gentlemen,

My name is Carol Nelson. I live at [REDACTED] a Villa at WindsorMeade. My husband and I moved here 4 ½ years ago and have enjoyed our lifestyle, location and proximity to all the best the Williamsburg area has to offer.

We invested \$860,000.00 to obtain our villa and have put approximately \$60,000.00 more into it in amenities and landscaping. We pay over \$4800.00 a month [which includes our share of JCC property taxes] plus electric and gas utilities to live here. This represents a lifetime of hard work to be able to retire here. We actively and financially support Colonial Williamsburg, The Williamsburg Symphonia, The Players Theatre, The United Methodist Church, have recently purchased two new cars locally, furniture, patronize restaurants, and continue to support local businesses with our purchases.

Now, a rental community is proposed for right up against WindsorMeade encroaching on our community and roadway.

There are many concerns we have about this plan. We visited The Pointe in New Town and several things jumped out as negatives: 1. Its very crowded and almost entirely paved over; 2. 1/3 of the cars parked there have out of state license plates which means a transient population; 3. Trailers, trucks, campers parked there; 4. Not all buildings bricked faced as proposal shows.

The Proposal by Oxford Properties has so many negatives:

1. Safety issue- too close to WindsorMeade and front gate allowing outsiders to wander onto WM property.
2. The proposed community and 2 year long construction poses a real hazard to traffic on Windsor Meade Way [WMW]. The road simply is not wide enough for construction traffic to turn and the median is not wide enough for an auto to wait for traffic to pass before turning.
3. The number of units proposed is outrageously over the 209 zoned for years ago and way too dense for size of property.
4. The property will be clear cut and leveled, thus losing some of the natural beauty Wmsbg and JCC is known for. Inadequate tree buffers in plans, so will be like Courthouse Commons which presents a poor appearance which is opposite of what was promised.
5. Only one entrance/exit!!! This has to be illegal with no provision for emergency access to WM or the proposed community and if storm problems occur there is no way to evacuate either community. Not to mention the use of this one entrance/exit for huge construction equipment. Where will workmen and contractors park? This will mean a grand mess for WM with vehicles tracking debris into our community for us to pay for removal and cleanup of our roads and damage to our vehicles.
6. Construction and rental property will affect the marketing of property at WM and affect the financial viability of our community. According to tax information, the new rental units will be valued at approximately \$100,000.00 each, compared to

\$500,000.00-860,000.00 value of apartments and villas at WM. This disparity will de-value our property.

7. After construction, who will manage and control the new community and insure it maintains high standards? Renters as a general rule do not have pride of ownership that property owners have. Rentals of \$1100 to \$1600/ month will not create a committed quality community that benefits New Town. The younger folks want to live where the action is and this end of New Town does not have that.

We are a community of professional retired doctors, dentists, CEO's, military Generals, hospital administrators, banking executives, investment bankers, engineers, rocket scientists, university professors and the list goes on. We have bought and sold property and dealt with developers in our lifetimes and our experiences with land developers are not favorable as they say one thing and do another.

We have all worked hard for many long years to enjoy our active retirement and remaining years, and the proposed construction will significantly spoil it for us at WindsorMeade.

Thank you for considering my views which are the views of the majority of the residents.

Sincerely, Carol J Nelson

Carol J. Nelson

[REDACTED]

Williamsburg, VA 23188

Phone-[REDACTED]

e-mail [REDACTED]

PLANNING DIVISION

JUN 07 2012

RECEIVED

Howard T. & Dorothy J. Perley
Williamsburg VA 23188-2852

June 11, 2012

Mr. Richard Krapf
James City County Planning Division
101-A Mounts Bay Road
Williamsburg VA 23187

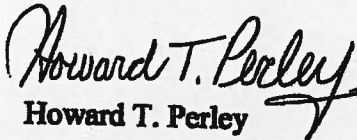
Dear Mr. Krapf:

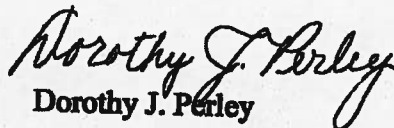
As residents of WindsorMeade of Williamsburg, we believe that some critical decisions must soon be made regarding the proposed development of New Town Section 12, Case Number Z-0003-2012. We are therefore providing you our comments and very serious concerns.

1. WindsorMeade of Williamsburg is an upscale retirement community which pays well over a half-million dollars per year of real estate taxes. Some of its Entrance Fees exceed \$700,000, and many of its residents pay monthly fees that are more than three times the proposed development's highest projected monthly rental cost. To construct a much lower priced, high-density rental community for transient residents immediately outside of its only entrance will certainly have an unfavorable impact on WindsorMeade's ability to attract future residents, and to maintain its real estate property assessment values.
2. As relatively new residents of WindsorMeade, its beautifully-wooded quarter mile entry along Windsormeade Way was definitely a major attraction. Unless the Applicant Company satisfactorily shields the proposed rental development, and its lengthy, unsightly construction process, from the views of nearby WindsorMeade residents' homes, and from vehicles travelling along Windsormeade Way between Monticello Avenue and our only entrance, it will also add greatly to its unfavorable impact on prospective WindsorMeade residents, and our community's future property assessment values.
3. Also of critical importance is the urgent need that all possible steps be taken to assure the complete security of the WindsorMeade community from any trespass whatsoever from the Applicant Company's new, lower-cost rental development.
4. Throughout, and even after the proposed Section 12 development's lengthy and disruptive construction activities, the traffic situation between WindsorMeade's only entrance onto Windsormeade Way, and thereby to and from Monticello Avenue, will be absolutely chaotic, with reportedly as many as 300 additional vehicle round trips per day. This situation will be particularly egregious as all these additional vehicles, when leaving the Applicant Company's proposed development, attempt to cross the very narrow median in front of vehicles entering the WindsorMeade community, and then attempt to join those that are leaving it. This dangerous situation, coupled with the additional traffic that will be entering and exiting the new Goodyear Tire Center via the already hazardous road crossing between the WindsorMeade Marketplace and Monticello Marketplace, must not be tolerated. The Applicant Company must therefore be required make every possible effort to find a way to construct at least one additional exit, and therefore relieve the potentially perilous traffic situation that is sure to result.

In summary, it is essential that James City County requires, without exception, that the Applicant Company: (1) completely shields all views of its proposed development from both WindsorMeade of Williamsburg and Windsormeade Way during and after its construction; (2) installs the most effective security measures possible entirely around its property; (3) finds a way to construct one or more additional exits from its property; and (4) works closely with the James City County Police and Fire Departments, the Virginia Department of Transportation, the New Town Property Owners' Association, and WindsorMeade of Williamsburg's staff and residents, to resolve the potentially disastrous traffic situation along Windsormeade Way that would otherwise result.

Thank you very much for your support and assistance in ensuring that the New Town Section 12 development becomes an asset rather than a liability to WindsorMeade, New Town West, and of course to James City County.


Howard T. Perley


Dorothy J. Perley

Leanne Reidenbach

From: barbandjoe [REDACTED]
Sent: Wednesday, June 13, 2012 4:56 PM
To: Jim Icenhour; Wilford Kale; Allen Murphy; Leanne Reidenbach
Cc: pkerr@vumh.org; rfm1@cox.net
Subject: Newtown, Section 12, Oxford project

Dear Sirs and Madams,

We would like to echo the thoughts and objections voiced by several of our neighbors who live in WindsorMeade, as they regard the planned development of the Oxford apartments.

A reduction in the requested density would alleviate a lot of the potential problems associated with the project. At a minimum, elimination of the buildings that would back up to WindsorMeade Way closest to the guard house would be a good start. Their close proximity to what is obviously WindsorMeade property makes it appear as though they are part of WindsorMeade. It also places them "right in our face", so to speak, as we enter and leave the property.

Security is still an issue. As was pointed out in the meeting held at WindsorMeade on May 31, 2012 with representatives from Oxford Properties, the buildings referenced above would allow easy access to the WindsorMeade property. A representative of Oxford pointed out that there is a retaining wall and fencing along Dovedale Drive in the general area of concern. They were correct to a point. The retaining wall and fence only run a portion of the distance between the two properties. There would be relative easy access to WindsorMeade not only at the sidewalk into WindsorMeade but also at the northeast section of the Oxford property as runs along the property line of WindsorMeade to where it backs up to Route 199.

Finally, a reasonable reduction in density would also help to reduce the concern over the additional traffic on WindsorMeade Way.

Your assistance in alleviating our concerns by way of reducing the density and requiring Oxford Properties to install their own fencing between the two properties, perhaps at their edge of the wetlands, for the safety of any young children that may live there and our security would be greatly appreciated.

Sincerely,

Joseph & Barbara Neary
[REDACTED]
Williamsburg, VA 23188
Ph. 757-229-4264
e-mail - barb&joe@cox.net

Leanne Reidenbach

From: Warren Dickson [REDACTED]
Sent: Thursday, June 14, 2012 12:23 PM
To: Allen Murphy; Leanne Reidenbach; Tim OConnor; Al Woods; George F. Drummond; Richard Krapf; Robin Bledsoe; Chris Basic
Cc: Jim Icenhour
Subject: New Town Section 12 Oxford Properties Proposed Development

My name is Warren Dickson and my wife, and I are villa residents at Windsor Meade. We and several dozen other residents moved to Williamsburg four years ago from our early retirement years in South Carolina after learning about this new, well located, designed and constructed continuing care facility. We are enjoying our golden years here and as a member of the local Board of PVA, an interpreter at both the Jamestown Settlement and Historic Jamestowne I have had many delightful experiences in this historic community.

We are also "would be" environmentalists, and upon hearing of the construction plans for the proposed new development by Oxford Properties at the very doorstep of Windsor Meade, would like to pass along below our concerns, and hopes that you will consider some of these suggestions, as you proceed with your planning.

A. Separate Construction Entrance

A temporary new construction 2nd entrance should be planned for some location, not on Windsor Meade Way, for the heavy construction traffic that will be associated with this development for the better part of the next two years. When I brought this up at the recent presentation by the Oxford people at Windsor Meade, the reply was "this would cost them money". Not nearly as much money as this construction project is likely to cost Windsor Meade, as a result of lost sales to prospective new residents.

With several hundred elderly residents at Windsor Meade in various stages of living (independent, assisted living, and skilled nursing) it is imperative that Windsor Meade Way, our only entrance, be open and accessible to emergency vehicles at all times. A second entrance (not on Windsor Meade Way) is critically needed.

B. Environment

As "would be" environmentalists we urge the Planning Commission to consider the merits of the following , not only from the standpoint of we residents, but also to send a message as to the steps every property developer should take to assure that great care is taken when disturbing virgin property such as New Town's Section 12..

1. Trees and Habitat:

What trees should be saved? How will this be done?

How will this tree debris be disposed of to minimize its effect upon the environment elsewhere?

How can this removal be accomplished without restricting traffic ? At what time of day?

2. Current Occupants of Building Site:

Birds-----what is the best estimate as to the number and variety of birds currently occupying this site and how will this construction affect their habitat, nesting , feeding, relocation, etc. ? How can this disturbance be minimized? The Oxford organization should be urged to consult professionals in this regard..

Deer, squirrels, rabbits, etc. -----in view of the currently heavy deer population in the area, uncontrolled construction will result in their relocation and probable damage to shrubs and plantings for nearby residents. How would the Oxford people propose to handle this problem?

Mosquitos, ticks, Japanese beetles, etc.-----These insects thrive in the low marshy areas of the property under planning. What chemicals would be most likely to be used to handle this problem and would these chemicals have any negative effect upon the animals that might remain during the early stages of construction?

3. Archaeological Studies:

(a) Ancient Period-----at one time centuries ago, this area was under the Ocean and recent discoveries have made it desirable to search new undeveloped sites for artifacts of the period. The analysis of long buried sea remains including shells, fish bones, rock, minerals, etc. have been very informative and it would be desirable for appropriate sampling to be conducted before construction begins.

(b) Indian Period-----it is very likely that Indian tribes have occupied this and nearby sites, and the findings from the studies should be very worthwhile.

(c) Early Settlers -----it is known that English settlers occupied much of the rural area around Williamsburg and Jamestown and the more that can be learned about these early settlements is valuable and not to be overlooked..

C. Density

The Planning Commission has done a commendable and very professional job in planning for the construction of our own Windsor Meade facility and we, the residents, are pleased and proud of our home here in James City County. We are truly concerned, however, about a new high density, rental community at our door step which, as presented to us by the builder, proposes few controls over its numerous and youthful renters. In fact one planned building provides easy and unobstructed access to Windsor Meade property past our own Security Entrance. We think that this should be disallowed and the Builder's plan revised.

Having viewed the Builder's earlier project, The Pointe, it is our opinion that too much has been crowded onto far too little space. The parked cars resemble the parking lots at Walmart. There is very little "Green" and far too much asphalt. In fact the old term "asphalt jungle " might be an unfair, but appropriate description. We object strongly to seeing this along Windsor Meade Way.

As crowded as " the Pointe " is, we do not understand the logic behind the Builder asking for what wasn't allowed or couldn't be crowded in at the Pointe location, to be added to the originally planned 209 units for a total of 270 or more units. That is preposterous and 209 is crowded enough.

C. Utility Planning

We would hope that a detailed plan for all piping, wiring, TV cabling, plumbing and drainage be submitted in advance of any construction, and that any changes that are contemplated be again submitted to the Commission for its approval before these changes can be made.. It is imperative that as construction begins, that no interruption in any of these utilities adversely affect the residents or properties of Windsor Meade.

D. Safety

The critical need for a 2nd construction entrance has already been addressed and even when this is provided, the addition of 400 or more cars along Windsor Meade Way poses its own safety problem from the standpoint of the tight turn into the entrance, the turnaround just shy of the entrance to Windsor Meade, speeding, use of electronic gadgetry while driving and the two crossings without signals prior to Monticello Road.. Something more than than a casual look by VDOT has to be done

Although recognized by all, the exit ramp traffic from 199 onto South bound Monticello seldom pays any attention to the "YIELD " sign and enter the right hand lane at high speed. Accidents have already occurred and something needs to be done before 400 more cars make their turn onto Windsor Meade. A " speed bump' would be a simple and easy to apply temporary fix.

E. Marketing

Although alluded to above, the 18 months to two years of project construction will cause serious harm to Windsor Meade's new resident Marketing effort, if construction vehicles are allowed to use the down hill portion of Windsor Meade Way. Current residents are already concerned and we fear that some may depart. Please provide for a 2nd temporary entrance.

In conclusion it should be remembered that although Windsor Meade pays property taxes just shy of \$ 600,000 annually (perhaps 3 times that of the builder) that it is we , the Residents, who provide the funds to Windsor Meade. We like you, the members of the Planning Commission, are among the American citizens who, as we have all heard this past week, have seen our Personal Wealth reduced by an average of 40 %.. We are truly concerned and are counting on you to fairly represent our personal interests and those of Windsor Meade as you proceed with the planning of this project.

Sincerely ,

F. Warren Dickson

[REDACTED]
Williamsburg, VA 23188
[REDACTED]

Leanne Reidenbach

From: [REDACTED]
Sent: Monday, June 18, 2012 12:14 PM
To: Allen Murphy; Leanne Reidenbach; Tim OConnor; Al Woods; George F. Drummond; richard.krapf@jamescitycounty.gov
Subject: Oxford Properties Rezoning section 12

JUNE, 15, 2012

TO: JAMES CITY COUNTY PLANNING COMMISSION

My husband and I moved to Williamsburg 2 1/2 years ago from VA Beach. Initially, we chose Williamsburg Landing as our retirement home location but finally decided that Windsor Meade, a villa and apartment community, surrounded by privacy woodlands in a secure environment and conveniently located near necessary stores, would be a preferable location. We have been so pleased with our decision until we heard the Oxford Properties plans for Section 12.

We think that 270+ apartments in that location, surrounded by wetlands, are far too many for the acreage and for Windsor Meade Way. We also think that the developer should be required to add and maintain an attractive, high, security fence around all the New Town West property that abuts the Windsor Meade property. Furthermore, the developer must be held responsible for making sure that there will be enough road way on New Town West as well as on Windsor Meade Way to safely accommodate all the maximum, predicted, future traffic from both communities.

Diana Spenski

[REDACTED]
Windsor Meade

PLANNING DIVISION

JUN 19 2012

June 18, 2012

RECEIVED

Leanne Reidenbach, Senior Planner
James City County Planning
101-A Mounts Bay Road
Post Office Box 8784
Williamsburg, Virginia 23187

Adl Alliss

Williamsburg, VA 23188

Subject: Turn Lane On Windsor Meade Way for Section 12 Apartments

I live at Windsor Meade and I received, thru a fellow resident, a copy of the transmission from DRW Consultants, LLC, engineers for Oxford Properties, to you, dated 6/4/2012. In particular, they show their intention of how the exit would look. I brought the issue of the entrance of the proposed development at the meeting at Windsor Meade when the lawyers of the owner discussed the project and answered some of our questions. My main objective is to minimize the traffic danger at that intersection for the residents of the development as well as the elder residents of Windsor Meade.

First, I was happy to see that a fifty foot long and 12 foot wide turning lane is included in the solution.

Second, Windsor Meade Way has a width of 19 feet each lane at the proposed entrance. VDOT placed a sign of 40MPH on Windsor Meade Way. The proposed width was cut down to twelve feet. The sudden change in width from 19 feet to 12 feet is not safe for our elderly residents. In addition we have 10 feet of grass and 8 feet of sidewalk which are proposed to be narrowed down to 5 feet and 8 feet respectively. This will eliminate some of the beautiful trees in the grassy area which enhance the approach to Windsor Meade and the proposed development.

Third, the width of the median is about 17 feet. This is not a sufficient space for a car exiting the development to stop in the intersection with sufficient protection at the front and rear of the car, depending on the skill of the driver. A space equal to 1.5 the length of the car would be a more reasonable and safe space, such as 25 feet. Obviously, this will require the median to be made wider at the entrance and narrowed gradually as you go toward the shopping centers. This then will necessitate widening the road by the same distance as the median is widened. This will require introducing a curve in the incoming lane and extensive changes to other parts of the road, but will be safer to all drivers concerned. This safety feature should be paramount in the design of this intersection.

We hope that the James City Planning Department would insist on keeping safety of the residents as the number one concern in working with VDOT to design the said entrance.

Very truly yours,

Adli Alliss

Adli Alliss

Leanne Reidenbach

From: [REDACTED]
Sent: Thursday, June 21, 2012 9:07 AM
To: Jim Icenhour; Jim Kennedy; Wilford Kale; Mary Jones; John McGlennon; Leanne Reidenbach
Subject: Fwd: Section 12, New Towne East project

The residents at WindsorMeade appreciate so much Ms. Reidenbach, Mr. Icenhour and Mr. Kale meeting with us, listening carefully to our concerns, answering questions and agreeing to find the answers to those with which they were not familiar. I am forwarding an e-mail previously sent to Mr. Icenhour & to Ms. Reidenbach (which was not delivered due to an incorrect address). I appreciate so much Mr. Icenhour's prompt reply. I know that each of you will consider our concerns: Density, Traffic/Safety and Security. Thank each of you for your dedication to James City County and your careful planning for its future.

Sincerely,

Charlotte E. Copley

> Date: Mon, 4 Jun 2012 16:49:35 -0400
> From: <hcopley1@cox.net>
> To: jicenhour@james-city.VA.US, lreindenbach@james-city.VA.US
> Subject: Section 12, New Towne East project

> Most of us at WindsorMeade realize that compromises must be made and that we should work with all involved for the success of the Section 12, New Towne East project. We especially appreciate your meeting with us and listening to the concerns of WindsorMeade Residents and Management. I, though, would like to reiterate concerns that have been presented in hopes that after further research changes can be made to the Master Plan.

> DENSITY: Consider reducing the number of apartments to the original number (204 or 209), thus adding green space and additional buffer between the new apartments and the Villas of WindsorMeade. This would result in the need for fewer parking spaces and less traffic on WindsorMeade Way

> TRAFFIC/SAFETY: For the safety of apartment dwellers two entrances/exits are needed. It would also lessen congestion if one was near the delivery drive at Belk Shopping Center. This would give other options for the placement of the crossover. Already, though, an accident is waiting to happen where roads from Monticello Shopping Center, gas station and News Road merge. It would help if except for left turns toward the shopping center, the exit was used. During the day there are between 6 & 10 cars filling up. Maybe a traffic light is the answer.

> SECURITY/FUTURE OF VILLAS OF WINDSORMEADE We ask that a planned separation (fence, berm, green space, pond, trees, etc.) between the apartments and WindsorMeade be considered. I understand that two sales of villas were cancelled because of this future project.

> Hopefully, after continued cooperation this will result in a WIN/WIN situation for us all.

> Thank you for your careful consideration.

> Sincerely,

> H. Otis and Charlotte E. Copley (our home is [REDACTED] where we have lived since June 23, 2008)

Leanne Reidenbach

From: Lee Towle [REDACTED]
Sent: Friday, June 22, 2012 1:35 PM
To: Allen Murphy; Leanne Reidenbach; Tim OConnor; Al Woods; George F. Drummond; Richard Krapf; Robin Bledsoe; Chris Basic
Cc: JCC Board
Subject: New Town Section 12 - Oxford Properties Proposed Development

Dear JCC Planning Officials and Commission Members,

My wife and I have been WindsorMeade villa residents (original "pioneers") since October 2007, before this retirement community was completed. You have heard already many concerns and objections to the proposed Oxford Properties rental apartment complex at 3950 Windsormeade Way, adjacent to our WindsorMeade retirement community.

Our sincere hope is that Oxford Properties will abandon this proposed project and that the landowners will turn the 34 acre New Town Section 12 into a conservancy easement with the Williamsburg Land Conservancy. What a wonderful donation this would be from the Casey family to the whole community!

Since this possibility seems remote, we give the following objections to the project:

As currently proposed, we strongly believe that the Oxford project will have a serious deleterious affect on WindsorMeade and its residents. It is really the high density -- 274 rental units requested for Section 12A where the original New Town plan for all of Section 12 is only 209 units -- that, in part, drives all the concerns about unsightly incursion into WindsorMeade and its residents and the accompanying increased traffic, safety and security concerns.

IF, the Planning Commission approves the Oxford apartment project, we sincerely but strongly ask that the number of units be reduced to no more than 209, and ideally less.

Increased traffic, especially from heavy trucks and equipment during the 2-year construction, is of major concern. The noise, dirt, and safety issues along Windsormeade Way will be unacceptable. Oxford should be required to build a temporary, special construction entrance away from the currently proposed entrance -- the far Northeast corner of the Windsormeade Marketplace would be ideal! Additional cost should be gladly accepted by Oxford if they really want to build this development.

There is no emergency second exit being planned by Oxford for the proposed apartment complex and this seems to be a terrible mistake. WindsorMeade has such an exit out onto Jester Lane. Although (why should we care?) Oxford should be required to have such an emergency exit. The temporary construction entrance specified above in the Windsormeade Marketplace could serve this purpose.

We are very concerned about the lack of any security being planned by Oxford to prevent persons from travelling from the apartment complex through the woods and into WindsorMeade -- especially in the area just behind the WindsorMeade security gatehouse where anyone (even children) can have easy access into WindsorMeade without the knowledge of the security guards (especially in the darkness of night). The WindsorMeade villa residents on and around Dovedale Drive are particularly vulnerable to intrusion by unwanted and/or undesirable persons just walking in. Oxford should be required to address this. The older residents (several with hearing loss) who have moved into WindsorMeade have done so, in part, for the safety and protection of living in this community. The proposed Oxford rental complex must deal with the security issue or suffer the consequences.

Respectfully submitted,

Lee & Carol Towle

[REDACTED]
Williamsburg, VA 23188

tel: [REDACTED]
cell: [REDACTED]

**SPECIAL USE PERMIT- 0008-2012. Chickahominy Baptist Church Day Care.
Staff Report for the July 11, 2012 Planning Commission 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.

August 14, 2012

7:00 p.m. (tentative)

SUMMARY FACTS

Applicant:

Ms. Alice Wilson, Alice's Wonderland Playhouse

Land Owner:

Chickahominy Baptist Church

Proposal:

Day care facility for a maximum of 30 occupants (children and staff) within an existing building on the site of the Chickahominy Baptist Church.

Location:

2900 Chickahominy Road

Tax Map/Parcel Nos.:

2230100009B

Parcel Size:

2.21 acres

Zoning:

R-8, Rural Residential

Comprehensive Plan:

Rural Lands

Primary Service Area:

Outside, but site receives public water.

STAFF RECOMMENDATION

Staff recommends the Planning Commission recommend approval of this proposal to the James City County Board of Supervisors with the conditions listed at the end of the report. While the 2009 Comprehensive Plan does not recommend commercial facilities as primary uses in the 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. Staff finds the proposed day care to be compatible with the existing church site and does not negatively affect agricultural or forestal uses. The proposal is also compatible with the surrounding zoning and development.

Staff Contact:

Leanne Reidenbach

Phone: 253-6876

PROJECT DESCRIPTION

Ms. Alice Wilson has applied for a special use permit to allow a day care operation in an existing 2-story accessory building on the site of the Chickahominy Baptist Church. The building is currently used for administrative offices and Sunday school instruction. The church currently is operating under SUP-0027-2005 but a day care use was not specifically examined during this process. Child day cares are specially permitted uses in the R-8, Rural Residential district.

The existing building is approximately 1,840 square feet, with about 540 square feet of net useable space on each of the two floors. Ms. Wilson is proposing a day care that would include a maximum of 30

occupants (children and staff members) at any given time and would be licensed by the Virginia Department of Social Services (VDSS). All children would be between the ages of 2 years-and-6-months old and 12 years old.

- Building Safety and Permits (BSP) conducted a preliminary code review of the existing building to determine necessary improvements or occupancy restrictions. The following are the results:
 - BSP follows the Virginia Construction Code (VCC) to regulate occupancy, which specifies a minimum of 35 net square feet *per occupant* (includes both staff and children). Net square footage is calculated slightly differently than for VDSS regulations. Maximum occupancy under this calculation would be 15 individuals per floor for a total of 30 occupants.
 - The applicant will need to install a second staircase as a point of access to the second floor. If the stairs are not installed, occupancy on the second floor is limited to 10 occupants. This can be enforced through the certificate of occupancy.
 - The building does not have a fire suppression system. As a result, the ages of the children in the program are required to be a minimum of 2 years, 6 months, and 1 day old. The applicant has proposed keeping only children over the age for the early stages of the day care, with the option to install a fire suppression system and change the age range in the future. Staff has included this as condition #7.
 - The day care will be required to have a handicap accessible bathroom. The applicant has indicated, and BSP has concurred, that the bathrooms inside the church may be used so long as an accessible route is provided. The applicant is aware that this will need to be addressed on a site plan for the day care and will be enforced through condition #3.
- VDSS is the licensing authority for day cares and has regulations for indoor and outdoor space *per child*. They allow one child per 35 net square feet of area on a per floor basis. The net square footage calculation excludes non-useable areas (like bathrooms and kitchens) and permanent furnishings (like cabinets or cubbies) and does not include staff so the final occupancy load will be different than the VCC requirement. Planning staff estimates that 30 children, exclusive of day care center staff, would be permitted by VDSS. VDSS also require 75 square feet of outdoor play area per child, but does not require permanent play equipment. Fencing is determined on a case-by-case basis during the licensing process.

Surrounding Zoning and Land Use

The property is surrounded by R-8, Rural Residential property that is designated Rural Lands on the 2009 Comprehensive Plan. Existing uses are primarily residential. The church owns one of the vacant parcels across the street and the JCSA owns the piece immediately across the street. Property to the far back is the Little Creek Reservoir and is owned by Newport News Waterworks.

Access and Parking

The day care would be accessed from an existing entrance off of Chickahominy Road that serves the Chickahominy Baptist Church. While the ordinance does not specify a minimum parking calculation for day cares, staff has typically used a formula of 1 space per employee plus 1 space per 4 children acknowledging that some parents may bring multiple children to the day care and that pick-up and drop-off times will vary. Based on the preliminary occupancy calculations, the day care will need about 12 required parking spaces. At maximum capacity, the church requires 38 parking spaces. The day care center will operate during different hours than the church and so can effectively share the parking lot, which currently has about 60 spaces plus a grass overflow parking area.

PUBLIC IMPACTS

1. Environmental Impacts

Watershed: Yarmouth Creek

Environmental Staff Comments: The Environmental Division has reviewed the proposal and did not have any comments as the building and parking areas are already built.

2. Utilities

The site is located outside the Primary Service Area but receives public water from a line located along Chickahominy Road. The waterline along Chickahominy Road received a special use permit in 1988 which was subsequently amended as part of a Community Development Block Grant project in 1997. The site is served by a private septic system.

JSCA Staff Comments: The James City County Service Authority has reviewed the master plan and a condition requiring water conservation guidelines is included upon their request. Additional review and information will be required to be submitted during the development plan phase of the project. Otherwise, JCSA concurred with the master plan and conditions as proposed.

Virginia Department of Health Comments: The Virginia Department of Health has reviewed the master plan and has indicated that an expansion to increase the capacity of the septic system may be required. The current septic system was designed when the church was expanded to seat 190 people in 2005. The applicant is working with the Health Department to try to contact the original engineer to evaluate capacity and improvements. Staff proposes condition #4 to ensure that this item is addressed before any development plan approvals for the day care.

3. Traffic

The proposed use did not trigger the requirement for a traffic study given the size of the day care center and the low estimated trip generation rates. The existing entrances were designed in 2005 when the church was expanded.

2009 Annual Average Daily Traffic Volume: The County does not maintain traffic counts for Chickahominy Road. VDOT's annual average daily traffic volume for Chickahominy Road from Cranston's Mill Pond Road to Route 60 is 1,500 vehicles.

Staff Comments: Based on the Institute of Transportation Engineers (ITE) 7th Edition trip generation rates:

- A 190 seat church generates 120 trips per peak hour on Sunday and 14 trips during the weekday PM peak hour.
- A day care generates 16 trips per PM peak hour (based on an 1,840 square foot building) OR 21 trips per PM peak hour (based on an enrollment of 25 students).

Overall, traffic to the church and proposed day care combined during a weekday PM peak hour is less than what is generated by the church during the Sunday peak hour. As a result, the entrances as currently built will be adequate to serve the day care use and no road improvements are recommended.

COMPREHENSIVE PLAN

The 2009 James City County Comprehensive Plan Land Use Map designates this property as Rural Lands. Rural Lands are areas containing farms, forests and scattered houses, exclusively outside of the Primary Service Area (PSA), where a lower level of public service delivery exists or where utilities and urban services do not exist and are not planned for in the future. Appropriate primary uses include agricultural and forestal activities, together with certain recreational, public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. The designation also acknowledges that a few smaller home-based occupations or certain commercial uses which require very low intensity settings relative to the site in which it will be located may be considered on a case-by-case basis, provided such uses are compatible with the natural and rural character of the area and in accordance with the Rural Lands Development Standards. Rural Lands Development Standards speak to siting non-agricultural and non-forestal uses in areas where they minimize impacts or do not disturb agricultural/forestal uses, open fields, and important agricultural/forestal soils and resources. Small commercial operations should also be located where public facilities, particularly roads, can adequately accommodate them.

The Comprehensive Plan also includes actions geared towards encouraging and promoting safe and licensed child care businesses near adequate and accessible transportation routes and providing various options for affordable child care.

Staff Comments: Numerous day cares throughout the County have been approved in conjunction with church properties or in residential settings. The proposed day care is located in an existing building in an area that will not negatively impact agricultural or forestal areas. Additionally, the site is served by public water and conditions will ensure that drainfield capacity is sufficient to serve the proposed day care. The facility will use existing entrances to the church so access from Chickahominy Road will remain unchanged and the facility generates relatively few vehicle trips. It is also adjacent to a bus stop on the Purple Route. Finally, proposed SUP condition #6 requires that the facility be licensed and it will be required to meet all building code requirements. Staff finds this project consistent with the 2009 Comprehensive Plan.


RECOMMENDATION

Staff recommends the Planning Commission recommend approval of this proposal to the James City County Board of Supervisors with the conditions stated below. While the 2009 Comprehensive Plan does not recommend commercial facilities as primary uses in the 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. Staff finds the proposed day care to be compatible with the existing church site and does not negatively affect agricultural or forestal uses. The proposal is also compatible with the surrounding zoning and development.

1. **Master Plan:** This Special Use Permit 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 not exceed 30 individuals. The final occupancy shall be determined by regulations of the Virginia Department of Social Services and by James City County Building Safety and Permits.
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 drain field capacity in an amount sufficient to handle the Center.
5. **Lighting.** Should 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 2 years, 6 months, and 1 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 special use permit, the Center shall receive a Certificate of Occupancy, or the special use permit shall become void.



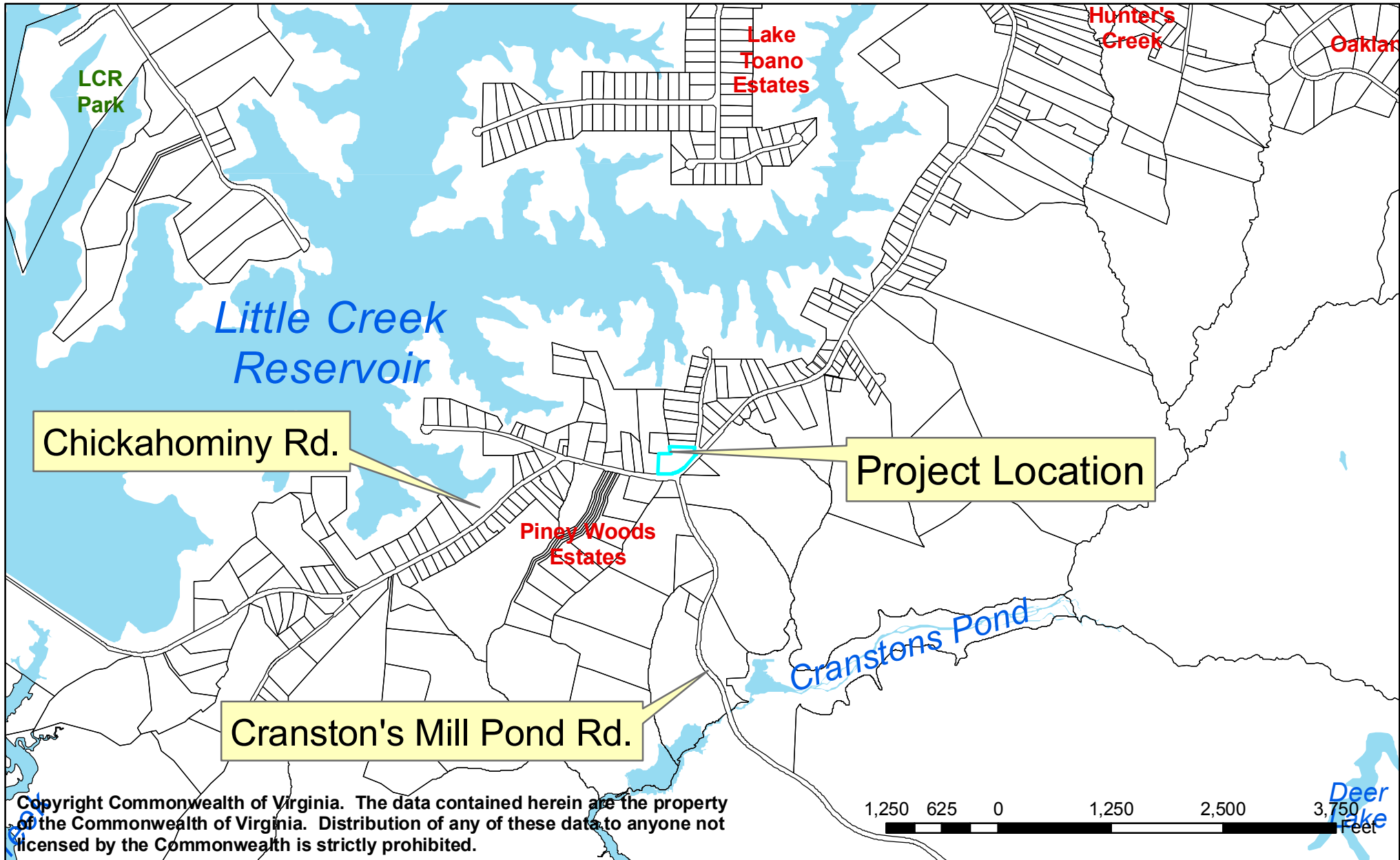
Leanne Reidenbach

ATTACHMENTS:

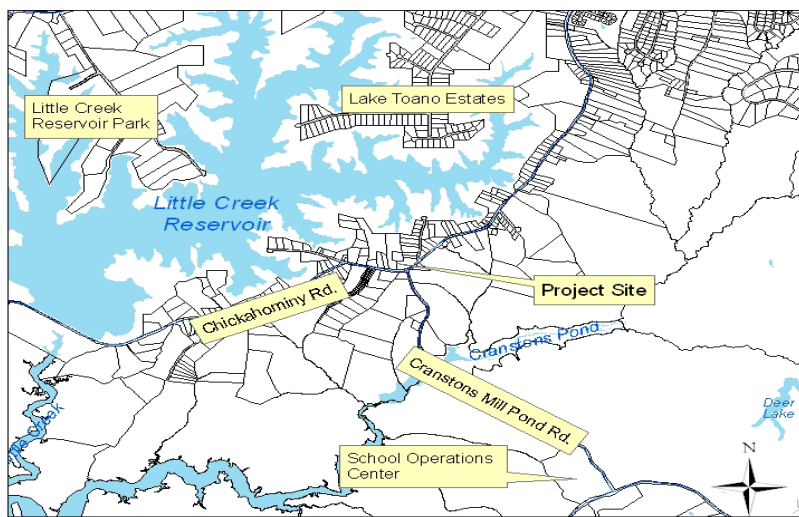
1. Location map
2. Master plan

JCC SUP-0008-2012

Chickahominy Baptist Church Day Care



JCC Case No. SUP-0008-2012, Chickahominy Baptist Church Daycare



Address: 2900 Chickahominy Road

Tax Map #: 2230100009B

Parcel Size: 2.21

Zoning: R-8, Rural Residential

(Note: Church is subject to conditions adopted with SUP-0027-2005)

Owner: Chickahominy Baptist Church
PO Box 506
Toano, VA 23168

Proposed Use: Daycare operation for a maximum of 30 children and staff in existing 2-story building (see Note #3)

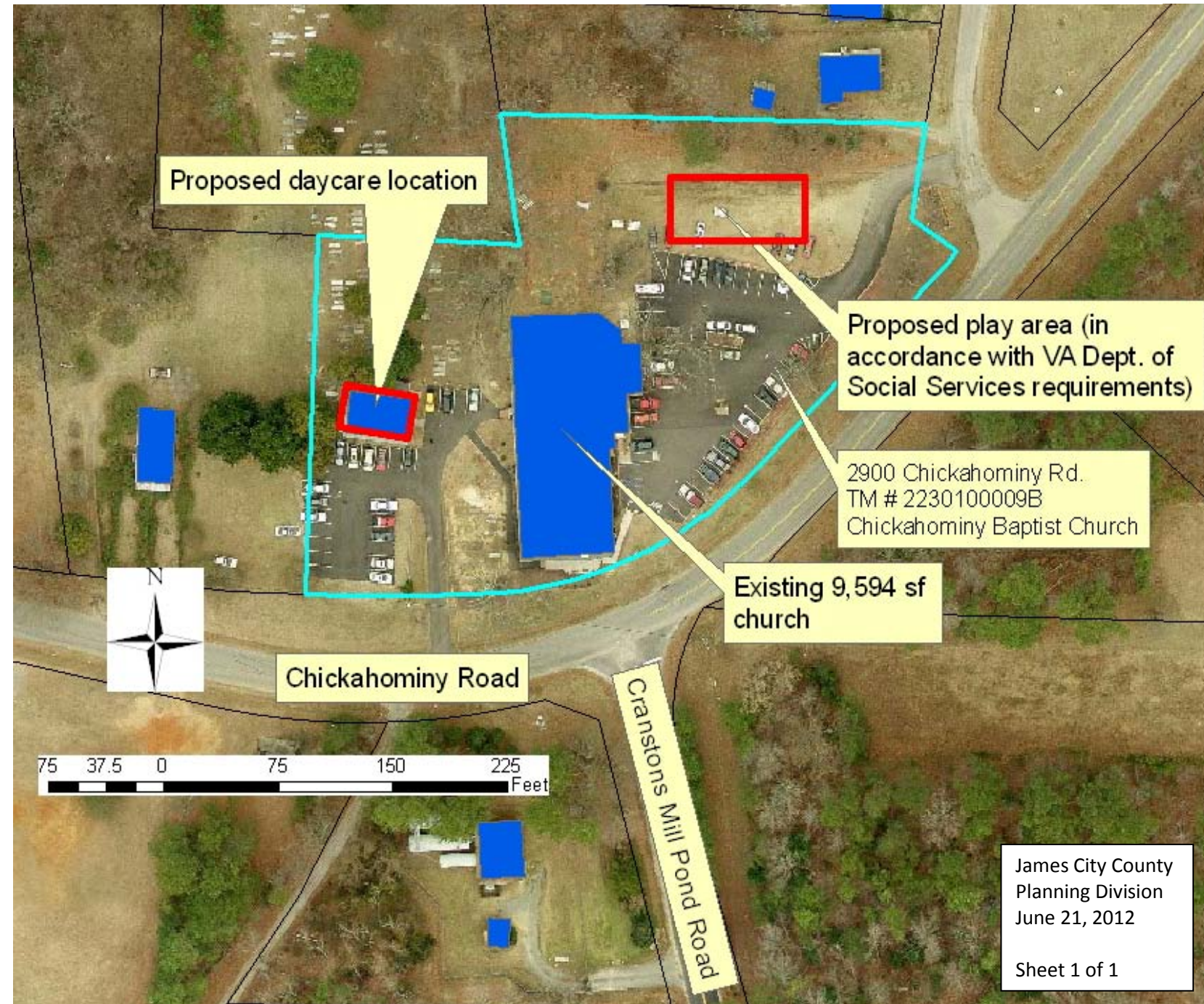
Buildings: Church (existing)- 9,600 sq. ft.
Daycare (existing building)- 1,840 sq. ft.

Parking Required: Church = 1 space/5 seats = 38
Daycare = 1 space/employee + 1 space/4 kids = 12

Parking Provided: 60 spaces (2 handicap)
Daycare to share existing parking lot

General Notes:

- 1) Site is served by public water and private sewage
- 2) Existing entrances to the church shall be used
- 3) Final occupancy shall be determined by the Virginia Department of Social Service and JCC Building Safety and Permits.



James City County
Planning Division
June 21, 2012

Sheet 1 of 1

SUP-0007-2012, Jim's Well Service**Staff Report for the July 11, 2012, Planning Commission 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.

August 14, 2012

7:00 p.m. (tentative)

SUMMARY FACTS

Applicant:

Mr. Frederick Johnson

Land Owner:

Mr. Frederick Johnson

Proposal:

To allow a contractor's office and accessory uses.

Location:

194 Racefield Drive

Tax Map/Parcel:

0320100005

Parcel Size:

44 acres

Existing Zoning:

A-1, General Agricultural

Comprehensive Plan:

Rural Lands and Conservation Area

Primary Service Area:

Outside

STAFF RECOMMENDATION

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions listed in the staff report.

Staff Contact:

Jose Ribeiro, Senior Planner

Phone: 253-6685

PROJECT DESCRIPTION

Since 2006, the applicant has owned and operated a small well-drilling and pump service business out of 9430 Richmond Road in Lanexa. Recently, Mr. Johnson purchased a 44-acre property located at 194 Racefield Drive where he now resides and plans to operate his business. The property is zoned A-1, General Agricultural and is designated as Rural Lands and Conservation Area by the 2009 Comprehensive Plan. To the north of the property is Interstate I-64, to the west an undeveloped parcel (part of the Barnes Swamp AFD), the Racefield subdivision is located to the east, and a large single-family residential parcel is located directly to

the south of the property. All surrounding parcels shared the same zoning and comprehensive plan designation as the subject property.

The proposed commercial operation exceeds the Home Occupation standards as defined in the Ordinance and therefore falls within the SUP category. A contractor's office is a specially permitted use in A-1 zoning district. Staff notes that this application covers approximately 0.25 acres of the property, which includes all existing and proposed structures as shown on the master plan (attachment No.1).

In addition to the existing single-family dwelling on the site, other permanent site features include an outbuilding and carport where materials and equipment will be stored. The applicant has indicated that other equipment on-site associated with the business include six vehicles: two drill rig-trucks, two service-trucks, and two water-trucks. Additionally, the following machinery is currently part of the business inventory: one backhoe front-end loader, one excavator, one trencher, and one utility trailer to haul the above referenced machinery off-site (attachment No.2). Currently, the business employs two full-time employees besides Mr. and Mrs. Johnson. According to the applicant operating hours are generally between 7 a.m. to 7 p.m. from Monday to Friday with employees picking-up vehicles and equipment in the morning and dropping it off in the evening.

The property is landlocked and access to a public right-of-way (i.e. Racefield Drive) is provided through a private easement and a shared driveway located on the adjacent property to the south. According to information provided by the applicant, the shared driveway is situated within a 40-foot ingress/egress easement providing vehicular access to both properties. The owner of the property where the shared driveway is located has provided his signature along with the SUP application stating no objections to the proposal. Staff notes that the shared driveway has two separate entrances onto Racefield Drive. The entrance within the 40-foot easement will be the primary vehicular access point for this proposal. The second entrance is located outside the 40-foot easement and used primarily by owners of the adjacent property (attachment No. 3).

PUBLIC IMPACTS

Environmental

The Engineering and Resource Protection Division has no comments on the Master Plan or development proposal at this time. However, any improvements to the site such as an increase in impervious surfaces will require compliance with the Virginia Stormwater Management Regulations and Chapter 23 (Chesapeake Bay Preservation) of the James City County Ordinance.

Public Utilities

The site is located outside the Primary Service Area, and is currently served by private well and septic systems. The Health Department has requested additional information, which will be required during the site plan review for this application.

Transportation:

The proposal is expected to generate low daily traffic and therefore have minimal impact to the local road system. Based on the applicant's response to staff's questions, it is expected that no

more than two trucks leave the site early in the morning and return late in the afternoon on a daily basis. According to the applicant, these are medium size service-trucks (modified F-350 pick-ups) and medium size water-trucks (comparable in size to ice-cream trucks). The largest of the trucks, the drill-rigs (approximately 35 feet and 27 feet in length) will typically remain off-site for several days until completion of work. Customers will not drive to the site and only four employees associated with the proposal (including Mr. and Mrs. Johnson) would be driving to and from the site. All trucks will be parked behind the existing outbuilding and carport as shown on the master plan

VDOT Staff comments: VDOT staff has reviewed the application and has issued comments that will be addressed by the applicant at the development plan design stage. The existing entrance within the 40-foot access easement shall be evaluated during the site plan review for compliance with VDOT's Road Design Manual.

COMPREHENSIVE PLAN

The site is designated by the 2009 Comprehensive Plan as Rural Lands and Conservation Area. Principal suggested uses include agricultural and forestal activities, together with certain recreational public or semi-public and institutional uses that require a spacious site and are compatible with the natural and rural surroundings. Retail and other commercial uses serving Rural Lands are encouraged to be located at planned commercial locations on major thoroughfares inside the PSA. However, a few of the smaller direct agricultural or forestal-support uses, home-based occupations, or certain uses which require very low intensity settings relative to the site in which it will be located may be considered on the basis of a case-by-case review, provided such uses are compatible with the natural and rural character of the area, in accordance with the Rural Lands Development Standards.

Staff finds that the proposed use meets the requirement of "certain uses, which require very low intensity settings relative to the site in which it will be located." Undisturbed and dense vegetation located along the perimeter of the 44-acre property provide a natural buffer from all surrounding properties. Staff has visited the site and finds that it is unlikely that the proposed operation would be a disturbance to adjacent neighbors. The existing house and storage structures are located approximately 800 feet away from the nearest adjacent residential dwelling. Impacts to the road will also be limited due to the low traffic generation. While the sizes of the trucks are larger than the typical vehicles found in rural subdivisions, Racefield Drive is wide enough to accommodate comparable size trucks such as schools buses and delivery trucks (the right-of-way is 50-feet wide of which approximately 20-feet is paved and used as the "road"). The speed limit is 25 miles per hour, which ensures for slower and safer maneuverability among different types of vehicles. Staff finds that the rural residential characteristic of the neighborhood will not be affected by this proposal. Staff notes that a narrow strip of land at the southern part of the property is designated Conservation Area and will not be impacted by the proposal.

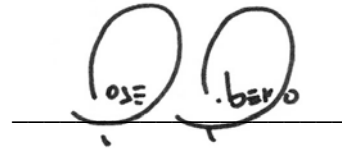
RECOMMENDATION

Staff finds the proposed use to be consistent with the surrounding zoning and development and compatible with the 2009 Comprehensive Plan. Staff recommends the Planning Commission recommend approval of this application to the Board of Supervisors with the conditions listed in

the staff report.

1. This Special Use Permit (the “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 JCC RE 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 JCC RE 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.

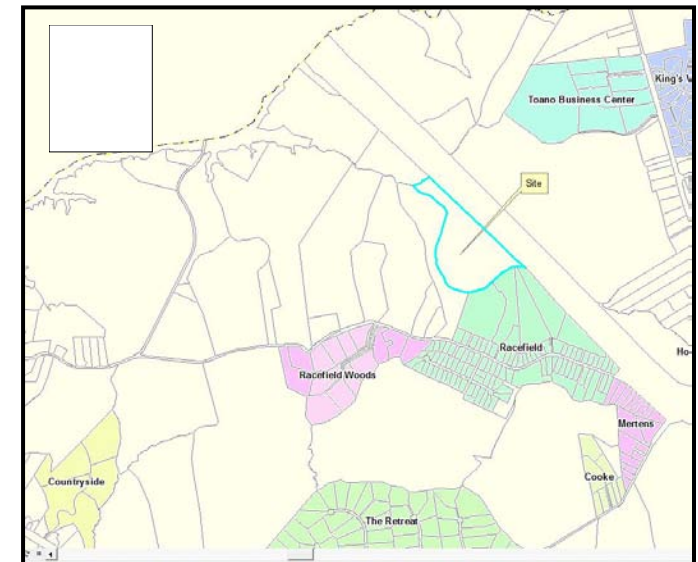
9. An amendment to this SUP application shall be necessary should the number of vehicles associated with the Proposal exceed eight vehicles. This condition shall exclude employee's personal vehicles.
10. A site plan shall be required for this Proposal. Final approval of the site plan shall be obtained within 18 months of issuance of this SUP, or the SUP shall become void.
11. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

A handwritten signature in black ink, consisting of two large, stylized loops. The first loop contains the letters 'J' and 'R' and the second loop contains the letters 'I' and 'B'. The signature is written above a horizontal line.

Jose Ribeiro, Senior Planner

ATTACHMENTS:

1. Master Plan
2. Pictures of trucks and machinery
3. Pictures of the shared driveway and entrance
4. Location Map

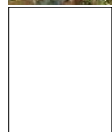


Notes

Address:	194 Racefield Drive
Zoning:	A-1, General Agricultural
Tax Map ID#:	032010000
Parcel Size:	44 acres
Area under SUP:	0.25 acres
Comprehensive Plan:	Rural Lands and Conservation Area
Owner:	Frederick Johnson
Proposed Use:	Contractor's office and accessory uses

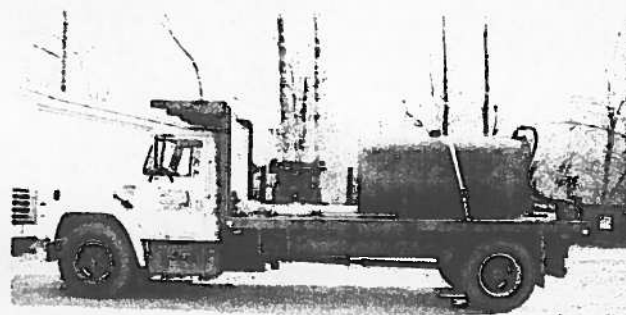
Special Use Permit Exhibit for Jim's Well Service

James City County, May 24, 2012



Special Use Permit Exhibit for Jim's Well Service James City County, May 24, 2012

Attachment No. 2 Pictures of trucks and machinery



Attachment No. 3- Shared Driveway and Entrance Details



SUP-0007-2012

Jim's Well Service



**SPECIAL USE PERMIT-0012-2011 nTelos Route 199 Wireless Communications Facility
Staff Report for the July 11, 2012 Planning Commission 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 PM
August 14, 2012 7:00 PM (tentative)

SUMMARY FACTS

Applicant: Gloria Freye, McGuire Woods

Land Owner: RCS Williamsburg Holding LLC

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

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

Tax Map/Parcel: 3820100005

Parcel Size: 8.2 acres

Existing 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 Fords Colony and Eastern State Hospital. The proposed WCF will also be partially visible from Heritage Pointe within Fords 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 Commission recommend denial of the application. Should the Commission recommend approval of the application, staff suggests such approval be contingent upon the conditions listed at the end of the report.

Staff Contact: Luke Vinciguerra, Planner Phone: 253-6783

PROJECT DESCRIPTION

Ms. Gloria Freye, on behalf of nTelos, has applied for a Special Use Permit to allow the construction of a 172' (170' tower with 2' lighting rod) wireless communication facility (WCF) to be located on the east side of Route 199 north of New Town Sections 7 & 8, adjacent to Eastern State Hospital (attachment #1). 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 a Special Use Permit (SUP). The proposed WCF would be a "slick stick" with no visible external antennas. An illustration of the proposed tower is provided in attachment 3. This proposal is an alternative location proposed by nTelos to provide service in the Fords Colony/New Town vicinity after the proposed Hospice House tower application (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 of 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 Fords Colony that was created by the construction of Route 199. The proposed tower is approximately 600 feet from the closest home in Fords Colony and over 1,800' 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 Fords Colony and Eastern State Hospital (attachment 2). The proposed WCF would be partially visible through the trees at a few locations along Heritage Pointe within Fords Colony. Staff notes that the balloon test took place in June when the deciduous trees in Fords 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 1 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 & 8 illustrates a road into section 8 that would point directly at the proposed tower site. Staff finds it likely that the proposed tower would be highly visible from any location along the proposed main road.

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, 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 Community Character Corridor, and a gateway to the Historic Triangle. The Plan also mentions the County's desire to minimize the impacts of newly approved wireless communication facilities. The proposed height would make the tower the dominant visual feature along a portion of Route 199 as shown in attachment 1. 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 #4). 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 regards 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 Fords 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 on to 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 Fords 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 Fords Colony and Eastern State Hospital. The proposed WCF will also be partially visible from Heritage Pointe within Fords 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 Commission recommend denial of the application. Should the Commission recommend approval of the application, staff suggests such approval be contingent upon the conditions listed below.

1. **Term of Validity:** This SUP shall be valid for a total of one wireless communications facility at a total height of 172' 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 dated March, 29, 2012.

2. **Time Limit:** Final building approval shall be obtained within two (2) years of approval of this special use permit, 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.

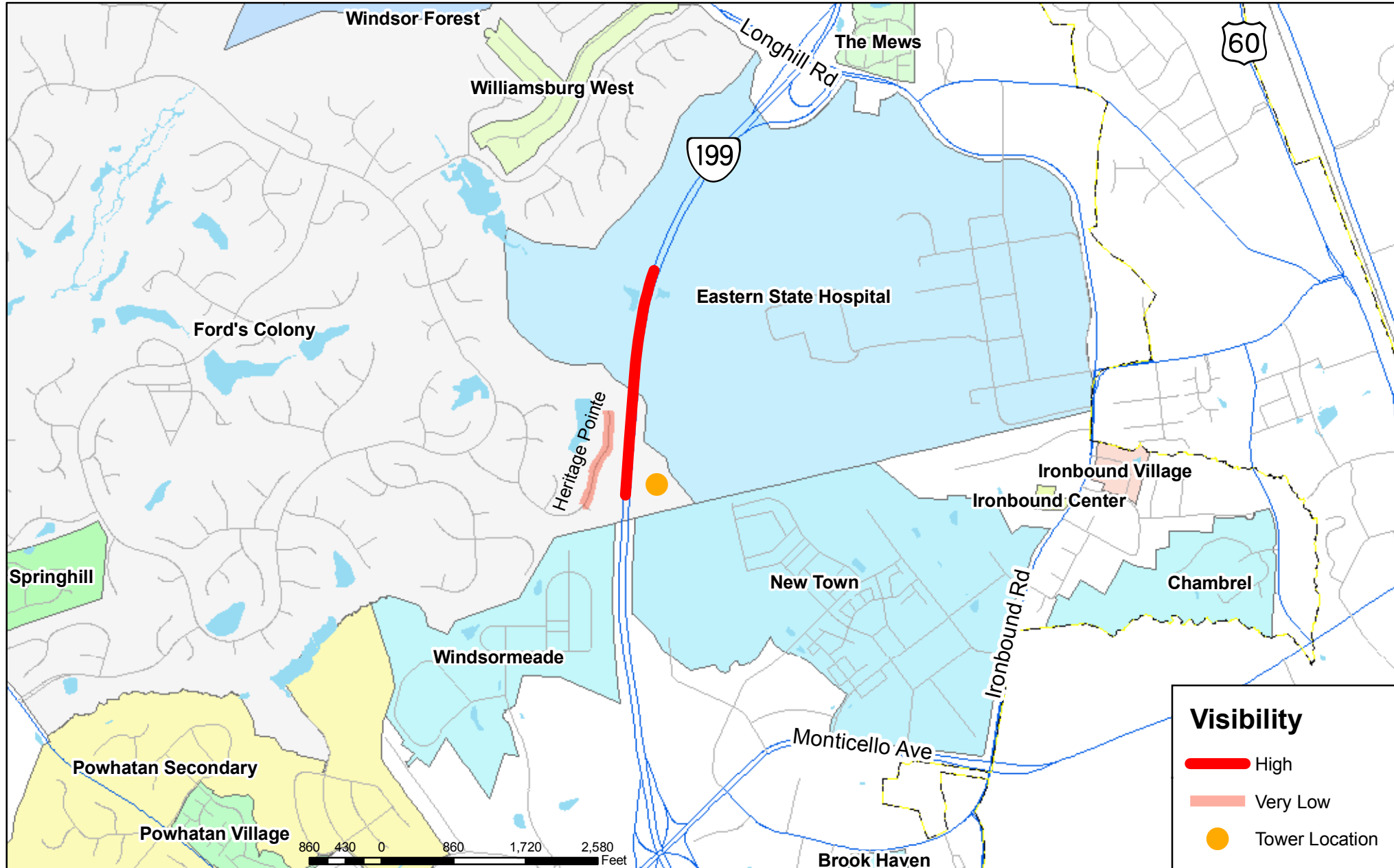
11. **Severance Clause:** This SUP is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

ATTACHMENTS:

1. Location map and balloon test results
2. Balloon test photos
3. Conceptual site plan of proposed tower
4. Performance Standards for Wireless Communications Facilities

SUP-0012-2011

nTelos Route 199 WCF



Attachment 2: 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.

Agricultural and Forestal District 04-86-3-2012. Pates Neck AFD, Hineman/Ballentine Addition, Staff Report for the July 11, 2012 Planning Commission Public Hearing

This staff report is prepared by the James City County Planning Division to provide information to the AFD Advisory Committee, 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 MEETINGS

AFD Advisory Committee	Building F Board Room; County Government Complex	
	June 25, 2012	4:00 p.m.
Planning Commission	July 11, 2012	7:00 p.m.
Board of Supervisors	August 14, 2012	7:00 p.m. (tentative)

SUMMARY FACTS

Owners	Parcel Number	Acres
Laura Hineman	2130100005b	56
John Ballentine	2130100005c	<u>75</u>
	total:	131 acres

Zoning: A-1, General Agriculture

Comprehensive Plan: Rural Lands/Conservation Area

Primary Service Area: Outside

STAFF RECOMMENDATION

Staff recommends that the Commission recommend the inclusion of both parcels into the Pates Neck AFD subject to the existing conditions of the district.

At its June 25th meeting, the AFD Advisory Committee recommended the proposed addition to the district by a vote of 6-0.

Staff Contact: Luke Vinciguerra Phone: 253-6783

Project Description

The Pates Neck AFD consists of 624 acres of land and is generally located south of Little Creek Dam Road and east of Menzels Road. Currently there are two properties in the AFD, both owned by the Pates Neck Timber Company. These properties have been in the AFD since 1986 without withdrawals or additions. The current proposal would add 131 acres of significantly wooded land on two adjacent parcels (see attachment 1) into the AFD. Inclusion of the two properties would bring the total AFD size to 755 acres.

Surrounding Land Uses and Development

This section of the County is largely undeveloped and heavily wooded. Surrounding properties to the west are part of the current Pates Neck AFD and the Wright's Island AFD.

Comprehensive Plan

The Comprehensive Plan designates these parcels as Rural Lands and Conservation Area. Land Use Action 6.1.1 of the 2009 Comprehensive Plan states the County shall "support both the use value assessment and Agricultural and Forestal (AFD) programs to the maximum degree allowed by the *Code of Virginia*."

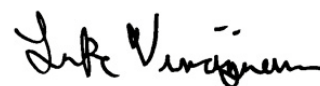
Analysis

The proposed AFD addition meets minimum state code requirements for inclusion into the AFD. Staff recommends the properties be subject to the following conditions which are the same as other properties in the Pates Neck AFD:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner's immediate family. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment provided: a.) the subdivision does not result in the total acreage of the District to drop below 200 acres; and b.) the subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the AFD may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land within the AFD, may be withdrawn from the District in accordance with the Board of Supervisors' Policy Governing the Withdrawals of Property from AFDs, adopted September 28, 2010, as amended.
3. No special use permit shall be issued except for agricultural, forestal, or other activities and uses consistent with the State Code, Section 15.2-4301 et. seq., which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County's policies and ordinances regulating such facilities.

RECOMMENDATION:

Staff recommends that the Commission recommend the inclusion of both parcels into the Pates Neck AFD subject to the existing conditions of the district. At its June 25th meeting, the AFD Advisory Committee recommended the proposed addition to the district by a vote of 6-0.



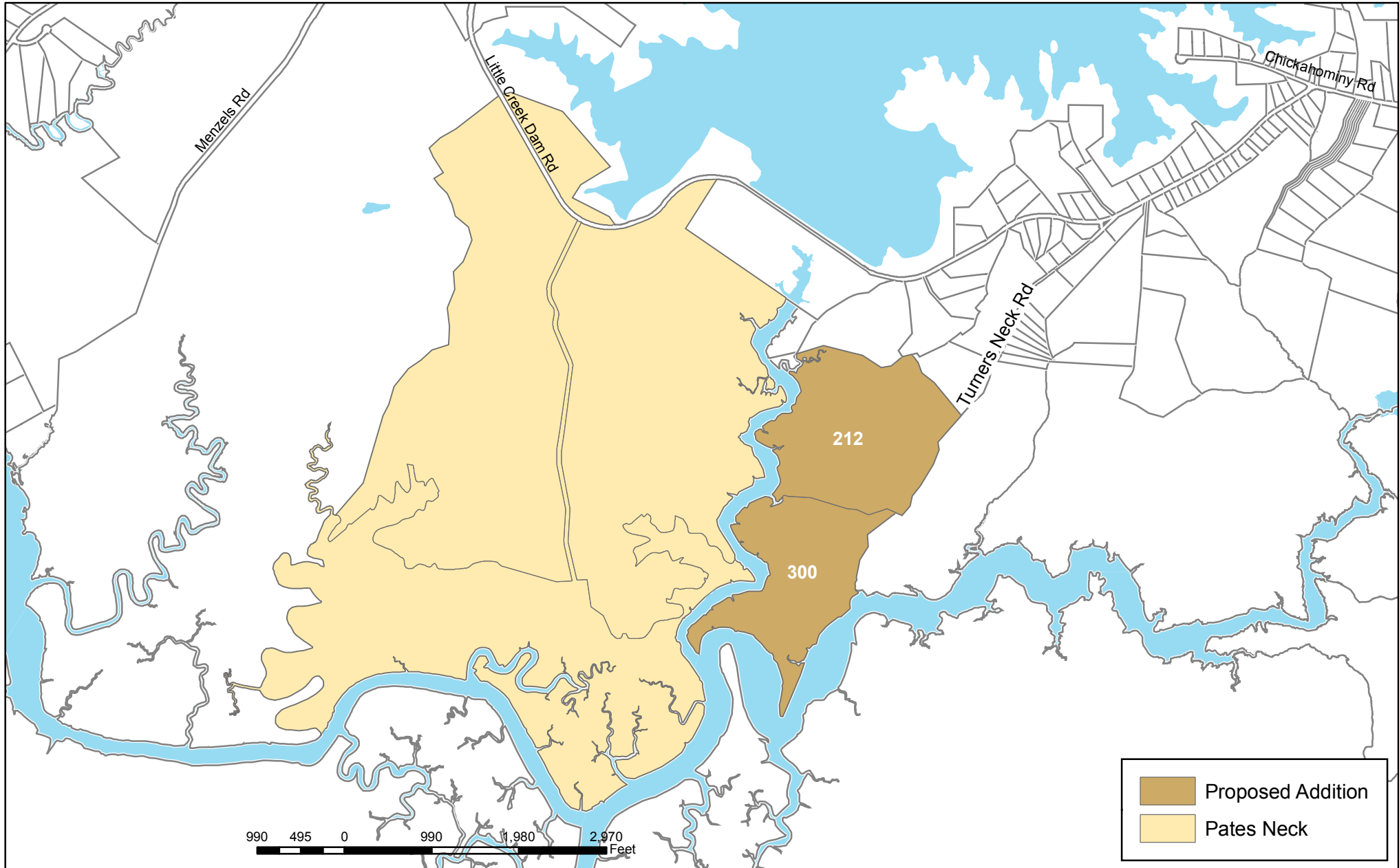
Luke Vinciguerra

Attachments:

1. Location Map

AFD-04-86-3-2012

Pates Neck AFD addition



MEMORANDUM

DATE: July 11, 2012

TO: The Planning Commission

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

Some definitions were previously submitted to the Policy Committee 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” have been finalized by staff and are presented together with other definitions as part of the overall revision to Section 24-2 of the ordinance. The attached materials are associated with Stage III, final review of the definitions section.

The definition section is an important part of the ordinance as it offers clarification of terms that may be confusing or unfamiliar to readers. This section is also important to staff as it promotes greater understanding of meaning and is commonly used as a building block to better evaluate the nature and impacts of certain uses or activities.

1. New definitions

Staff proposes a variety of new definitions in order to better explain certain terms being introduced into the ordinance. For instance, new terms such as “assisted living facility,” “independent living facility” and “continuing care retirement community (CCRC)” are all related to senior/infirm housing and care. By providing a clear definition for each of these uses, it becomes easier to understand its relationship to other uses and its impacts to different zoning districts. Other examples of new definitions being considered for adoption include:

- Multi-antenna system
- Multiple provisioning antenna
- Portable cellular transmission facility
- Radio frequency report

2. Revisions

Some of the revisions proposed by staff are being made to correct grammatical errors. Other definitions are being revised to ensure compliance with 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 proposed in order to match language found in the *Code of Virginia*. The revision to the term “camping units” is proposed in order to accommodate a request from the Outdoor World Williamsburg Campground to increase the length of stay of temporary shelter devices (i.e. travel trailer, motor home, recreational vehicle, etc) in campgrounds. Other examples of definitions being considered for amendment include:

- Administrator, zoning administrator
- Camouflages structure
- Dwelling
- Timbering

3. Deletions

A few definitions are being marked for deletion from the ordinance. Some are being deleted to avoid redundancy such as the definition of “dish antenna,” which is currently found as a stand alone definition and also under “antenna.” Others are being deleted because they are no longer relevant (e.g., the term “greenbelt road” is being replaced by the term “Community Character Corridor” and the definition of “affordable housing” is being replaced by “workforce housing”) or because they have blended with other already defined terms (e.g., the terms “townhouse” and “two-family” are absorbed into the new definition for “multi-family”).

Other examples of definitions being considered for deletion include:

- Apartment housing
- Condominium
- Home care facility
- Rest home

4. Illustrations

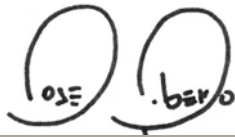
Staff has developed illustrations to further enhance the understanding of specific terms found in the definitions section. These illustrations were created by staff using two current publications as resources, *The Latest Illustrated Book of Development Definitions* and *A Planners Dictionary* by the American Planning Association.

A total of five definitions are proposed to have illustrations accompanying their text. Terms such as accessory/principal uses, setback lines, yard, building envelope, lot width and depth, are commonly used by both staff and citizens. However, certain defined terms, such as setback lines are more easily understood or explained through the use of an illustration or picture. These illustrations have been created to add clarity to each of these terms and to visually place them together with other defined terms for a more complete description of the interrelationship between certain defined terms. The proposed illustrations are:

- Accessory building or structure
- Building height
- Building line
- Flood plain or flood-prone area
- Lot interior

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the definitions section to the Board of Supervisors.



Jose Ribeiro

Attachments:

1. List of revised definitions
2. Definitions Ordinance

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 Antenna Aquaculture Arterial streets Automobile Automobile and gasoline service station Automobile graveyard Caliper Camouflaged structure Campgrounds Camping unit Convenience store Development plans Dwelling Fast food restaurant Flag lot Flood or flooding Floodplain or flood-prone area Floodway Functional classification Glare Horizontal light bars/strips Hospital Lot, interior unit Lot line, front 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

Chapter 24

Article I. In General

Section 24.1.

This chapter shall be known and may be cited as the “James City County, Virginia, Zoning Ordinance” or simply as the “Zoning Ordinance.”

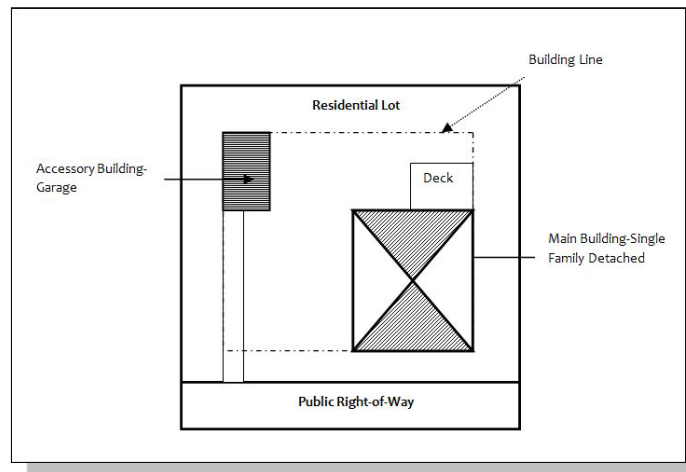
Sec. 24-2. Definitions.

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.

Acreage 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.

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).

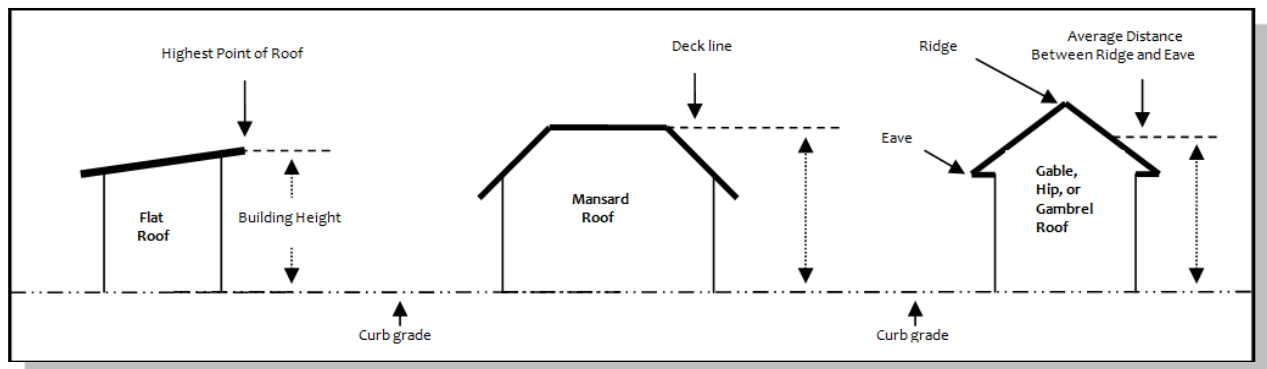
Base flood elevation. The Federal Emergency Management Agency (FEMA) designated 100-year water surface elevation.

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 sub grade (below ground level) on all sides.

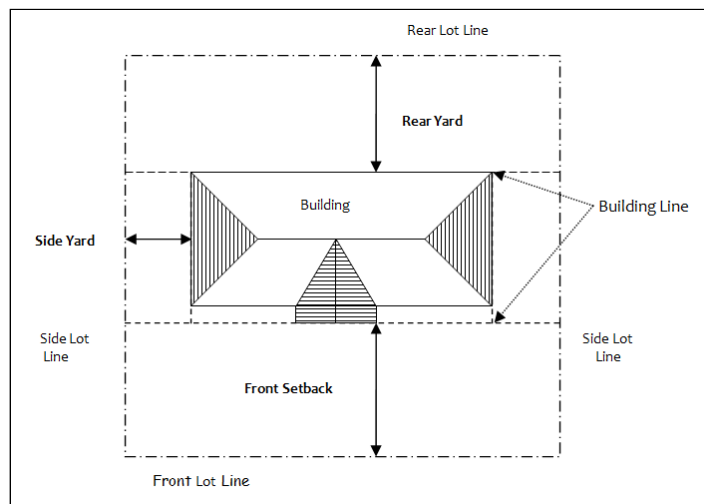
Building. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

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 be 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.

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.

Community character corridor. A road shown and identified on the Land Use Plan Map in the Comprehensive Plan as a community character corridor.

~~*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 *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 Cheseapeake 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 “non-developable 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:

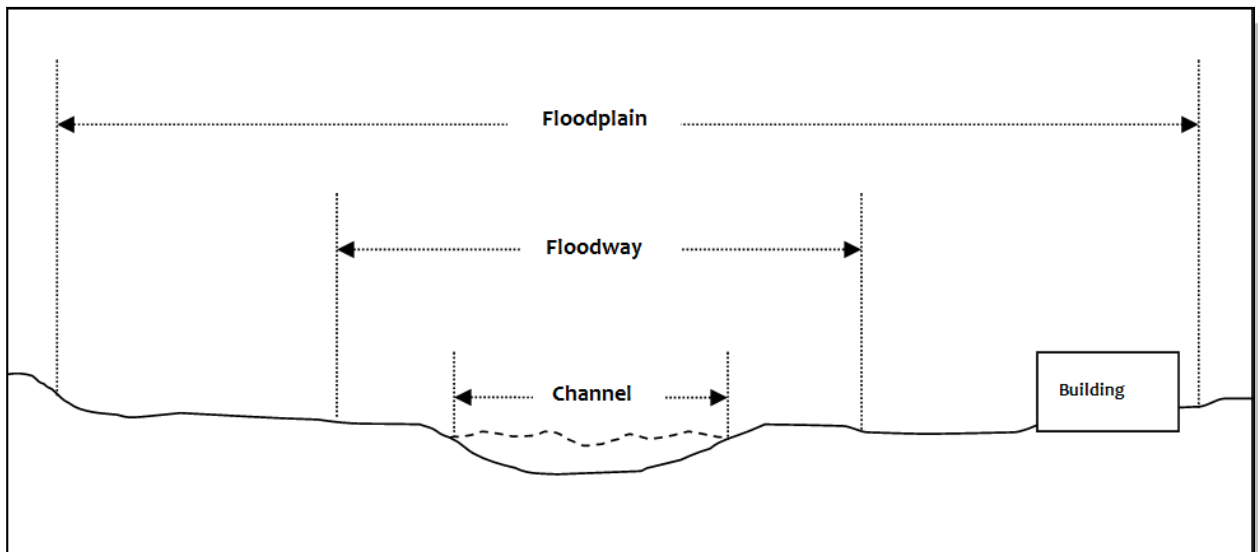
- (1) A general or temporary condition of partial or complete inundation of normally dry land areas from:
~~the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface water from any source.~~
 - (a) the overflow of inland or tidal waters; or
 - (b) the unusual 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 sources 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.

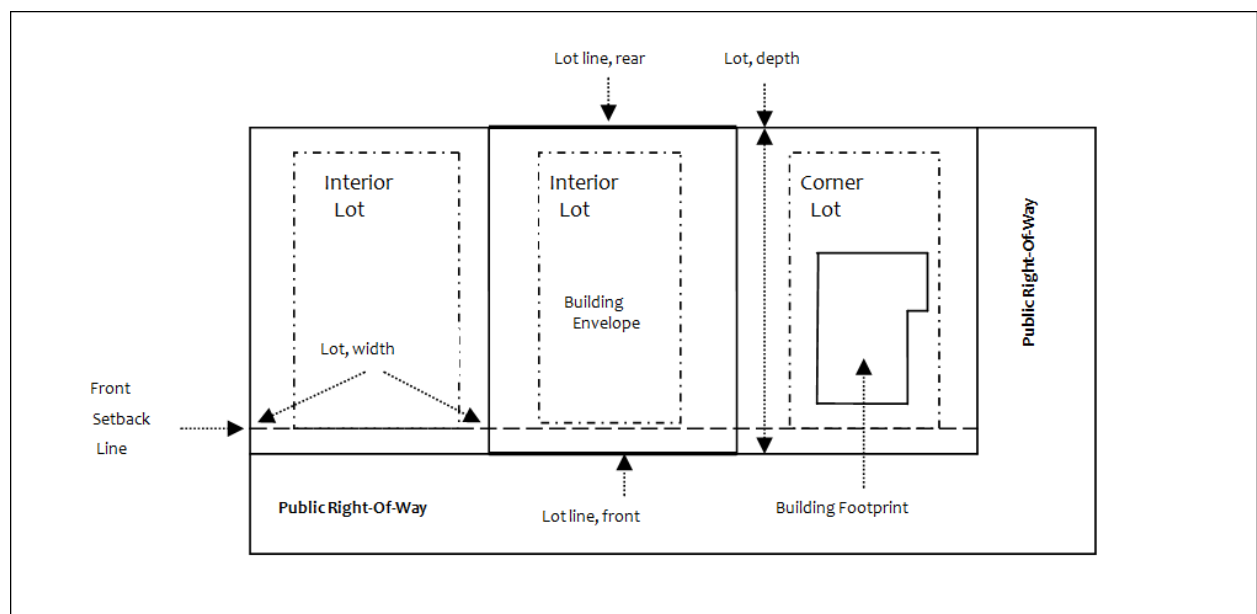
Lot, area of. The total area of land contained by lot lines and inclusive of any easements that may exist upon the lot. For the purpose of computing coverage of floor area ratio, the area of the lot shall not be considered to include any area of land designated for a future public road right-of-way.

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 a 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 on outside the wireless communication facilities that exceeds relevant federal communication committee 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.

~~*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~~ *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 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 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: 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 ~~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.

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

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.

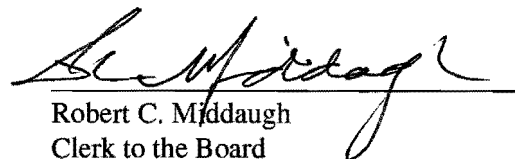
The Board also raised questions about the density bonus item options and expressed a concern that some should be expectations. The question of whether the County needed density bonuses for County projects was also raised. Staff was asked to review the list for possible changes.

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.

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.

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.

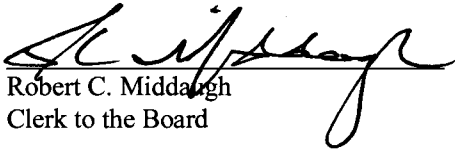
Ms. Jones stated that she did not want to see additional regulations.

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.

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.

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.

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.

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.

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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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} dwelling units 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:

<u>Area Designation</u>	<u>Dwelling Type</u>	<u>Maximum Gross Density as defined in section 24-278 (Dwelling Units Per Acre)</u>
A	Single-family	4
B	Attached structures Multi-family dwellings containing two up to and including four dwelling units	9.6
C	Attached structures less than three stories and Multi-family dwellings containing more than four dwelling units	12
D	Attached structures of three or more stories and containing more than four dwelling units Apartments	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>	
	<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>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 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</i>	<i>P</i>	

	worship, public meeting halls, lodges or fraternal organizations		
	Private clubs, civic or service clubs, lodges and fraternal organizations	P	
	Schools	P	
Utility Uses	Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities		SUP
	Public utilities: Poles, lines, distribution transformers, pipes, meters and other facilities necessary for the provision and maintenance of utilities including water and sewer facilities	P	
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communication Facilities, only in areas with a designation other than residential on a board adopted master plan		SUP
	Water facilities (public) and sewer facilities (public), including but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions shall be a permitted use only after the issuance of a special use permit by the board of supervisors. However, the following are permitted generally and shall not require a special use permit: (1) Private connections to existing mains, that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line; (2) Distribution lines and local facilities within a development; including pump stations.		SUP
	Water impoundments, new or expansion of, 50 acres or more with dam heights of more than 25 feet with a special use permit		SUP
	Water impoundments, new or expansion of, less than 50 acres and dam heights of less than 25 feet	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	

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 ~~Planned 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.

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:~~
- ~~The use;~~
 - ~~Approximate development phasing;~~
 - ~~Maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and~~
 - ~~Maximum acreage of each use.~~

- ~~(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>	<i>Maximum Base density (dwelling units per acre)</i>	<i>Maximum gross density with density bonus (see table under section 24-488(c))</i>
A	Single family	4-2	4
B	Attached structures <i>Multi-family dwellings</i> containing two <i>up to and including</i> four dwelling units, or townhouses	9-6-5	10
C	Attached structures less than three stories and <i>Multi-family dwellings</i> containing more than four dwelling units	12-6	12
D	Attached structures of three stories or more and containing more than four dwelling units <i>Apartment</i> s	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:

Percent non-developable land	Percent of gross acreage added to the developable land
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.

Bonus Increase from Base Density	Required Density Bonus Points from List Below
Up to the base density	0
Greater than the base density, up to and including 33 percent above the base density	2
Greater than 33 percent above the base density, up to and including 66 percent above the base density	4
Greater than 66 percent above the base density, up to and including 100 percent above the base density	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)	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.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units	1
E.	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
F.	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
G.	Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present.	1
H.	Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size.	1
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. <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 	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 5 percent of the developable area of the site).	0.5

M.	<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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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) *Natural features and amenities.* Existing features which would add value to the residential development or to the county as a whole, such as trees, watercourses, historical sites and similar irreplaceable assets, shall be preserved to the maximum extent possible.

(i) *Signs.* To assure an appearance and condition which is consistent with the purposes of the planned unit development district, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter, except that unique signing systems may be approved by the planning 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 landscaped ~~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) *Internal setback requirements for industrial uses.* A minimum setback of 50 feet shall be required from streets which are internal to the site for any industrial structure.

- (c) *Yard regulations.* Except for ~~setbacks~~ **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.
- (d) *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 handiwork 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>	

	Drug stores	P	
	Dry cleaners and laundries	P	
	Funeral homes	P	
	Golf courses, country clubs	P	
	Indoor theaters	P	
	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	P	
	Medical clinics or offices	P	
	Motels, hotels and resort facilities	P	
	Museums	P	
	Nursing homes and facilities for the residence and/or care of the aged	P	
	Off-street parking as required by section 24-53	P	
	Photography studios and sales, artist and sculptor studios, arts and crafts and handicraft shops, antique shops, reproduction and gift shops	P	
	Plants and garden supply, hardware and paint, and home appliance sales and service, with storage in a fully enclosed building	P	
	Restaurants, tea rooms and taverns	P	
	Restaurants which are accessory to permitted private clubs and marinas	P	
	Retail 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	P	
	Retail food stores, bakeries, fish markets	P	
	Retail shops associated with community recreation facilities	P	
	Skilled nursing facilities (nursing home)	P	
	Veterinary hospitals	P	
	Wineries	P	
Civic Uses	Fire stations	P	
	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	Timbering in accordance with section 24-43	P	
Utility Uses	Camouflaged wireless communication facilities that comply with division 6, Wireless Communication Facilities		SUP

	<i>Public utilities</i>	<i>P</i>	
	<i>Radio and television stations</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 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>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>		<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>	

(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.~~

(e) ~~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</i>		<i>SUP</i>

	<p><i>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></p> <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.

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 uSe 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 uSe 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 uSe dDistrict, MU~~, is the preferred Zoning District 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
M*	Structures containing a mixture of uses
X	Other structures, facilities or amenities

noted

~~*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~~ 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>	

Home occupations as defined	P	
Hotels, motels, tourist homes and convention centers	P	
Indoor sport facilities	P	
Indoor theaters	P	
Janitorial service establishments	P	
Limousine service	P	
Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Manufactured home or mobile home sales		SUP
Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38		SUP
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution under cover or screened with landscaping and fencing from adjacent property		SUP
Museums		SUP
Nonemergency medical transport	P	
Nursing homes	P	
Off-street parking as required by section 24-53	P	
Office supply stores, secretarial and duplicating services	P	
Parking lots and garages	P	
Photographer, picture, artist and sculptor stores and studios	P	
Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Printing and 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 Facilities	P	
	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:		SUP

	(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and		
	(b) Distribution lines and local facilities within a development, including pump stations		
	Water impoundments, new or expansion of	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	
	Machinery sales and service with major repair under cover	P	
	Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks and wine	P	
	Manufacture and processing of textiles and textile products in structures of not more than 2,000 5,000 square feet	P	
	Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of not more than 2,000 5,000 square feet	P	
	Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of 2,000 5,000 square feet and greater		SUP
	Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	
	Manufacture of carpets and carpet yarns in structures of not more than 2,000 5,000 square feet	P	
	Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity	P	
	Manufacture or assembly of appliances, tools, firearms,	P	

	hardware products and heating, cooling or ventilating equipment		
	Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
	Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments	P	
	Petroleum storage		SUP
	Private streets within "qualifying industrial parks" in accordance with section 24-55	P	
	Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect	P	
	Publicly owned solid waste container sites		SUP
	Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways 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		SUP
	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-	105	10

	family dwellings containing two up to four dwelling units, or townhouses		
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:~~

<i>Gross Acreage</i>	
<i>Percentage of</i>	<i>Gross Acreage</i>
<i>Nondevelopable Area</i>	<i>Shall Equal</i>
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>
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 24-519 (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.

Bonus increase from base density	Required density bonus points from list below
Up to the base density	0
Greater than the base density, up to and including 33 percent above the base density	2
Greater than 33 percent above the base density, up to and including 66 percent above the base density	4
Greater than 66 percent above the base density, up to and including 100 percent above the base density	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)	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.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units	1
E.	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
F.	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
G.	Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present.	1

H.	<p>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.</p> <ol style="list-style-type: none"> <u>100 foot buffers around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</u> <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> <u>Conservation area as identified by an approved watershed management plan</u> <u>Wildlife habitat corridors that:</u> <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 	1
I.	<p>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.</p>	1
J.	<p>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.</p>	0.5
K.	<p>Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least 5 percent of the developable area of the site).</p>	0.5
L.	<p>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.</p>	0.5

(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~~ 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~~ 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.

~~(f)~~ *(e) 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.

~~(g)~~ *(f) 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.

MIXED USE CONSTRUCTION PHASING GUIDELINES

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 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, certificates of occupancy 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.

MEMORANDUM

DATE: July 11, 2012

TO: The Planning Commission

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 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 Wireless Communication Facilities 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 Code Compliance 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 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 Development Review Committee 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 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 and adds accessory apartments, 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, Wireless Communication Facilities.
- 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.

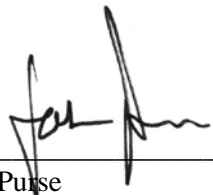
- Adds a requirement that no single use or use category shall exceed 80 percent of the developable land area within a mixed use district.
- Adds language similar to the Economic Opportunity district that requires unified building design and unified open space.
- Removes requirements that are covered 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.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the multiple-use districts ordinances and the proposed Mixed Use Construction Phasing Policy to the Board of Supervisors.



Jason Purse

Attachments:

1. Minutes of the September 27, 2011, January 24, 2012 and February 28, 2012 Board work sessions
2. R-4 Ordinance
3. PUD Ordinance
4. MU Ordinance
5. Mixed Use Construction Phasing Policy

MEMORANDUM

DATE: July 11, 2012

TO: The Planning Commission

FROM: Ellen Cook, Senior Planner II
Jose Ribeiro, Senior Planner
Kate Sipes, Business Development and Retention Coordinator

SUBJECT: Case Nos. ZO-0007-2011 and ZO-0009-2011 Residential Districts 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
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 homeowner's 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, a new 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 of 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 overall more consistent 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:

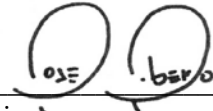
- Purpose;
- Provision and integration of housing opportunity units;
- Applicability of cash proffers;
- Retention of housing opportunity units over time;
- In-lieu contribution to housing fund; and
- Procedures.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the residential districts ordinances and the proposed Residential Redevelopment Policy and Workforce Housing Opportunities Policy to the Board of Supervisors.



Ellen Cook



Jose Ribeiro

Kate Sipes

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. R-1 Ordinance
3. R-2 Ordinance
4. R-3 Ordinance
5. Residential Redevelopment Policy Resolution
6. R-5 Ordinance
7. Cluster Overlay District Ordinance
8. Workforce Housing Opportunities Policy

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.~~

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<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</i>		<i>SUP</i>

	<i>dwellings contained within cluster development in accordance with article VI, division 1 of this chapter</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>
<i>Commercial Uses</i>	<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>
<i>Civic Uses</i>	<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>
<i>Utility Uses</i>	<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</i>		<i>SUP</i>

	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		
	Wireless communication facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit: (a) Private connections to existing mains that are intended to serve an individual customer and 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		SUP
Open	Timbering in accordance with section 24-43	P	

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:

Percent non-developable	Percent of gross acreage added to the developable land
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. 24-235. 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 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 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.

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 		SUP

	<ul style="list-style-type: none"> contained within residential cluster development in accordance with article VI, division 1 of this chapter 		
	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
	Publicly owned solid waste container sites		SUP
	Schools		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acre or more and dam heights of 25 feet or more		SUP
Utility Uses	Camouflaged wireless communication facilities that comply with division 6, Wireless Communication Facilities		SUP
	Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to		SUP

	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		
	Telephone exchanges and telephone switching stations		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions 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		SUP
	Wireless communication facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit: (a) Private connections to existing mains that are intended to serve an individual customer and 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		SUP
Open	Timbering in accordance with section 24-43	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(e).~~

~~Telephone exchanges and telephone switching stations.~~

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

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

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

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

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

~~(a) Private connections to existing mains, that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line;~~

~~(b) Distribution lines and local facilities within a development, including pump stations.~~

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

Sec. 24-2543. 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.~~

~~(c)~~ 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>

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. 24-255. 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 is~~ **multifamily units are** located in the Primary Service Area and ~~is~~ **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 aerials and wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. ~~Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.~~ Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:
 - a. Such structure will not obstruct light to adjacent property;
 - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - c. Such structure will not impair property values in the surrounding area;
 - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, ~~so as to offer adequate protection to life and property; and~~
 - e. Such structure will not be contrary to the public health, safety and general welfare.
- (4) No accessory building which is within ten feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the accessory building shall be measured from the level of

the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height.

Sec. 24-262. Sign regulations.

To assure an appearance and condition which is consistent with the purpose of the General Residential District, R-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

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

~~(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:

Item	Numerical Standard	Design Standard
Neighborhood Park	50-77 Units: Provide one park (minimum of 0.3 acre) 78+ Units: Provide 0.0039 acre per unit	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.
Playground	Provide one playground	The playground shall have a minimum area of 2,500 square feet and a minimum of five activities.

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.

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>	

	Coin laundries which are accessory to other residential uses and for the primary use of its residents	P	
	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Continuing care retirement facilities		SUP
	Hospitals and mental health facilities		SUP
	Off-street parking as required by section 24-53	P	
	Photography studios and sales, artist and sculptor studios		SUP
	Professional and business offices located in the same structure as and in conjunction with multifamily uses		SUP
	Rental of one room	P	
	Rental of two or three rooms to a maximum of three rooms		SUP
	Retail shops accessory to community recreation facilities	P	
	Temporary offices in accordance with section 24-111		SUP
	Tourist homes		SUP
	Places of public assembly, such as meeting halls and houses of worship	P	
	Schools, libraries and fire stations	P	
	Skilled nursing facilities (nursing homes)		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more		SUP
Utility Uses	Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities		SUP
	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad 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		SUP
	Telephone exchanges and telephone switching stations		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations,		SUP

	storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:		
	(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and		
	(b) Distribution lines and local facilities within a development, including pump stations		
Open	Timbering in accordance with section 24-43	P	

Sec. 24-273.3. 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:

Percent non-developable	Percent of gross acreage added to the developable land
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. 24-273.7. 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.	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
K.	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.	1
L.	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.	0.5
M.	Providing one playground with a minimum area of 2,500 square feet and a minimum of five activities.	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 accommodation.* 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:

Item	Numerical Standard	Design Standard
Neighborhood Park	50 – 77 Units: Provide one park (minimum of 0.3 acre) 78+ Units: Provide 0.0039 acre per unit	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.

(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.

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.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of August, 2012.

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.~~

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory apartments in accord with section 24-32.	P	
	Accessory buildings or structures as defined	P	
	Apartments	P	
	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.		SUP
	Home care facilities Group home or residential facilities, for eight or fewer adults	P	SUP
	Group home or residential facilities, for nine or more adults		SUP
	Independent living facilities		SUP
	Multifamily dwellings containing two or more dwelling units	P	
	Residential cluster developments in accordance with article VI, division 1 of this chapter.	P	
	Single family dwellings.		SUP
	Single family dwellings contained within a cluster development in accordance with article VI, division 1 of this chapter	P	
	Three family and four family dwellings.	P	
	Townhouses.	P	
	Two family dwellings.	P	
Commercial Uses	Accessory buildings or structures as defined	P	
	Adult day care centers	P	
	Assisted living facilities		SUP
	Barber and beauty shops		SUP
	Business, professional and governmental offices		SUP
	Day care and child day care centers	P	
	Coin laundries which are accessory to other residential uses and for the primary use of its residents	P	

	Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ballfields, tennis courts and other similar recreation facilities	P	
	Continuing care retirement communities		SUP
	Golf courses, country clubs		SUP
	Home occupations, as defined	P	
	Hospitals and rest homes and mental health facilities		SUP
	Lodges, civic clubs, fraternal organizations, service clubs		SUP
	Marina, boat dock or waterfront recreational facilities	P	
	Off-street parking as required by section 24-53	P	
	Photography studios and sales, artist and sculptor studios	P	
	Professional and business offices located in the same structure as and in conjunction with accessory to multifamily uses		SUP
	Rental of one room	P	
	Rental of two or three rooms to a maximum of three rooms		SUP
	Restaurants which are accessory to permitted private clubs or marinas	P	
	Retail shops associated with accessory to community recreation facilities	P	
	Signs, as permitted by article II, division 3 of this chapter.	P	
	Skilled nursing facilities (nursing homes) Nursing homes and facilities for the residence and/or care of the aged.		SUP
	Temporary offices in accordance with section 24-111		SUP
	Tourist homes	P	
Civic	Cemeteries and memorial gardens		SUP
	Fire stations	P	
	Libraries	P	
	Houses of worship. Places of public assembly, including houses of worship and public meeting halls	P	
	Schools, libraries and fire stations.	P	
	Water impoundments, new or expansion of, 50 acres or more or with dam heights of 25 feet or more		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
Utility	Camouflaged wireless communications facilities that comply with Division 6, Wireless Communication Facilities		SUP
	Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Railroad facilities including tracks, bridges, 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		SUP
	Telephone exchanges and telephone switching stations		SUP
	Transmission pipelines (public or private), including pumping		SUP

	<i>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>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>		SUP
	<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>	P	
Open	<i>Timbering in accordance with section 24-43</i>	P	

~~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) 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:

Bonus increase from base density	Required density bonus points from list
Up to the base density	0
Greater than the base density, up to and including ten percent above the base density	1
Greater than ten percent above the base density, up to and including 20 percent above the base density	2

(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:

Percent non-developable	Percent of gross acreage added to the developable land
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. 24-313~~09~~. Subdivision regulations.

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

Sec. 24-314~~10~~. 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 though 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.~~

~~(f) *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.~~

~~(i) *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.~~

~~(j) *Structure height.* Structures may be erected up to 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures, or are building-mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. A structure in excess of 35 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, monuments, penthouse, electrical, plumbing, elevator, athletic field lighting, water tank,~~

radio, television and microwave antennas and towers or other accessory functions, and for wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ to exceed 35 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure will not obstruct light from adjacent property;
- (2) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (3) Such structure will not impair property values in the surrounding area;
- (4) Such structure is adequately designed and served from the stand point of safety and the county fire chief certifies that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, ~~so as~~ to offer adequate protection to life and property; and.
- (5) Such structure would not be contrary to the public health, safety and general welfare.

~~(k)~~ *Maximum number of units and facade variety.* A maximum of ten ~~townhouse~~ multifamily 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) Yard regulations. Except for setbacks specified in (a)(1) and (a)(2) above, there shall be no minimum lot size or minimum front, side or rear yard requirements for any lot within a R-5 district other than as specified in the approval 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) Any development approved under this division shall adhere to the 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.

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
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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	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.	Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present	1
I.	Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size	1
J.	Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least five percent of the developable area of the site. <ol style="list-style-type: none"> 1. <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer 2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer</u> (retain at least 50 percent of these soils on site) 3. <u>Conservation Area as identified by an approved watershed management plan</u> 4. <u>Wildlife habitat corridors that:</u> <ul style="list-style-type: none"> o Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and 	1
K.	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

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 through a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(b) In addition, a percentage of the developable area shall also be set aside as open space, as specified in section 24-549. The developable area open space may include, but is not limited to:

- (1) Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;*
- (2) Areas on site used to achieve density bonus points in accordance with section 24-549;*
- (3) The following areas, up to the percent specified:*
 - a. Golf courses cannot exceed 30 percent of the developable open space required*
 - b. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and*
 - c. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).*

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

- (1) Area on any individual private lots, or in the case of condominiums, within 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
<ul style="list-style-type: none"> Area(s) used to meet county policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable) 	
<ul style="list-style-type: none"> Area(s) on site used to achieve density bonus points in accordance with section 24-549 	
<ul style="list-style-type: none"> Area of golf courses 	
<ul style="list-style-type: none"> Area in required right-of-way and perimeter buffers 	
<ul style="list-style-type: none"> Area in stormwater management facilities 	
<ul style="list-style-type: none"> Other qualifying open space area 	
Total nondevelopable and developable open space	

(e) Open space shall be arranged on the site in a manner that coordinates with 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 that can be seen from public roads;

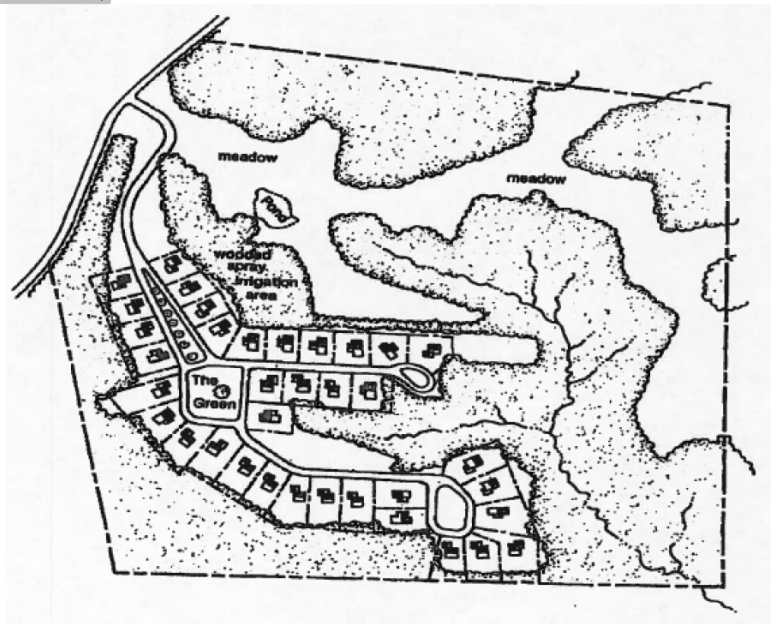


Figure 1

(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;*

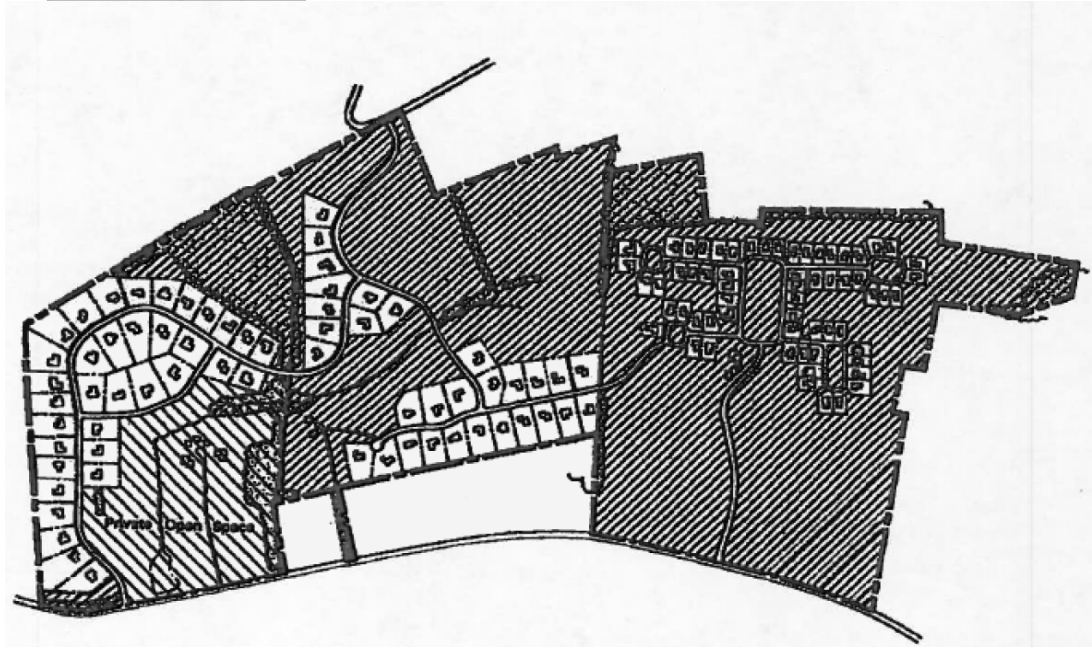


Figure 2

(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 accommodation.

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

Sec. 24-554~~6~~. 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.~~

~~(e) 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

Secs. 24-555~~7~~ - 24-563. Reserved.

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 _____ by a vote of _____.

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

¹ The prices shall be established based on payment of 30 percent of household income toward housing cost.

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.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of August, 2012.

MEMORANDUM

DATE: July 11, 2012
TO: The Planning Commission
FROM: Ellen Cook, Senior Planner II
SUBJECT: 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 memo 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 asked staff to obtain input from the Economic Development Authority (EDA). Subsequently, the EDA conveyed its comments that green building measures should be incentivized, rather than expected or required. At its work session on February 28, 2012, the Board directed staff to move forward with incentives rather than the draft policy. The Board also asked that staff prepare a periodic assessment of the number of development projects which have pursued green building measures.

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 LEED, EarthCraft, or equivalent program.

Based on Board guidance, the measures outlined in the attached resolution are a list of incentives. As opposed to the draft James City County Green Building Policy previously reviewed by the Policy Committee, adoption by the Board of the attached endorsement resolution would not create a Board-adopted policy against which legislative development projects would be evaluated. Staff recommends that the Planning Commission recommend approval of the attached resolution.



Ellen Cook

Attachments:

1. Minutes of the February 28, 2012 Board work session – this set of minutes is included with the multiple use districts package
2. Resolution for Board adoption

RESOLUTION

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 February 28, 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 certification, 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 LEED, Earthcraft, or another equivalent certification program, James City County offers the following package of incentives:

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:

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.

- 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.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of August, 2012.

MEMORANDUM

DATE: July 11, 2012

TO: The Planning Commission

FROM: Bryan J. Soukup, Law Clerk – County Attorney's Office

SUBJECT: Case No. ZO-0005-2012. Delinquent accounts affecting permit application.

The County Code requires that before submitting an application for a special use permit, variance, erosion and sediment control permit, building permit, or any other land disturbance or rezoning measure, a signed statement from the County treasurer, certifying that for property listed in the application certain delinquent fees are paid in full, must be obtained. Staff has received a request to implement procedures recently set forth in the Virginia Code that delineate the types of delinquent accounts that must be paid in full prior to the issuance of such permits. The amendments will also clarify which individuals and entities are included in the class of applicants subject to these requirements.

I recommend that the Planning Commission adopt the attached Resolution to initiate staff's review of this request.

RESOLUTION

INITIATION OF CONSIDERATION OF AMENDMENT TO THE ZONING ORDINANCE

WHEREAS, the Planning Commission of James City County, Virginia, is charged by Virginia Code § 15.2-2223 to prepare and recommend to the Board of Supervisors various land development plans and ordinances, specifically including a zoning ordinance and necessary revisions thereto as seem to the Commission to be prudent; and

WHEREAS, public review and comment of draft amendments is required, pursuant to Virginia Code § 15.2-2285; 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 initiate review of Chapter 24, Zoning, Article I, In General, Section 24-24, Additional requirements for submittal, to delineate the types of delinquent accounts that must be paid in full prior to the issuance of land disturbance and zoning measures and also clarify the class of applicants who will be subject to these requirements. .

Mr. Tim O'Connor
Chair, Planning Commission

ATTEST:

Christopher Johnson
Acting Secretary

Adopted by the Planning Commission of James City County, Virginia, this 11th day of July, 2012.

MEMORANDUM

DATE: July 11, 2012

TO: The Planning Commission

FROM: Ellen Cook, Senior Planner II
Jason Purse, Senior Planner II

SUBJECT: Transition Resolution

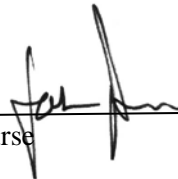
The Code of Virginia sets forth provisions for vesting of rights in relation to the amendment of zoning ordinances in Section 15.2-2307. The proposed transition resolution mirrors the provisions in the Code of Virginia, with a minor adjustment to items 3b and 3c to reference master plans since these are customarily part of the rezoning and special use permit process in James City County. As such, 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 anticipated date of approval of these ordinances is August 14, 2012. 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 Recommendation

Staff recommends that the Planning Commission recommend approval of the attached transition resolution to the Board of Supervisors.



Ellen Cook



Jason Purse

Attachments

1. Resolution

RESOLUTION

ZONING ORDINANCE TRANSITION

WHEREAS, the Board of Supervisors is considering 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; and

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 August 14, 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 August 14, 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.

Mary K. Jones
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 14th day of August, 2012.

PLANNING DIRECTOR'S REPORT

July 2012

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

- **New Town.** The Design Review Board did not hold a meeting in June. The DRB considered several items electronically – landscaping plans for new single-family homes, the pool pavilion, and revised design guidelines for Section 12.
- **Ordinance Update.** Staff has been preparing final ordinances for the remaining non-priority items. The amendments related to procedural descriptions, submittal requirements and administrative items, and nonconformities were approved by the Board on June 12. The exterior signs ordinance amendments were deferred and will be reconsidered in August.
- **Regional Comprehensive Planning Effort.** Staff met with City of Williamsburg and York County staff to discuss the focus areas as well as the outcomes of recent meetings.
- **Rural Lands.** A Board of Supervisors work session pertaining to the ordinance changes for rural lands was held on June 26.
- **Historical Commission.** The Historical Commission presented two Historical Preservation Awards at the June 12th Board of Supervisors meeting to recognize significant contributions to the preservation of historic resources in the County. Winners were John Labanish for 20 years of service to the Historical Commission and his role in the relocation and preservation of the Norge Depot and the Friends of Green Spring for 15 years of educational efforts surrounding the Historic Green Spring Plantation.
 - **The Commission is currently accepting applications for new members to fill 3 vacancies.** If you know of anybody who may be interested, please encourage them to fill out and submit an application - http://www.jamescitycountyva.gov/pdf/coadminpdfs/BdCommApp_forweb.pdf.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – June 12th and June 26nd 2012 –
- **ZO-0011-2012, ZO-0012-2012, ZO-0013-2012 – Procedural Descriptions, Submittal Requirements, and Administrative Items, Nonconformities** – Approved 5-0
- **ZO-0014-2012, Exterior Signage** – Deferred to July 10, 2012



Christopher Johnson

June 2012

Case Type	Case Number	Case Title	Address	Description	Planner	District
Conceptual Plans	C-0024-2012	Jennings and Kelley Richmond Road	7775 RICHMOND ROAD	Applicant looking for a 'best use' of property based on County long- and-short term plans.	Luke Vinciguerra	01-Stonehouse
	C-0025-2012	Surry-Skiffes Creek Transmission Line	N/A	Plans for a new 500kV power line through parts of JCC.	Leanne Reidenbach	05-Roberts
	C-0026-2012	Verizon Wireless Temporary, Portable Cell Facility, Jamestown Settlement	2225 JAMESTOWN ROAD	Applicant proposes portable Cellular Transmission facility at the given address between the dates of July 9-16, 2012.	Jose Ribeiro	03-Berkeley
	C-0027-2012	King of Glory Conceptual Master Plan	4897 LONGHILL ROAD	Conceptual plan showing future improvements to the King of Glory Church	Jose Ribeiro	04-Jamestown
Rezoning	Z-0006-2012	Stonehouse Conservation Easement Proffer Amendment	N/A	Proffer amendment to eliminate language requiring dedication of conservation easements to a third party	Ellen Cook	01-Stonehouse
Site Plan	SP-0045-2012	Colonial Heritage Ph. 4 Sec. 2 Jolly Pond Access Road	499 JOLLY POND ROAD	Erosion and sediment control plan for stock pile area, as well as temporary construction entrance off of Jolly Pond Road.	Jason Purse	01-Stonehouse
	SP-0047-2012	American Heritage RV Park BMP SP Amend.	146 MAXTON LANE	BMP modification	Luke Vinciguerra	01-Stonehouse

	SP-0048-2012	Kingsmill Marina Parking SP Amend.	1000 KINGSMILL ROAD	Modify parking lot islands and landscaping.	Leanne Reidenbach	05-Roberts
	SP-0049-2012	Ingram Road Cell Tower Antenna SP Amend.	108 INGRAM ROAD	Replacing antennas inside an existing slick-stick WCF.	Luke Vinciguerra	04-Jamestown
	SP-0050-2012	Smithfield Food Additional Driveway SP Amend.	8012 HANKINS INDUSTRIAL PARK RD	Minor driveway modification	Luke Vinciguerra	01-Stonehouse
	SP-0051-2012	Jacobs Industrial Park Parcel 5 Lighting SP Amend.	248 INDUSTRIAL BLVD	Delete outdoor pole lighting and replace with building mounted lights. Also amends landscaping plan.	Jason Purse	01-Stonehouse
	SP-0052-2012	Ford's Colony Manchester Drive Drainage Improvements	MANCHESTER DRIVE	Existing Manchester Drive drainage system of ditches will be regarded/revised and storm sewer will be added. The Manchester/St. Andrews intersection will be modified with larger turn fillets.	Jose Ribeiro	02-Powhatan
	SP-0053-2012	Industrial Boulevard Cell Tower Cabinet SP Amend.	185 INDUSTRIAL BOULEVARD	Addition of a battery cabinet and radio cabinet to existing cell tower platform. No increase in ground disturbance or tower height.	Luke Vinciguerra	01-Stonehouse
Special Use Permit	SUP-0007-2012	Jim's Well Service	194 RACEFIELD DRIVE	Construction of a contractor's office and storage yard.	Jose Ribeiro	01-Stonehouse
	SUP-0008-2012	Chickahominy Baptist Church Daycare	2885 CHICKAHOMINY RD	Proposal for a daycare in an accessory building on the property of Chickahominy Baptist Church.	Leanne Reidenbach	01-Stonehouse

	SUP-0009-2012	Murphy Family Subdivision	10100 SYCAMORE LANDING ROAD	Family Subdivision creating two lots containing less than three acres.	Luke Vinciguerra	01- Stonehouse
Subdivision	S-0022-2012	White Hall Sec. 2 Ph. L Lots 190-199	3401 ROCHAMBEAU DR	Lots 190-199	Luke Vinciguerra	01- Stonehouse
	S-0023-2012	Fords Colony Westport Well Lot	4901 CENTERVILLE RD	Subdivision of well lot for Ford's Colony Sec. 35.	Jose Ribeiro	02-Powhatan
	S-0024-2012	Liberty Crossing Ph. 3	4678 NOLAND BLVD	Subdivision for townhouse lots 187-233.	Leanne Reidenbach	01- Stonehouse
Agricultural Forestry District	AFD-04-86-3-2011	Turners Neck Pates Neck Addition	212 TURNERS NECK RD	AFD addition to Pates Neck	Luke Vinciguerra	01- Stonehouse
Zoning Ordinance Amendment	ZO-0002-2012	Definitions		As part of the Zoning Ordinance Update Process, staff is bringing	Jose Ribeiro	
	ZO-0003-2012	Application to Amend Proffers		Possible ordinance amendment to formalize the process for approving minor changes to proffers that do not affect use or density, as provided for in the Code of Virginia	Ellen Cook	