

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

1. ROLL CALL
2. PUBLIC COMMENT
3. MINUTES
 - A. October 3rd 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. AFD-07-86-1-2012, Mill Creek AFD Addition
 - B. SUP-0012-2012, Toano Middle School Parking Improvements
 - C. SUP-0013-2012, King of Glory Church Building Expansion
 - D. ZO-0004-2012, Soil Stockpile Ordinance
 - E. Zoning Ordinance Housekeeping Items
 - i. ZO-0006-2012, Floodplain Housekeeping
 - ii. ZO-0009-2012, Procedural/Submittal Requirements and Definitions
 - iii. ZO-0007-2012, Research and Technology
 - iv. ZO-0008-2012, Private Streets Housekeeping
 - F. Updates to the Housing Opportunities Policy and amendments for the Residential and Multiple Use districts and Definitions
 - i. ZO-0007-2012 and ZO-0009-2011, Residential Districts and Cluster Overlay District

- ii. ZO-0010-2012, Affordable and Workforce Housing Terminology - amendments to the Definitions Section and the Residential and Multiple Use Districts

G. SO-0001-2011, Subdivision Ordinance

6. PLANNING COMMISSION CONSIDERATIONS

A. Zoning Ordinance Transition Resolution

- 6. PLANNING DIRECTOR'S REPORT
- 7. COMMISSION DISCUSSIONS AND REQUESTS
- 8. 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 THIRD DAY OF OCTOBER, 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:

George Drummond
Rich Krapf
Al Woods
Robin Bledsoe
Tim O'Connor

Staff Present:

Chris Johnson, Acting Planning Director

Absent:

Mike Maddocks

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

2. PUBLIC COMMENT

Mr. O'Connor opened the public comment.

There being none, Mr. O'Connor closed the public comment.

3. MINUTES

A. September 5, 2012 Regular Meeting

Mr. Al Woods stated that on page 11 of the minutes, on the third paragraph from the bottom, should read 'in perpetuity' not 'into perpetuity.'

Mr. Woods moved for approved of the minutes as amended.

In a unanimous voice vote, the minutes were approved (6-0: Absent: Maddocks).

4. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Chris Basic stated the DRC met on September 26 and reviewed three cases. The DRC reviewed C-0030-2012 Colonial Heritage Model Home Rental for master plan consistency. The DRC voted 4-0 to recommend master plan consistency, subject to the applicant's own restrictions and enforcement letter, installation of fire suppression

systems, and provision of agreements for pedestrian improvements and off-site parking. The DRC also reviewed C-0031-2012 White Hall Design Guidelines for master plan consistency. The DRC voted 4-0 to recommend the amended fencing language as consistent with the master plan. The DRC also reviewed C-0032-2012 Villas at Five Forks for master plan consistency. The proposal includes two triplex units while the master plan includes two quadplex units. The DRC voted 4-0 to recommend master plan consistency.

Mr. Woods asked how it would affect the density.

Mr. Basic stated it would go down.

Mr. Woods asked if they had an estimate.

Mr. Basic stated it would be a reduction of two units.

Mr. Krapf moved for approval of the report.

In a unanimous voice vote, the report was approved (6-0: Absent: Maddocks).

B. Policy Committee

Mr. Krapf stated the Policy Committee did not meet.

6. PLANNING DIRECTOR'S REPORT

Mr. Johnson stated there were no additional items for discussion.

7. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Krapf stated Mr. Kennedy was still in the hospital. He stated he wished him well in his recovery.

8. ADJOURNMENT

Mr. Woods moved to adjourn.

The meeting was adjourned at 7:05 p.m.

Tim O'Connor, Chairman

Chris Johnson, Acting Secretary

**Development Review Committee Report
October 31, 2012**

**SP-0071-2012 /
S-0037-2012**

Walnut Grove

DRC Action:

This case was before the DRC for consideration of preliminary approval because the plan proposes more than fifty lots, per Section 19-23 of the Subdivision Ordinance. The DRC voted 4-0 to grant preliminary approval subject to agency comments.

**Agricultural and Forestal District 7-86-1-2012. Mill Creek AFD Addition (8700 Barnes Road)
Staff Report for November 7, 2012, Planning Commission meeting**

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 HEARINGS

	<u>Building F Board Room; County Government Complex</u>	
AFD Advisory:	October 18, 2012	4:00 p.m.
Planning Commission:	November 7, 2012	7:00 p.m.
Board of Supervisors:	December 11, 2012 (tentative)	7:00 p.m.

SUMMARY FACTS

Applicant:	Mr. Kevin Fair
Land Owner:	8700 Barnes Road LLC
Location:	8700 Barnes Road
Tax Map/Parcel No.:	1010100037
Primary Service Area:	Outside
Parcel Size:	104 acres
Existing Zoning:	A-1, General Agricultural
Comprehensive Plan:	Rural Lands
Surrounding AFD Land:	The parcel is surrounded to the south by other parcels located in the Mill Creek AFD, as well as one on the northern side across Barnes Road.
Staff Contact:	Jason Purse, Senior Planner II - Phone: 253-6685

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the addition to the Mill Creek AFD to the Board of Supervisors. At its October 18, 2012 meeting, the AFD Advisory Committee recommend 8-0 to recommend approval of the application.

Project Description

The parcel is wooded with approximately 2,600 feet of frontage along Barnes Road. The parcel has not been developed and there are steep slopes and wetlands that bisect the property in multiple locations. This area is best protected by its current land use and approval of this AFD would aid in the protection of this environmentally sensitive portion of the site. The property is outside of the Primary Service Area (PSA).

Surrounding Land Uses and Development

This parcel is zoned A-1, General Agricultural, and is surrounded by mostly wooded land that is a part of the Mill Creek AFD. There are smaller residential lots across Barnes Road from this parcel, as well as to the east of the property. The forestal use on this parcel is compatible with the surrounding land uses and development in the area.

Comprehensive Plan

The Comprehensive Plan designates this parcel as Rural Lands. A Comprehensive Plan objective calls for protecting and preserving the County's agricultural and forestal lands and activities. The Agricultural and Forestal District program supports this objective.

Soils

The site consists of soil types which are suited to support the growth of woodlands and the property is wooded.

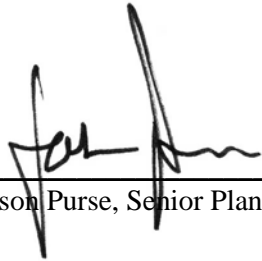
Analysis

The proposed addition meets the minimum area and proximity requirements for inclusion into an AFD. The existing Mill Creek AFD contains 3,361 acres. If the 104-acre addition is approved, the district will have 3,465 acres. On September 28, 2010, the Board of Supervisors approved a renewal of the Mill Creek AFD for a period of four years, one month and three days. The district will be up for renewal in October 31, 2014. This addition would be subject to the conditions of the existing district which are:

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 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 Planning Commission recommend approval of the addition to the Mill Creek AFD to the Board of Supervisors. At its October 18, 2012 meeting, the AFD Advisory Committee recommend 8-0 to recommend approval of the application.



Jason Purse, Senior Planner II

1. Location Map

8700 Barnes Road AFD application



SUP-0012-2012, Toano Middle School Parking Improvements
Staff Report for the November 7, 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

November 7, 2012 7:00 p.m.
December 11, 2012 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Mr. Bruce Abbott of AES Consulting Engineers

Land Owner: Williamsburg-James City County Public schools (WJCC)

Proposal: To allow the construction of a new student drop-off area, 30 additional parking spaces, and other minor improvements to the site

Location: 7817 Richmond Road; Stonehouse District

Tax Map/Parcel: 1240100051

Parcel Size: 34.1 acres

Existing Zoning: PL, Public Lands

Comprehensive Plan: Federal, State, and County land

Primary Service Area: Inside

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

Mr. Bruce Abbott of AES Consulting Engineers has applied on behalf of W-JCC schools for a special use permit (SUP) to allow the construction of a new student drop-off area and additional parking spaces at the school site. The property is located at 7817 Richmond Road and zoned PL, Public Lands. A SUP is required for this proposal since it is an expansion of a specially permitted use.

According to the applicant, the number of students being dropped off at the school site has increased over the years and the area originally designated as a student drop-off area (i.e. internal traffic loop) is not capable of safely handling the increase in demand. As a result, students are being dropped off in multiple locations at the school and sometimes along Route 60.

In order to provide for a new drop-off area, a row of twenty-two parking spaces (including nineteen regular and three handicap parking spaces) will be removed at the southernmost area of the parking lot. To maintain the required number of parking spaces and improve the school's parking capacity, seventeen of the twenty-two parking spaces will be relocated to a row of 30 new parking spaces at the northernmost area of the parking lot. The remaining five parking spaces will be designed as handicap spaces and relocated to an area closer to the entrance of the school and physically separated from the main parking lot area. With the proposed changes, the number of parking spaces will increase from 117 (including 3 handicap spaces) to 147 (including 5 handicap spaces), a gain of 30 parking spaces. The number of parking spaces for buses will remain unchanged. The current drop-off area will be designated as a fire lane with signage to prevent vehicles from parking for long periods of time. The applicant has indicated that this area will only be used as an additional student drop-off area in very limited circumstances. Signs will be posted to orient drivers to the new student drop-off area. In addition to the proposed improvements to the parking area, a 4 feet wide bike lane will be added along the frontage of the site connecting to an existing bike lane located along Route 60 (the existing bike lane segment in front of the school will be re-striped to its correct location).

PUBLIC IMPACTS

Archaeological Impacts

The subject property is not located within an area identified as a highly sensitive area in the James City County archaeological assessment and therefore an archaeological assessment is not required.

Environmental

Watershed: Yarmouth Creek

The Engineering and Resource Protection Division has no comments on the SUP request and supports the addition of three small bioretention areas proposed near the new parking areas as means of addressing additional stormwater runoff. According to the master plan, 15.25 percent of the site is covered by impervious surface. As proposed, the percent of impervious coverage will increase to 16.1 percent. The reduction of open space area is minimal (i.e. from approximately 84.7 percent to 83.8 percent). During the site plan review, the applicant will provide additional information regarding the design of the bioretention areas and address the poor soil infiltration conditions as indicated in the geotechnical report submitted as part of this SUP application.

Public Utilities

The site is located within the Primary Service Area (PSA) and it is served by public water and sewer. The James City Service Authority (JCSA) has reviewed this application and has recommended approval. A Water Conservation Agreement (SUP condition No. 2) will be reviewed and approved by JCSA at the time of plan of development.

Transportation:

VDOT staff has reviewed this SUP application and has no objections to the proposal. No additional vehicle trips will be generated with the proposed student drop-off area and the additional parking spaces. During the site plan review the proposed bike lane shall be designed in accordance with VDOT Road Design Manual Appendix A.

2007 Traffic Counts (Richmond Road): From Rochambeau Road (Route 30) to Croaker Road there were 17,201 trips.

2035 Volume Projected: From Rochambeau Drive (Route 30) to Croaker Road there is the projection of 29, 293 trips. This portion of Richmond Road is not recommended for improvement.

Staff notes that the current parking layout does not meet all current zoning ordinance requirements. The distances between landscaped bay islands placed between groups of parking stalls were built on average 100 feet apart from each other (the Zoning Ordinance currently requires a maximum distance of 90 feet) Also, the existing parking lot was constructed with bay islands measuring 9' x 20'. However, the current Zoning Ordinance requires these dimensions to be 9' x 30'.

According to Section 24-55 (3) of the zoning ordinance if a parking lot is being expanded which either increases the number of parking spaces by more than 15 percent or reduces the landscape areas of the parking lot by more than 15 percent, the existing parking area as well as the new parking area shall be brought into conformance with the current zoning regulations; provided, however, the planning director may waive the geometric design requirements as they apply to existing parking areas, upon meeting criteria established by the above referenced section of the ordinance. The addition of the 30 parking spaces will exceed the 15 percent requirement by 6 spaces.

The Planning Director has granted the parking lot design waiver based on a written request made by the applicant on a letter dated October 24, 2012. Staff notes that the proposed 30 parking areas meet all current zoning ordinance design requirements.

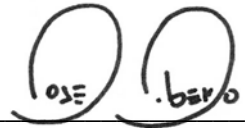
COMPREHENSIVE PLAN

The site is designated by the 2009 Comprehensive Plan as State, Federal, and County Land. Land uses in this designation are publicly owned and include County offices and facilities in addition to larger utility sites and military installations. Staff finds that the proposed improvements to the school's parking area are consistent with the Comprehensive plan as these are accessory to a recommended land use. From a land use perspective, this project will have a minimum impact on the local road system (no additional traffic generation) and adjacent properties. The new layout of the school's parking lot will provide for a safer student drop-off area and for much needed additional parking areas. The proposed bike lane will also be a benefit for the schools and the community as a whole as it provides for a safer means of alternative transportation.

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.

1. **Master Plan.** This special use permit shall be valid for a proposed new student drop-off area, additional off-street parking spaces, and other minor improvements to the site located at 77817 Richmond Road and further identified as JCC Real Estate Tax Map No. 1240100051 (the "Property"). Development of the site shall occur generally as shown on the exhibit drawn by AES Consulting Engineers, entitled "Master Plan Toano Middle School Williamsburg/James City County Schools" dated 09/21/2012, and revised on 10/23/2012 (the "Master Plan"), with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.
2. **Water Conservation.** The Williamsburg-James City County School Board shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority (the "JCSA") prior to final site plan approval. The standards shall include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought resistant native and other adopted low water use landscaping materials and warm season turf where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.
3. **Lighting.** 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, who indicates no glare outside the property lines unless otherwise approved by the Planning Director. 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.
4. **Commencement of Construction.** If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void.
5. **Severance Clause.** This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.



Jose Ribeiro, Senior Planner

ATTACHMENTS:

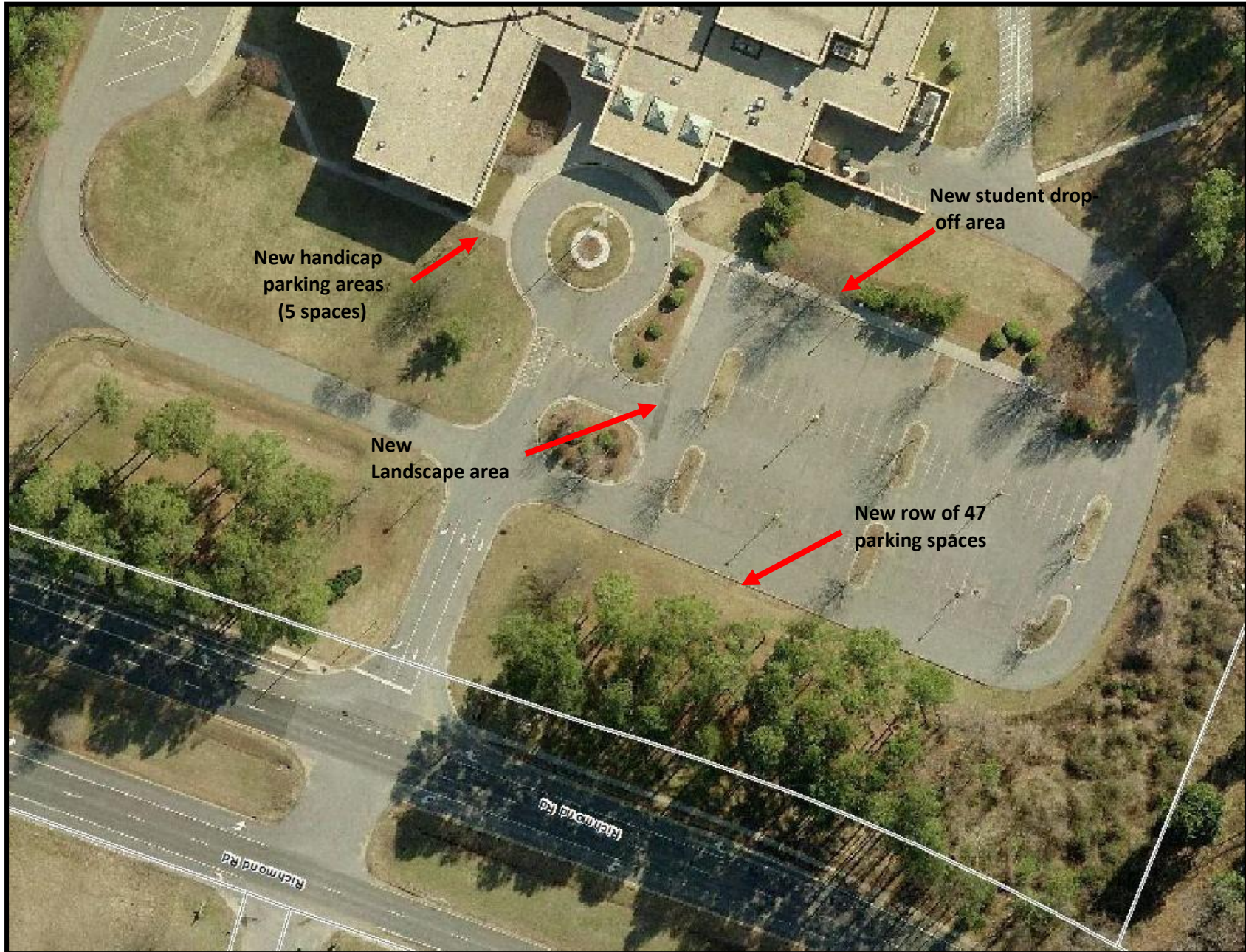
1. Location map
2. Aerial photo of existing parking lot conditions with proposed areas of changes
3. Master Plan (under separate cover)

SUP-0012-2012

Toano Middle School Parking Improvements



Existing parking lot with proposed areas of changes



SUP-0013-2012, King of Glory Lutheran Church Building Expansion
Staff Report for the November 7, 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

November 7, 2012 7:00 p.m.
December 11, 2012 7:00 p.m. (tentative)

SUMMARY FACTS

Applicant: Mr. Matthew Connolly of Land Tech Resources, Inc

Land Owner: King of Glory Lutheran Church

Proposal: 12,500 square-feet building expansion

Location: 4897 Longhill Road; Jamestown District

Tax Map/Parcel: 3240100033

Parcel Size: 12.95 acres

Existing Zoning: R-2, General Residential

Comprehensive Plan: Low Density Residential

Primary Service Area: Inside

STAFF RECOMMENDATION

Staff finds the proposed expansion 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

Mr. Matthew Connolly has applied for a special use permit to allow a 12,500 square foot building expansion that would provide additional space for offices, meeting rooms, and storage areas to the church facilities. The property is located at 4897 Longhill Road adjacent to Ford's Colony, Section 12 to the south, Windsor Forest to the west, Wellsprings United Methodist Church to the north, and the Williamsburg Plantation timeshares to the east. An SUP is required for this proposal since it is an expansion of a specially permitted use.

In 1995, King of Glory Lutheran Church built the original 7,592 square feet sanctuary, classrooms, and an administration building with associated 48 parking spaces. At the time the original sanctuary seated 311 people with a combination of pews and chairs. Over the years, the site has gone through a series of changes. In 1999, the church added a 1,350 square feet modular classroom building to the church campus; in 2001, a SUP request allowed the placement of a 15,381 square feet building (pre-school wing and Fellowship Hall) and additional parking areas; subsequent amendments have allowed the expansion of the modular building in 2008 and the potential to place two additional modular buildings in 2009. In 2009, the church expanded its property by purchasing the adjacent parcel which was previously the site of the Crossroads Youth Home; a boundary line extinguishment between the two properties was approved and as a result, the area of the church's parcel increased from 7 acres to 13.85 acres. Finally, in 2011, a site plan proposing additional seventy parking spaces was approved bringing the total availability of parking to its current 236 spaces.

This SUP application seeks to increase the existing 29,753 square foot church building by approximately 12,500 square feet (i.e., Phase 1). According to the applicant, there is an immediate need to expand the administrative offices, storage and meeting areas at the church campus. The existing Fellowship Hall labeled on the master plan as "existing multi-purpose" building was originally designed as a place to house social gatherings. Due to the limitations of space, part of the building is also being used to accommodate other activities such as meetings (e.g., bible studies groups, youth groups, etc). The proposed addition would address the lack of space by providing areas specifically designed to meet the needs of the congregation.

According to the proposed building floor plan provided by the applicant (attachment No. 2) the majority of the proposed expansion (approximately 5,000 square feet) would be designated as a "multi-purpose" room to accommodate larger meetings such as Blood Drives and Boy Scout meetings. The remaining space would be utilized for other purposes: approximately 680 square feet of offices; smaller meeting room areas totaling approximately 3,000 square feet; storage areas totaling approximately 1,000 square feet, and miscellaneous uses such as a music room. The applicant has indicated that the uses associated with the proposed building addition would likely occur at the same time as church services on Sunday. The existing Fellowship Hall would only be used as a location where refreshments would be available to the congregation and no events would be scheduled at the same time as worship services.

The proposed addition will not increase the seating capacity of the existing sanctuary or the pre-school area. No additional parking spaces are proposed and traffic generation is not expected to increase as the expansion is designed to accommodate activities and uses already in place at the church campus.

The visual impact of the new structure appears to be limited from Longhill Road as the proposal will be located behind the existing church building. Staff has drafted a condition (SUP condition No. 3) requiring the applicant to submit architectural renderings and building material examples for the approval of the Planning Director to ensure architectural consistency with existing structures on the site. The perimeter of this triangular-shaped parcel is generally covered by natural vegetation in a continuous strip designated as open space.

Per comments made by the James City County Fire Department, a dedicated fire lane is also provided as part of this proposal; this will ensure that the proposed building expansion can be accessed by emergency vehicles. There are no changes proposed to the two entrances on the site. Due to issues related to sight distance, the secondary access will remain restricted to emergency vehicles in accordance with approved SUP condition associated with SUP-0022-2009. On August 29, 2012, the DRC considered a conceptual plan depicting a more intense use of the property with additional structures (expansion of the sanctuary and pre-school spaces) and parking space areas. The applicant has opted to phase the development in order to allow time to better understand the implications of the Longhill Corridor Study and its proposed widening from two to four-lanes before proceeding with Phase 2 of the planned expansion.

PUBLIC IMPACTS

Archaeological Impacts

The subject property is not located within an area identified as a highly sensitive area in the James City County archaeological assessment and therefore an archaeological assessment is not required.

Environmental

Watershed: Powhatan Creek

The Engineering and Resource Protection (ERP) Division has reviewed this application and has recommended approval. The majority of the stormwater runoff on the existing church property is captured by a stormwater pond located at the southern tip of the parcel. According to ERP, the applicant may have to upgrade the pond in order to address the increase in impervious surface (i.e. from 18% to 21% of the site). Staff notes that a Master Stormwater Management Plan for the entire property was submitted and approved by the Engineering and Resource Protection Division on June 29, 2012.

Public Utilities

The site is located within the Primary Service Area (PSA) and it is served by public water and sewer. The James City Service Authority (JCSA) has reviewed this application and has recommended approval. The existing Water Conservation agreement associated with approved SUP-0022-2009 was deemed to be acceptable by JCSA staff for this addition.

Transportation:

VDOT has reviewed this application and has recommended approval. No additional vehicle trips are expected with this proposal. VDOT notes that the secondary entrance should remain restricted to emergency vehicles access only.

- **2007 Traffic Counts**-Longhill Road (Route 612):
From Olde Town Road (Route 658) to Route 199 there were 20,055 daily trips.
- **2035 Volume Projected**-Longhill Road (Route 612):
From Olde Town Road (Route 658) to Route 199 there is the projection of 34,249 daily trips. This portion of Longhill Road is listed under the “Recommended for Improvement” category in the 2009 Comprehensive Plan.

COMPREHENSIVE PLAN

The site is designated by the 2009 Comprehensive Plan as Low Density Residential. Recommended land uses in this designation allow for schools, churches, very limited commercial, single-family homes, and community-oriented facilities. Staff finds that the proposed 12,500 square foot expansion is consistent with the Comprehensive Plan as it constitutes an expansion of a recommended use. From a land use perspective, this project will have a minimum impact on the local road system (limited additional traffic generation) and adjacent properties. SUP condition No. 3 ensures that the aesthetical appearance of the expansion will be consistent with the architecture of existing structures at the church campus. Longhill Road is a Community Character Corridor (CCC) and a fifty-foot landscape buffer, as suggested by the Comprehensive Plan, is observed at the side of the property nearest the secondary entrance (i.e., the previous site of Crossroads Youth Home)

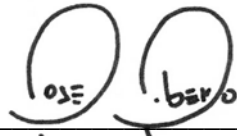
STAFF RECOMMENDATION

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.

1. **Master Plan.** This special use permit shall be valid for a proposed 12,500 square foot building expansion and other minor improvements to the site located at 4897 Longhill Road and further identified as JCC Real Estate Tax Map No. 3240100033 (the “Property”). Development of the site shall occur generally as shown on the exhibit drawn by Mel Grewe, entitled “Master Plan for King of Glory-Phase 1 Plan”, dated 10/14/2012, and revised on 10/22/2012, with only changes thereto that the Planning Director determines do not change the basic concept or character of the development.
2. **Lighting.** 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, who indicates no glare outside the property lines unless otherwise approved by the Planning Director. 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.
3. **Architectural Review.** Prior to final site plan approval, architectural elevations, building materials, and colors shall be submitted to the Planning Director or his designee for review

and approval. The purpose of this condition is to ensure that the proposed structure on the Property is uniform and compatible in terms of design, scale, materials, and colors with other structures on the site.

4. **Commencement of Construction.** If construction has not commenced on this project within thirty-six (36) months from the issuance of a special use permit, the special use permit shall become void.
5. **Severance Clause.** 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.

José Ribeiro, Senior Planner

ATTACHMENTS:

1. Location map
2. Floor plan for the proposed expansion
3. Master Plan (under separate cover)

JCC SUP-0013-2012

King of Glory Building Expansion



Number	EXISTING ROOM SCHEDULE	Area
116	CUSTODIAL	71 SF
117	DATA	84 SF
121	MEN	144 SF
122	WOMEN	162 SF
123	CUS	15 SF
136	CUSTODIAL	125 SF
137	CORRIDOR	461 SF
140	MENS	124 SF
141	WOMENS	124 SF
142	STG	15 SF
156	STG	13 SF
157	STG	16 SF
A118	OFFICE	164 SF
A124	OFFICE	216 SF
A125	OFFICE	178 SF
A126	RECEPTION	292 SF
A127	TOIL	26 SF
A128	WORK ROOM	214 SF
A129	CLOSET	7 SF
A130	CLOSET	7 SF
A145	OFFICE	111 SF
E101	FRESHROOM CLASSROOM	748 SF
E102	FRESHROOM CLASSROOM	748 SF
E103	TOILET	30 SF
E104	TOILET	30 SF
E105	STG	30 SF
E106	STG	30 SF
E107	CORRIDOR	481 SF
E108	FRESHROOM CLASSROOM	747 SF
E109	FRESHROOM CLASSROOM	747 SF
E110	STG	30 SF
E111	STG	30 SF
E112	TOILET	30 SF
E113	TOILET	30 SF
E114	CIRCULATION	434 SF
E115	OFFICE	209 SF

Number	EXISTING ROOM SCHEDULE	Area
E119	STORAGE	201 SF
E120	OFFICE	170 SF
E143	CLASSROOM	677 SF
E144	CLASSROOM	347 SF
E146	STORAGE	34 SF
E147	STORAGE	164 SF
E148	TOILET	50 SF
E149	TOILET	50 SF
E150	CORRIDOR	352 SF
E151	STORAGE	26 SF
E152	STORAGE	26 SF
E153	TOILET	51 SF
E154	TOILET	50 SF
E156	CLASSROOM	677 SF
G100	GARAGE	534 SF
M139	MEETING	207 SF
M139	MUSIC	471 SF
M140	FIRST AID	10 SF
M142	CORRIDOR	622 SF
M143	NURSERY	306 SF
M144	TOILET	32 SF
M145	KITCHEN	563 SF
M146	CUSTODIAL	6 SF
M147	MEETING	248 SF
M148	MEETING	317 SF
M149	CONTROL	142 SF
M150	MEETING	306 SF
M151	MEETING	304 SF
M152	RESOURCE	335 SF
M153	MULTI-PURPOSE ROOM	2,942 SF
M154	STAGE	686 SF
M155	RAMP	137 SF
M159	RESOURCE	142 SF
S131	SANCTUARY	3,325 SF
S132	STORAGE	94 SF
S133	SACRISTY	133 SF
S134	LULLABY	124 SF
S135	AUDIO VISUAL	98 SF
S150	NARTHEX	2,000 SF
Grand total		24,911 SF



3 SITE PHOTO

Number	PHASE 1 ROOM SCHEDULE	Area
115	ENTRY	2,143 SF
116	CUSTODIAL	71 SF
117	DATA	84 SF
121	MEN	144 SF
122	WOMEN	162 SF
123	CUS	15 SF
137	CORRIDOR	554 SF
140	MENS	124 SF
141	WOMENS	124 SF
142	STG	15 SF
156	STG	13 SF
157	STG	16 SF
264	CORRIDOR	1,236 SF
A118	OFFICE	164 SF
A124	OFFICE	216 SF
A126	RECEPTION	292 SF
A127	TOIL	26 SF
A128	WORK ROOM	214 SF
A129	CLOSET	7 SF
A130	CLOSET	7 SF
A145	OFFICE	111 SF
A241	OFFICE	164 SF
A257	OFFICE	171 SF
A258	OFFICE	164 SF
A259	OFFICE	171 SF
E100	CIRCULATION	434 SF
E101	FRESHROOM CLASSROOM	748 SF
E102	FRESHROOM CLASSROOM	748 SF
E103	TOILET	30 SF
E104	TOILET	30 SF
E105	STG	30 SF
E106	STG	30 SF
E107	CORRIDOR	481 SF
E108	FRESHROOM CLASSROOM	747 SF
E109	FRESHROOM CLASSROOM	747 SF
E110	STG	30 SF
E111	STG	30 SF
E112	TOILET	30 SF
E113	TOILET	30 SF
E115	OFFICE	209 SF
E119	STORAGE	201 SF
E120	OFFICE	170 SF
E143	FRESHROOM CLASSROOM	677 SF
E144	FRESHROOM CLASSROOM	347 SF
E146	STORAGE	34 SF

Number	PHASE 1 ROOM SCHEDULE	Area
E147	Room	164 SF
E148	TOILET	50 SF
E149	TOILET	50 SF
E150	CORRIDOR	352 SF
E151	STORAGE	26 SF
E152	STORAGE	26 SF
E153	TOILET	51 SF
E154	TOILET	50 SF
E156	FRESHROOM CLASSROOM	677 SF
G100	GARAGE	534 SF
M136	KITCHEN	135 SF
M139	OFFICE	235 SF
M140	FIRST AID	10 SF
M142	CORRIDOR	622 SF
M143	NURSERY	306 SF
M144	TOILET	32 SF
M145	KITCHEN	563 SF
M146	CUSTODIAL	6 SF
M147	MEETING	248 SF
M148	MEETING	317 SF
M149	CONTROL	142 SF
M150	MEETING	306 SF
M151	MEETING	304 SF
M152	RESOURCE	335 SF
M153	MULTI-PURPOSE ROOM	2,942 SF
M154	STAGE	686 SF
M155	RAMP	137 SF
M156	OFFICE	178 SF
M200	MULTI-PURPOSE	5,000 SF
M202	MULTI-PURPOSE	Not Placed
M239	MUSIC	1,047 SF
M253	MUSIC STORAGE	241 SF
M260	MEETING	733 SF
M261	MEETING	733 SF
M262	MEETING	726 SF
M263	STORAGE	265 SF
M264	STORAGE	234 SF
M265	STORAGE	338 SF
M266	NURSING	204 SF
M267	MEETING	873 SF
S131	SANCTUARY	3,325 SF
S132	STORAGE	94 SF
S133	SACRISTY	133 SF
S134	LULLABY	124 SF
S135	AUDIO VISUAL	98 SF

Number	AREAS FOR CHURCH USE (PEAK PARKING USE)	Area	Occupant Load	SF per Occupant	Code Occupants	PARKING REQUIRED
E101	FRESHROOM CLASSROOM	748 SF	Day Care	35	23	5
E102	FRESHROOM CLASSROOM	748 SF	Day Care	35	23	5
E103	FRESHROOM CLASSROOM	747 SF	Day Care	35	23	5
E104	FRESHROOM CLASSROOM	747 SF	Day Care	35	23	5
E143	FRESHROOM CLASSROOM	677 SF	Day Care	35	19	4
E144	FRESHROOM CLASSROOM	347 SF	Day Care	35	10	2
E156	FRESHROOM CLASSROOM	677 SF	Day Care	35	19	4
M143	NURSERY	306 SF	Day Care	35	9	2
M147	MEETING	248 SF	Assembly Unconcentrated	15	20	4
M148	MEETING	317 SF	Assembly Unconcentrated	15	21	4
M150	MEETING	306 SF	Assembly Unconcentrated	15	20	4
M151	MEETING	304 SF	Assembly Unconcentrated	15	20	4
M200	MULTI-PURPOSE	5,000 SF	Assembly Unconcentrated	15	333	67
M260	MEETING	733 SF	Assembly Unconcentrated	15	49	10
M261	MEETING	733 SF	Assembly Unconcentrated	15	49	10
M262	MEETING	726 SF	Assembly Unconcentrated	15	48	10
M266	NURSING	204 SF	Day Care	35	6	1
M267	MEETING	873 SF	Assembly Unconcentrated	15	58	12
S131	SANCTUARY	3,325 SF	Sanctuary Actual Seats	10	332	66
S134	LULLABY	124 SF	Day Care	35	4	1
1109						225

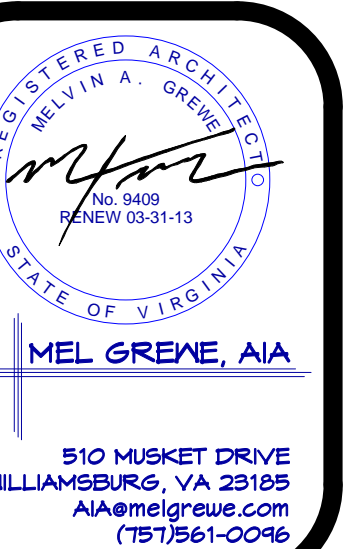
PARKING COUNT EXISTING
Count
236



1 EXISTING FLOOR PLAN



2 PHASE 1 EXPANSION PLAN



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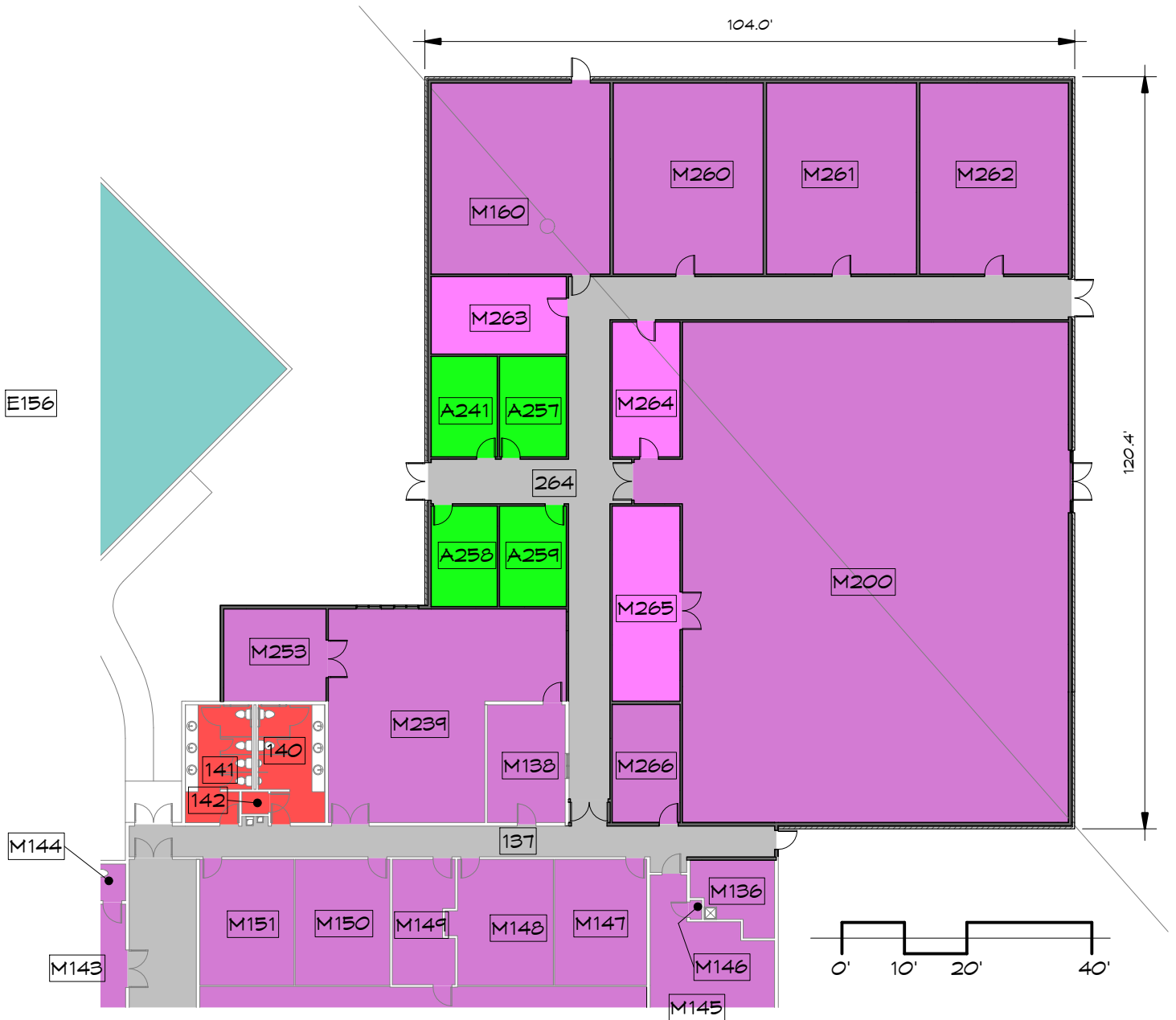


MASTER PLAN FOR KING OF GLORY - PHASE 1 PLAN

4897 Longhill Road
Williamsburg, VA 23188

A0.01
EXISTING &
PHASE 1

14 OCT 2012



PHASE 1 NEW ROOM SCHEDULE				
Number	Name	Area	SF/O	CODE OCCUPANTS
264	CORRIDOR	1,236 SF		
A241	OFFICE	169 SF	100	2
A257	OFFICE	171 SF	100	2
A258	OFFICE	169 SF	100	2
A259	OFFICE	171 SF	100	2
M160	MEETING	873 SF	15	58
M200	MULTI-PURPOSE	5,000 SF	15	333
M239	MUSIC	1,047 SF	15	70
M253	MUSIC STORAGE	241 SF		
M260	MEETING	733 SF	15	49
M261	MEETING	733 SF	15	49
M262	MEETING	726 SF	15	48
M263	STORAGE	268 SF		
M264	STORAGE	234 SF		
M265	STORAGE	338 SF		
M266	NURSING	204 SF	35	6
		12,314 SF		

KING OF GLORY
PRELIMINARY PHASE 1
09-02-2012

SK-01

MEMORANDUM

DATE: November 7, 2012

TO: Planning Commission

FROM: Jason Purse, Senior Planner II

SUBJECT: Z0-0004-2012 - Soil Stockpile Areas

In order to process applications for soil stockpile areas in a consistent manner, staff has drafted an ordinance to specify development standards for temporary soil stockpile areas associated with development plans. Typically, stockpiles are created on-site and then used to regrade other portions of the property to help maintain positive drainage patterns, without the need to bring in additional fill from off-site. These stockpile areas have been shown on Erosion and Sediment Control plans, but have not always included specific details about the height, size, and dimensions of the piles. In other instances, stockpile areas for large developments (New Town, Colonial Heritage) require multiple stockpile locations as different phases of development occur simultaneously. Staff has worked with developers to achieve desirable locations for these staging and storing areas; however, without Zoning Ordinance regulations in place, these situations have created uncertainty during the plan development stage of construction. In an effort to make the treatment of stockpile areas more consistent for developers and the community in general, staff has created a new section of the ordinance, which is included at the end of the Special Regulations section of the ordinance, that specifically provides guidance for all stockpiles associated with development plans.

The draft ordinance language establishes performance standards for all stockpile areas, including the following requirements:

- Stockpiles must be located on-site, at least 50' from property lines, and 100' from existing buildings;
- Must have a minimal impact on existing residential streets;
- Must have an absolute maximum height of 25' in a residential district and 40' in a commercial or industrial district;
- Must be temporary in nature and therefore limited to a two-year time period.
- Must preserve existing vegetative buffers, as well as limit the visibility along Community Character Corridors.

All stockpiles that meet these requirements are proposed to be approved administratively, under typical site plan review criteria. However, if an applicant wishes to get a waiver from one or more of the standards, a waiver provision has been included. In the draft ordinance, at the request of the Policy Committee, staff has amended this language to reflect a waiver process that is approved by the Planning Director and allows for the ability to appeal to the DRC.

Since the Policy Committee's review, staff added section 24-46 (c), which states that the new standards shall be required unless a more restrictive requirement is specifically stated in an individual zoning district. This will ensure that there are no conflicts with any possible existing standards located throughout the ordinance.

Staff finds that the addition of development standards would help guide staff decisions and make the process more consistent and predictable. Staff recommends that the Planning Commission recommend approval of the soil stockpile language to the Board of Supervisors.

At its October 11, 2012 meeting, the Policy Committee recommended 4-0 to recommend approval of the ordinance change.



Jason Purse, Senior Planner II

Attachment:

1. Draft Ordinance

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 1. IN GENERAL

Sec. 24-46. Soil Stockpiling

(a) Applicability. When soil is placed on a parcel of land for the purpose of storage, whether temporary or long-term, and the deposits of soil cover a total cumulative land area exceeding 2,500 square feet, or the deposit exceeds eight (8) feet from the natural grade at its maximum height, then the activity shall be considered a “soil stockpile” and shall be subject to the permitting and performance standards set forth in this section. However, the following specific activities shall not be considered “soil stockpiling”:

(1) Placement of soil on a site for the purpose of changing the natural grade, such as filling low spots, improving drainage, or improving the suitability of the site for building;

(2) Placement of soil for temporary storage purposes at depths greater than one (1) foot, covering a cumulative area of less than 2,500 square feet, and when all of the following conditions are met:

a. the soil deposit is not mounded higher than eight (8) feet above the natural existing grade;

b. the soil deposit are no closer to any property line than the minimum principal building setback for the district in which the parcel is located;

c. the soil deposit does not block, encroach on or otherwise adversely affect stormwater drainage;

d. the soil deposit is not within the drip-line of any tree on or abutting the site; and

e. the soil deposit is removed from the site, or distributed and graded across the site to depths of less than one (1) foot, within one (1) year.

(3) Placement of soil associated with agricultural or mining activities on the site.

Any and all of the activities listed above shall be required to comply with all federal, state and local permit requirements including county and state erosion and sediment control, Chesapeake Bay Preservation Area, floodplain and virginia stormwater management permit regulations.

(b) Prohibited materials. Nothing herein shall be construed to allow the creation of stockpiles containing anything other than clean soil, including, but not limited to, the following specifically prohibited materials:

(1) the creation of stockpiles of any waste material, including: commercial/business waste; construction, clearing and/or demolition waste; garbage or trash; hazardous waste; household waste; industrial waste; institutional/governmental waste; solid waste; or, unacceptable waste as defined in Chapter 24 of the County Code;

(2) the creation of stockpiles of sand, gravel, stone, felled forestal debris, wood chips/mulch or similar materials.

(c) Effects of other zoning districts. The standards established in section (e) below shall be required unless a more restrictive requirement is specifically stated in an individual zoning district, in which case the more restrictive standards shall apply.

(d) Development plans. The location, size and dimensions of all stockpiles shall be shown on any associated development plan and approved as part of a site plan or construction plan for a subdivision prior to development. At a minimum the plan shall include:

(1) A stockpile plan prepared in sufficient detail to demonstrate compliance with all applicable performance standards; and

(2) An operations plan information shall be included in the site plan submittal documents and shall contain the following information:

a. The date on which the operation will commence, the date on which the operation will be completed, the date that all required stabilization measures are to be completed, and a statement as to the ultimate disposition of the stockpile and the length of time that the stockpile will remain on the site.

b. A statement listing the public streets and highways to be used as access to the site and haul routes.

c. The hours of operation each day and the days of operation during the week.

d. A general description of the type and quantity of equipment to be used in connection with the use.

e. Operating practices to be used to minimize noise, dust, air contaminants, and vibration including information on the treatment of access roads to eliminate dust and deposit of mud on public roads.

f. Methods for ensuring that oil, grease, or other contaminating materials from equipment maintenance are not deposited on the ground or within the confines of any drainageways.

(e) Performance standards. All soil stockpiling shall be subject to the following conditions:

(1) Location. All soil stockpiles shall be located on the same parcel within the proposed development in the area under construction.

(2) Setbacks.

a. Setback areas for soil stockpiles shall be:

i. Not less than fifty (50) feet from any property line in any zoning district; and

ii. Not less than one hundred (100) feet from any existing off-site structure;

b. All existing trees, bushes, shrubs and other vegetation within such setback areas shall be protected and preserved during and after the stockpiling operation. The planning director may require the installation of trees or shrubs to help buffer the view of any stockpiles authorized on sites without sufficient screening.

(3) Access. Operation plan, as defined in section 24-46 (c) (2), shall include access information required below at site plan submittal.

a. Local residential streets (i.e., those platted/created as a component of a recorded subdivision) shall not be used for access to the stockpile site. The developer shall be limited to using those routes specified in the application and approved by the county.

b. All on-site access roads and driveways shall be maintained to prevent the creation of dust and shall have an appropriate surface treatment to prevent the depositing of mud, debris or dust onto any public street.

c. Any access road shall be a minimum of twenty (20') feet from any property line except at the point of access to any public right-of-way.

d. If determined necessary by the Virginia Department of Transportation (VDOT), the operator shall be required to post a letter of credit to VDOT in an amount sufficient to cover any potential damages to the public road system attributable to the operation.

(4) Hours of operation. The activity shall be conducted between local sunrise and sunset and shall have no Sunday operations, unless for necessary maintenance of equipment essential for public health and safety.

(5) The height of the soil stockpile shall be limited by the following design parameters:

a. One (1) foot of stockpile height for each two (2) feet of setback from any perimeter property line;

b. Side slopes shall not exceed three feet in width to one foot in height (3H:1V; horizontal:vertical);

c. The maximum height of any stockpile shall be 25 feet in a residential district and 40 feet in a commercial or industrial district. In a mixed-use area, the maximum height shall be determined based on the predominant land use designation on the master plan; and

d. No stockpile shall exceed the height of the treeline on or abutting the stockpile site. If no treeline is located on-site or adjacent to the site, or if vegetation consists of under story growth or shrubs, the height of the stockpile shall not exceed 25 feet in height.

(6) Stockpiles shall be limited to a maximum term of two years. In the event the operator wishes to maintain the temporary soil stockpile beyond that term, he or she may apply to the development review committee for a time extension.

(7) No stockpile shall be located within 150 feet of a community character corridor. If the parcel is less than 300 feet in depth, the location of the stockpile may be reduced to 75 feet from a front property line along a community character corridor.

(8) Elimination of noise, dust, and vibration.

a. All equipment used for the transportation or movement/grading of soil shall be constructed, maintained and operated in such a manner as to minimize any noise, dust or vibration which would be harmful or a nuisance to persons living in the vicinity of the stockpile.

b. All service roads or other non-vegetated open areas within the boundaries of the site shall be maintained to prevent dust or other windblown air pollutants. Proposed methods of dust control and equipment proposed for such control shall be included in the operation plan and shall be located at the site during operation.

c. Trucks shall not be loaded beyond design capacity, as defined in the Department of Motor Vehicles Size, Weight and Equipment Requirements Manual DMV-109, and loads shall be covered as required by state law to prevent hauled materials from being deposited or spilled during transport across any public or private land or property.

(9) The approved exterior limits of all areas where soil will be stockpiled shall be delineated with construction fencing and adequate tree protection measures shall be used, as determined by the engineering and resource protection director, prior to beginning operation.

(10) The following drainage requirements shall be met during the operation of the stockpile:

a. The site shall be graded to prevent standing water which would or could reasonably be expected to constitute a safety or health hazard; and

b. Existing drainage channels shall not be altered in such a way that water backs up onto adjoining properties or that the peak flow of water leaving the site exceeds the capacity of the downstream drainage channel.

(11) The operation shall at all times comply with the applicable provisions of the Virginia Erosion and Sediment Control Handbook promulgated by the Virginia Soil and Water Conservation Board.

(12) Maintenance of equipment shall be conducted in such a fashion as to not allow the depositing of oil, grease, or other contaminating materials on the ground or into drainageways.

(f) Waivers.

(1) An applicant may request a waiver from the planning director from any of the provisions of section 24-46 (e) (1) through (7) above. The planning director shall only consider waivers that meet the following requirements:

a. Stockpiles shall not be visible from a community character corridor;

b. Stockpiles shall be screened from adjacent properties;

c. Stockpiles shall be located on a parcel that will have minimal impact on surrounding residential parcels, as determined by the DRC;

d. Stockpiles shall be located on a parcel that can be accessed without disruption to local residential streets, as determined by the DRC.

e. Stockpiles shall have no impacts to environmental inventory features as listed in section 23-10 (2) of the County Chesapeake Bay Preservation ordinance.

(2) Appeals. In the event the planning director disapproves the items specified in (f) 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.

Secs. 24-47 - 24-51. Reserved.

MEMORANDUM

DATE: November 7, 2012

TO: The Planning Commission

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

SUBJECT: Zoning Ordinance Transition

This item is brought forward in conjunction with Case No. ZO-0007-2011, Cluster Overlay District, which was earlier on the Commission's agenda. The *Code of Virginia* sets forth provisions for vesting of rights in relation to the amendment of zoning ordinances in Section 15.2-2307. The proposed transition resolution mirrors the provisions in the Code of Virginia, with a minor adjustment to items 3b and 3c to reference master plans since these are customarily part of the rezoning and special use permit process in James City County. The purpose of the transition resolution is to codify the Code of Virginia provisions at the local level, thus making clear in a local ordinance the status of vested rights in relation to the changes in the Cluster Overlay District. This is particularly important for districts which relate to density and overall development patterns.

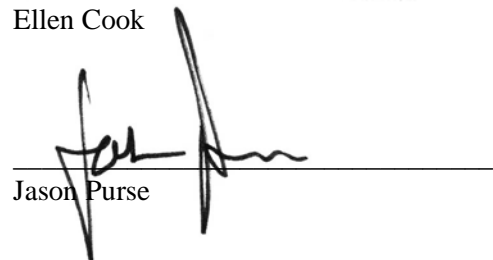
Developments which completely meet the criteria listed in the resolution would be vested under the old ordinances prior to the adoption of Case No. ZO-0007-2011, Cluster Overlay District. In the past, the Commission and Board have followed this same procedure when adopted significant updates to the Zoning Ordinance.

Recommendation

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



Ellen Cook



Jason Purse

Attachment

1. Resolution

RESOLUTION

ZONING ORDINANCE TRANSITION

WHEREAS, the Board of Supervisors is considering revisions and amendments to sections of Chapter 24, Zoning, of the Code of the County of James City, Virginia, as described in Case No. ZO-0007-2011; 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 November 27, 2012, adoption of revisions to the James City County Zoning Ordinance, as described in Case No. ZO-0007-2011, if all of the following conditions were fully and completely met on or before November 27, 2012:

1. The landowner had obtained or was the beneficiary of a “significant affirmative governmental act” (as defined herein) which remains in effect allowing development of a specific project; and
2. Relied in good faith on the significant affirmative governmental act; and
3. Incurred extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

Each of the following are deemed to be a “significant affirmative governmental act”:

- a) The board of supervisors has accepted proffers or proffered conditions which specify use related to a zoning amendment;
- b) The board of supervisors has approved an application for a rezoning, with master plan, for specific use(s) or density;
- c) The board of supervisors or board of zoning appeals has granted a special exception or use permit, with master plan, with conditions;
- d) The board of zoning appeals has approved a variance;
- e) The board of supervisors or its designated agent has approved a preliminary subdivision plat, site plan, or plan of development for the landowner’s property and the landowner diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances;
- f) The board of supervisors or its designated agent has approved a final subdivision plat, site plan, or plan of development for the landowner’s property; or

- g) The zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification, or reversal under subsection C of section 15.2-2311 of the Code of Virginia, 1950, as amended.

John J. McGlennon
Chair, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

PLANNING DIRECTOR'S REPORT
November 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 October. The DRB did electronically review several items in Section 7 Phase 10 including a 15 lot plat and the reconfiguration of Olive Drive and Rollison Drive.
- **Ordinance Update.** Staff worked to prepare the Subdivision Ordinance, Housekeeping items, Stockpiling and Affordable/Workforce changes for Planning Commission consideration, and brought those items to a October 11, 2012 Policy Committee meeting.
- **Transportation Planning.** Staff has been working on engaging consultants for the Longhill and Mooretown Road corridor studies.
- **Regional Comprehensive Planning Effort.** Staff met with City of Williamsburg and York County staff once in October to continue to discuss issues. Staff expects a draft summary of the material to be prepared by late fall/early winter.
- **Dominion Power Lines.** The State Corporation Commission held a public hearing on proposed Dominion power line route on October 24 at Warhill High School. The public hearing will continue on January 10 at 10 a.m. at the SCC in Richmond.
- **Monthly Case Report.** For a list of all cases received in the last month, please see the attached document.
- **Board Action Results** – October 9th and October 23rd 2012
- **Z-03-2012, New Town Section 12** – Approved 4-0
- **SUP-0012-2011 Ntelos Rt. 199 Wireless Communication Facility** – Approved 3-1
- **ZA-0006-2012 Williamsburg Pottery Proffer Violation Appeal (Lights)** – Deferred to November 27, 2012
- **Z-0007-2012/SUP-0002-2011 Greensprings Mobile Home Park Sanitary Sewer Force Main Extension** – Approved 5-0


Paul D. Holt, III

New Cases for October

Case Type	Case Number	Case Title	Address	Description
Conceptual Plans	C-0034-2012	Courtesy Review of Assisted and Independent Living Home in York County		Conversion of George Washington Inn to a senior facility (York County)
	C-0035-2012	Jolly Pond Auto Repair	2105 JOLLY POND ROAD	Proposed a 50'x60' building to serve as auto repair garage along Jolly Pond Road.
	C-0036-2012	Stewart Richmond Road Family Subdivision	9484 RICHMOND ROAD	Conceptual Plan for a Family Subdivision to include three one-acre lots and remaining 4.87 acre parcel.
	C-0037-2012	Five Brothers Contractor's Office	5892 CENTERVILLE RD	Operate a landscaping business, expanding garage and adding a mulch hutch at back of property.
Subdivision	S-0036-2012	Swanson Riverview Road	4950 RIVER VIEW ROAD	Subdividing a single three-acre lot.
	S-0037-2012	Walnut Grove	7345 RICHMOND ROAD	75 single family homes and 10 townhouses - B-1 retail with relocation of house.
	S-0038-2012	Meadows Forge Road	2822 FORGE ROAD	Boundary line extinguishment and subdivision to create lots for 2 existing houses.
	S-0039-2012	Slater Estate Barnes Road	8799 BARNES ROAD	Creating two new lots.
	S-0040-2012	Kingsmill Cottages on the James Parcel RC2	1000 KINGSMILL ROAD	Creating a new lot as a part of the cottages proposed under SP-0096-2011.

Site Plan	SP-0071-2012	Walnut Grove	7345 RICHMOND ROAD	75 single family homes and 10 townhouses - B-1 retail with relocation of house.
	SP-0072-2012	James River Commerce Center Lot 7 Waterline SP Amend.	1725 ENDEAVOR DRIVE	Installation of a new 2" waterline and extension of the 4" sewerline.
	SP-0073-2012	Courthouse Commons Parcels 4 and 5 Building 5 SP Amend.	5227 MONTICELLO AVENUE	Address a building setback encroachment for Building 5 across the front 50' setback by 0.5 square feet.
	SP-0074-2012	Villas at Five Forks Buildings 7 and 16 SP Amend.	248 INGRAM ROAD	Change two quad unit condos into tri-plex plans on the approved site plan.
	SP-0075-2012	Ewell Station Food Lion Lighting SP Amend.	5601 RICHMOND ROAD	Proposal for new parking lot lighting
	SP-0076-2012	Quarterland Commons Condominiums	331 MCLAWS CIRCLE	Addition of enclosed foyer and conversion of existing building #4 of Quarterland Commons Ph 10 from a warehouse to a medical office building.
Special Use Permit	SUP-0011-2012	Bernfeld Centerville Rd Family Subdivision	6120 CENTERVILLE RD	Create a four lot family subdivision (with lots less than 3 acres) at 6120 Centerville Road.
	SUP-0012-2012	Toano Middle School Parking Amendments	7817 RICHMOND ROAD	Plan will provide new handicap parking location, new student drop off area and 30 additional parking spaces including two additional HC spaces.

	SUP-0013-2012	King of Glory Church SUP Amendment	4897 LONGHILL ROAD	Applicant proposes expanding the available administrative offices, storage and meeting area.
	SUP-0014-2012	Marshburn Hicks Island Road Family Subdivision	8512 HICKS ISLAND RD	Two-lot family subdivision on a 2.35-acre parcel.
Zoning Ordinance Amendment	ZO-0006-2012	Floodplain Housekeeping		Amending floodplain ordinance to change certain staff titles and to further clarify the treatment of utilities, HVAC, and other mechanical systems for single-family homes.
	ZO-0007-2012	Research and Technology		Amendments to the RT, Research and Technology Zoning District to change section references, formatting of uses, etc as part of comprehensive zoning ordinance review process.
	ZO-0008-2012	Private Streets Housekeeping		Minor housekeeping amendments related to other Zoning Ordinance changes adopted since November 2011.

	ZO-0009-2012	Procedural/Submittal Requirements and Definitions		Minor housekeeping amendments to the administrative procedures, submittal requirements and definitions ordinance sections as a result of more recent ordinance changes.
	ZO-0010-2012	Residential and Multiple Use Districts Housekeeping		Minor amendments to the definitions, multiple use and residential districts to correctly reference new proposed Housing Opportunities Policy.

Full Name	District
Luke Vinciguerra	
Jason Purse	02-Powhatan
Leanne Reidenbach	01- Stonehouse
Jose Ribeiro	02-Powhatan
Luke Vinciguerra	01- Stonehouse
Ellen Cook	01- Stonehouse
Leanne Reidenbach	02-Powhatan
Jose Ribeiro	02-Powhatan
Jason Purse	05-Roberts

Ellen Cook	01- Stonehouse
Jason Purse	05-Roberts
Jose Ribeiro	04- Jamestown
Ellen Cook	03-Berkeley
Luke Vinciguerra	02-Powhatan
Leanne Reidenbach	05-Roberts
Leanne Reidenbach	02-Powhatan
Jose Ribeiro	01- Stonehouse

Jose Ribeiro	04- Jamestown
Jason Purse	02-Powhatan
Leanne Reidenbach	
Ellen Cook	
Luke Vinciguerra	

Jose Ribeiro	
Ellen Cook	

MEMORANDUM

DATE: November 7, 2012

TO: The Planning Commission

FROM: Jose Ribeiro, Senior Planner

SUBJECT: Zoning Ordinance Update – Housekeeping Items

The Board of Supervisors has adopted a series of zoning ordinance amendments as part of the Zoning Ordinance Update process. Staff has identified five ordinance sections (floodplain area regulations, procedural descriptions/submittal requirements, definitions, Research and Technology, and private streets) where additional revisions are necessary either to fix minor grammatical or consistency issues or to further clarify the previously adopted ordinances. The Policy Committee considered the proposed changes to the above referenced ordinance sections on September 4, 2012, and made recommendations for minor changes which were presented to the Board of Supervisors at its work-session on September 25, 2012. The attached ordinances reflect the input of both Policy Committee and Board of Supervisors.

The following list represents a brief summary of each of the specific changes.

1) Floodplain Ordinance

On November 22, 2011, the Board of Supervisors adopted a series of amendments to the Floodplain Area Regulations in the Zoning Ordinance. Since that time, staff has identified several minor items that require further amendment or clarification. These items include:

- Section 24-590 – Changes two references to the County Engineer to instead reference the Development Management Director or his designee. This change is necessary because there is no longer a designated County Engineer position.
- Section 24-595 – Clarifies ordinance language that requires utilities to be flood proofed to the level of two feet above the 100-year base flood elevation to specifically state that mechanical, plumbing, gas, and electrical systems are all considered utilities for the purposes of the Floodplain Area Regulations are also subject to this requirement. This change will further improve the County's CRS rating while benefiting homeowner's within the floodplain.

2) Procedural Descriptions/Submittal Requirements:

On June 12, 2012, the Board of Supervisors adopted a series of amendments to the procedural description and submittal regulations in the Zoning Ordinance. Since its adoption, staff has identified a few items that require further amendment or clarification. These items include:

- Section 24-23(a)(2)(f) – Adds a procedure allowing applicants to appeal the Planning Director's decision regarding master plan consistency determination to the Development Review Committee. This addition is consistent with the role of the DRC as presented in other sections of the Zoning Ordinance. In addition, per Policy Committee comments, there is an additional change of re-inserting an area designation category "D" for apartments and splitting the general multifamily category "B" into "B" –

multifamily containing up to and including 4 dwelling units and “C” – multifamily containing more than 4 dwelling units. This change will make the submittal requirements table consistent with what was adopted in the Mixed Use, R-4 and Planned Unit Development district ordinances.

- Section 24-23 (a)(4) – Changes language referencing a fee schedule back to the original language referencing section 24-7. This change is necessary because the administrative fees section was not removed from the ordinance.
- Section 24-145 (b) – Changes two references to the Zoning Administrator to instead reference the Planning Director. This change is necessary to ensure consistency with the rest of the Zoning Ordinance.

3) Definitions

On July 11, 2012, the Planning Commission recommended approval of a series of amendments to the Definitions section in the Zoning Ordinance, and the Board of Supervisors adopted these amendments on September 11, 2012. Following Planning Commission consideration on July 11, staff identified a few items that require further amendment, mostly to correct grammatical errors. Staff determined that because the Planning Commission had already considered the initial amendments, any further changes should be handled through the housekeeping ordinance items rather than making changes to the ordinance between the Planning Commission and Board of Supervisors meetings. These items include definitions for the following:

- Acreage parcel;
- Building, height of;
- Street functional classification;
- Iso-foot candle diagram;
- Mobile home;
- Noninterference/intermodulation study;
- Start of construction; and
- Tourist home.

4) RT, Research and Technology

On July 11, 2012, the Planning Commission recommended approval of a series of amendments to the residential and multiple use sections in the Zoning Ordinance, and the Board of Supervisors adopted these amendments on September 11, 2012. Staff identified that the Research and Technology District, which was not included in the package of amendments adopted on September 11, contains some language that should be identical to language contained within the residential and multiple use districts. These items include:

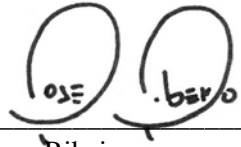
- Converts the permitted/specially permitted use lists into table format;
- Changes the use “warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent properties” from a specially permitted to a permitted use;
- Simplifies of the Submittal Requirements section;
- Changes items in the Requirements for Improvements and Design section to coordinate with changes to private streets and outdoor lighting;
- Removes the nondevelopable land definition which is now covered in the Definitions section;
- Changes the Setback Requirements section to specify Planning Director review of reductions and modifications, with appeal to the Development Review Committee; and
- Incorporates changes to coordinate with the wireless communication facility amendments.

5) Private Streets

On November 22, 2011, the Board of Supervisors adopted a series of amendments to the private streets regulations in the Zoning Ordinance. Since that time, staff has developed the R-3, Residential Redevelopment, district which will require a reference. In addition, this section will be revised to remove the R-5 Cluster provision, since this option has been removed from the R-5 District ordinance.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the attached revised ordinances to the Board of Supervisors.



Jose Ribeiro

Attachments:

1. Minutes of the September 25, 2012 Board of Supervisors work session
2. Floodplain Area Regulations ordinance amendments
3. Procedural descriptions/submittal requirements – includes Sections 24-23 and 24-145
4. Definitions
5. Research and Technology amendments
6. Private street amendments

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF SEPTEMBER 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

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley District
W. Wilford Kale, Jr., Jamestown District (Arrived at 4:02 p.m.)
James G. Kennedy, Stonehouse District – (Absent)
James O. Icenhour, Jr., Powhatan District

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

C. BOARD DISCUSSIONS

1. Energy Use and Carbon Emissions Report

Mr. John Horne, Director of General Services, introduced Ms. Dawn Olesky, the Environmental Coordinator for James City County and stated that Ms. Olesky's primary duty is to be the Energy Manager for the County.

Ms. Olesky gave the Board members a summary of the Energy Use and Carbon Emissions Report that was included in the Work Session Agenda Packet.

Mr. McGlennon asked for clarification on the fuel efficiency of the County's vehicles in the fleet.

Ms. Olesky stated that most of the more fuel-efficient vehicles were purchased in 2007, so the efficiencies noted on the slides do not show as drastic a change. She stated that if the Board was to compare the efficiencies between 2004 and 2007, there would be a very large increase in the efficiencies of the smaller County vehicles.

Mr. Horne stated that the fuel efficiency slide is an indication of all the vehicles in the County Fleet, and therefore, one must take into account that the majority of the County vehicles are big, heavy-duty vehicles that do not have the same fuel efficiency as smaller vehicles. He also stated that the County has not been replacing as many vehicles since the downturn in the economy. Instead, the County has been extending the life of older, less efficient vehicles.

Mr. McGlennon stated that he had noticed that there appeared to be a decrease in total miles travelled in County vehicles. He stated that he believed that was due to an initiative to use County vehicles more efficiently.

Mr. Horne stated that yes; there has been an effort to use County vehicles more efficiently by sharing vehicles and combining trips.

Ms. Jones asked how the vision of reducing carbon emissions by 80 percent by 2050 is to be achieved.

Ms. Olesky stated that with the County's sustainable building policy, all of the new County buildings are more efficient; as older vehicles are replaced with newer, more efficient vehicles as well as more options for renewable energy become available, the County will be able to meet that vision.

Mr. McGlennon noted that as traditional heating and cooling systems are replaced with geothermal heating and air, there would be a decrease in emissions as well.

Mr. Horne stated that as more of the County buildings are brought online utilizing the geothermal heating and air, and more other less efficient buildings are taken off line, the County will continue to move toward the goal.

Mr. McGlennon asked for clarification about the geothermal heating and air system in the County Administration Building, Building D.

Mr. Horne stated that it is more of a hybrid system. The building does not draw its main source of heat and air from geothermal; however, there is a small geothermal system that is utilized to dehumidify the air before it is sent into the building and thus the air conditioning system does not have to work as hard to cool the air.

Mr. Horne stated that even in the older buildings that utilize older heating and air systems, the County is looking for ways to seal the buildings, allowing more of the air to stay inside and allow the systems to not have to work as hard.

Mr. Icenhour asked if there was a way to track annual temperature variations.

Mr. Horne stated that the Energy Star system takes into account that variations in temperature.

Mr. McGlennon thanked Ms. Olesky for her presentation and for her efforts in making the County more efficient. He stated that there are opportunities for the County to set an example for other businesses in the community, especially in regard to the building envelopes and sealing their buildings for more efficient heating and cooling.

2. Zoning/Subdivision Ordinance Update

a. Housekeeping Items and Subdivision Ordinance

Mr. Allen Murphy, Director of Development Management, Mr. Chris Johnson, Acting Director of Planning, Ms. Tammy Rosario, Principal Planner, Ms. Ellen Cook, Planner III, and Mr. Vaughn Poller, Housing and Community Development Administrator, joined the Board for an update on the Zoning and Subdivision Ordinance.

Ms. Rosario presented the Board members with a summary of the memorandum in the Work Session Agenda Packet.

Mr. Icenhour stated that it appeared that the changes to the Housekeeping Items were more along the lines of administrative cleanup and continuity of terminology.

Ms. Rosario stated that it was correct.

Mr. Icenhour questioned, in regard to the Subdivision Ordinance, if the ordinance not previously stated, that Family Subdivisions were zoned R-8 and A-1.

Ms. Cook stated that previously it could be applied in any district, but primarily R-8 and A-1 are used in Subdivisions. She stated that the only benefit to using it in R-1 or R-2 districts is that it does not require road frontage.

Mr. Icenhour asked if the Board had ever seen an application for the Subdivision Ordinance in an R-1 or R-2 district.

Ms. Cook stated that those applications do not require Board action and would be an administrative action.

Mr. Icenhour stated that our changes to the definitions of alternative on-site sewage disposal just restate the State's ordinances.

Ms. Cook stated that it was correct.

Mr. McGlennon stated that for clarification, the State has recently changed their ordinances in regard to alternative on-site sewage disposal systems and that the changes to our ordinances are to coincide with the State's changes.

Mr. McGlennon also asked if staff anticipates more requests for alternative on-site sewage disposal.

Ms. Cook stated that after many discussions with the Health Department, staff's understanding is that in regard to existing lots, there are more alternatives for sewage disposal that are now approved. However, in regard to the creation of new lots, the County's Subdivision Ordinance can specify which types of sewage disposal systems are allowed.

b. Housing Opportunities Resolution

Ms. Cook summarized the changes to the Housing Opportunities resolution that was included in the Work Session Agenda Packet.

Ms. Rosario stated that staff is looking for direction from the Board that the Board wants staff to go.

Mr. McGlennon stated that at the previous Board meeting, the Board was concerned with the combining of the definitions of Workforce and Affordable Housing. He stated that the concern of the Board was that by combining those definitions, it would allow a developer to focus more on the Workforce housing, which the market already provides while ignoring the Affordable housing.

Mr. Icenhour stated that he is very pleased with the revisions and that it puts the focus back where it needs to be, which is on Affordable housing.

Mr. Icenhour stated that the only concern he had was the mechanics of the "cash in lieu of" section.

Mr. Rogers stated that the “cash in lieu of” proffers would be something that the developer would have to propose, but ultimately the Board would have the ultimate decision as to whether or not to accept the proffers.

Mr. McGlennon asked the members of the Board if they were satisfied with the revisions made to the policy. Each member stated yes.

Mr. McGlennon stated that he hoped this clarified the direction from the Board that the Planning Division was looking for.

3. Legislative Agenda

Mr. Rogers presented the Board with the Legislative Agenda and gave a brief summary. He stated if there was any input or items the Board would like to add, now is the time to discuss them. He stated this is a preliminary draft and the Legislative Agenda is not scheduled to come before the Board until November.

Mr. McGlennon asked if the Board was still scheduled to meet with the Legislators in November.

Mr. Rogers stated that was correct; however Delegate Watson will not be able to make that meeting.

Ms. Jones stated that her only issue is with Item No. 2-11. She stated that the title is confusing in regard to the content. Several of the Board members weighed in on an appropriate title. The Board finally decided on Reducing Mandates and Adequately Funding State Mandates.

Mr. Kale stated that he had an issue with Item No. 2-3. He stated that he does not believe that it is a realistic idea to support a rail to connect Richmond to the Peninsula. He stated that this would involve another tunnel and is completely unrealistic. He stated that he did not believe the public would support this idea, especially before handling the issues for vehicles. He stated that he does not believe that this should be part of the Board’s priorities.

Mr. McGlennon asked if this was part of any plan of Transportation Policy Organization.

Mr. Middaugh stated that he did not believe so. He stated that what has been discussed is passenger rail enhancement from the Peninsula to Richmond and on up to Washington D. C. and even further up to Boston.

Ms. Jones stated that this would be utilizing existing infrastructure.

Mr. Middaugh stated that this particular Item No. 2-3 is referring to a new passenger rail that would cut across the west and make its way up to Richmond.

Ms. Jones stated that she would like to see Transportation Funding be moved up the Agenda and take a higher priority than a proposed new passenger rail.

Mr. Kale said that CSX, in its annual report, stated that they are well underway to making revisions to its train station.

Mr. Kale stated that this would be a help to the current passenger rails. He stated that it would improve the flow and the speed of the trains going through the train station.

Mr. McGlennon stated that he felt the Board should support enhancements to existing rail systems, but should not support a new rail system going across the Peninsula.

Mr. Icenhour stated that he concurred with Ms. Jones about moving the Transportation item up in the list as a higher priority.

Mr. McGlennon stated he is not sure that the Board should list the items in terms of priority.

Mr. Rogers questioned whether or not there was any use in grouping the items together. He stated that the agenda could be organized into sections, for example, a transportation section, then a taxation section, and so forth.

Ms. Jones stated that there was a letter to the Governor and the General Assembly stressing the need for improvements to existing infrastructure and the need for funded projects to be coordinated with local areas to minimize the impact on the area. She stated that the letter was a unified voice of all the local governments in the Urban Crescent, stating the need for transportation funding allocation in the budget and that transportation funding needs to be a top priority for the State.

Mr. McGlennon stated that the only section on the Legislative Agenda that seemed to be missing anything is the legislation proposed by the County. He stated that the Board members need to think back about any cases over the last year that have come up against a barrier in State law, or an action that the Board could have taken if not for State law. Mr. McGlennon stated that it may be that there is not anything for this section for this year, but it needs to be contemplated.

Mr. Rogers stated that it has been a quiet year in this regard. He has not heard of anything from the Executive Staff, nor has there been any barrier for the Board that he has seen.

Mr. Rogers stated that the Board may wish to call out specific items from the legislative programs of the Virginia Municipal League (VML) and Virginia Association of Counties (VACo).

Mr. Middaugh stated that there may be items in those other programs that the Board will want to make note of as a way of adding emphasis, for example, transportation funding.

Mr. Rogers also noted that the Board has eliminated any mention of the Dillon Rule and it is not in the Legislative Agenda. He stated that a State-wide effort to modify the Dillon Rule would be worthwhile.

Mr. Icenhour stated that VACo was making an effort on this item as well. He stated that he believes it is worthwhile for the County to continue fighting this issue with the support of the other counties.

Mr. Kale stated the neither party is interested in making changes to the Dillon Rule, so the item is pretty much dead in the General Assembly.

Mr. Icenhour stated that the plan now is to sit down with our local legislative representatives.

Mr. Rogers stated yes and the only issue is that Delegate Watson cannot be at the last meeting in November.

Mr. Icenhour asked about rescheduling the meeting until December.

Mr. Rogers stated that it might be possible if the Board is not proposing any legislation that will have to be drafted.

Mr. Middaugh stated that York County and the City of Williamsburg want to swap Legislative Agendas with James City County so that the municipalities can take a look at the other Agendas and see if there is an item that needs emphasis and support.

Mr. McGlennon stated that if there were no other questions or discussion, he would recommend moving in to the Closed Session.

Mr. McGlennon asked Mr. Middaugh to read the Code Sections for Closed Session and requested a motion.

Mr. Kale made a motion to adjourn the Work Session and go in to Closed Session at 4:52 p.m.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

The Board came out of Closed Session at 5:44 p.m.

Mr. Kale made a motion to certify the Closed Session.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

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 appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, consultation with legal counsel and staff members pertaining to actual or probable litigation.

Mr. Icenhour made a motion to appoint Ms. Lisa Thomas, Mr. John Smith, Mr. Hunter Old, Ms. Andrea Salamy, and Mr. Tucker Edmonds to the Community Action Agency.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

At 5:45 p.m., Mr. McGlennon recessed the Work Session.

Robert Middaugh
Clerk to the Board

092512bosws_min

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 3, FLOODPLAIN AREA REGULATIONS, SECTION 24-590, DESIGNATION OF FLOODPLAIN DISTRICTS AND SECTION 24-595, REGULATIONS FOR CONSTRUCTION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VI, Overlay Districts, Division 3, Floodplain Area Regulations, by amending Section 24-590, Designation of floodplain districts and Section 24-595, Regulations for construction.

Chapter 24. Zoning

Article VI. Overlay Districts

Division 3. Floodplain Area Regulations

Sec. 24-590. Designation of floodplain districts.

(a) The various floodplain districts shall include areas subject to inundation by waters of the 100-year flood. The minimum basis for the delineation of these districts shall be, but not ~~be~~ limited to, the September 28, 2007, flood insurance study prepared by the Federal Emergency Management Agency (FEMA), Federal Insurance Agency (FIA), since other flood-prone areas exist in James City County which are not shown on the floodplain maps. To determine these areas, the 100-year flood elevations and floodways from federal, state and local sources may be used when available. Where the specific 100-year flood elevation cannot be determined for an area by using available sources of data, then the applicant for the proposed use, development and/or activity shall determine this elevation to the satisfaction of the ~~county engineer~~ *development manager or his designee* in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be

undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall consider full development of the watershed and shall be submitted in sufficient detail to allow a thorough review by the ~~county engineer~~ *development manager or his designee*.

Where flood elevations are provided by the FIA, these elevations shall not be changed except with FEMA approval. Local sources of flood-prone area data include, but are not limited to, the following reports: *Drainage Study of Upper Powhatan Creek Watersheds, Camp Dresser and McKee 1987; Mill Creek-Lake Watershed Study, GKY and Associates, 1988; Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2008; Upper Powhatan Creek Floodplain Study, Williamsburg Environmental Group, 2010.*

(b) The floodway district, minimally shown on the maps accompanying the flood insurance study, is established for purposes of these regulations using the criterion that certain areas within the floodplain must be kept free of encroachment in order that the 100-year flood be conveyed without increasing the water surface areas included in this district.

(c) The flood-fringe district shall be that area of the 100-year floodplain not included in the floodway district. The basis for the outmost boundary of the district shall be the 100-year flood elevations minimally shown as Zone AE on the maps accompanying the flood insurance study.

(d) The approximated floodplain district shall be that floodplain area for which no detailed flood profiles or elevations are provided but where a 100-year floodplain boundary has been approximated. Such areas are minimally shown as Zone A on the maps accompanying the flood insurance study.

Sec. 24-595. Regulations for construction.

(a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the 100-year floodplain shall not be permitted unless the project is in conformance with the following requirements:

(1) In case of residential usage, the finished elevation of the lowest floor, including the basement or cellar of the building, shall be at least two feet above the 100-year flood elevation. For nonresidential

structures, watertight floodproofing in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein. Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate as appropriate to the director of building safety and permits.

- (2) Utility and sanitary facilities, *including but not limited to mechanical, plumbing and electrical systems and gas lines*, shall be floodproofed up to the level of two feet above the 100-year base flood elevation.
- (3) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district having a 100-year elevation greater than 7-1/2 feet (North American Vertical Datum - NAVD, 1988) unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the development manager or his designee.
- (4) All other federal and state permits shall be obtained by the applicant before a building permit can be issued.
- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-23, SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, by amending Section 24-23, Submittal requirements.

Article I. In General

Sec. 24-23. Submittal requirements.

(a) The following information shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.

- (1) The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:
 - a. A traffic impact analysis for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the hours of operation and/or, those projects with an entrance or exit onto a roadway with a level of service “D” or lower shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy. Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the board of supervisors after

reviewing the applicant's traffic impact analysis; and

- b. A water and sewer impact study for all projects with an anticipated average daily flow greater than 15,500 gallons and/or for proposed residential projects containing 50 lots or more. Water conservation information in accordance with the water conservation guidelines policy; and
 - c. Environmental information in accordance with the Environmental Constraints Analysis for Legislative cases; and
 - d. An adequate public facilities report in accordance with board of supervisors policy to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the Adequate Public School Facilities Test Policy; and
 - e. Additional on-site and off-site public facilities or services which would be required as a result of the development; and
 - f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
 - g. An environmental inventory in accordance with the James City County Natural Resource policy; and
 - h. A fiscal impact analysis, using the worksheet and assumptions provided by the planning division, when the proposal includes residential dwelling units. The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the State using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and
 - i. Parks and recreation information based on the Parks and Recreation Master Plan Proffer Guidelines.
- (2) The master plan shall depict and bind the approximate boundaries and general location of all principal

land uses and their building square footage and height, roads, rights-of-way (with an indication of whether public or private), accesses, open spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. The master plan 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. The master plan shall also include:

- a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;
- b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);
- c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;
- d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;
- e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and
- f. If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:

Type of Development	Area Designation
Single family	A
Multi-family dwellings <i>containing up to and including four dwelling units</i>	B
<i>Multi-family dwellings containing more than four dwelling units</i>	C
Apartments	CD
Commercial uses	E
Wholesale and warehouse uses	F
Office uses	G
Light industrial uses	H
Institutional or public uses	I
Areas of common open space, with recreation areas noted	J
Structures containing a mixture of uses	M*
* Other structures, facilities or amenities	X

Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parentheses *parentheses*, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.

A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal. The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final development plans may be approved after approval of a master plan by the board of supervisors. All final development plans shall be consistent with the master plan, but may deviate from the master plan if, the planning director concludes that the

development plan does not:

1. Significantly affect the general location or classification of housing units or buildings as shown on the master plan;
2. Significantly alter the distribution of recreation or open space areas on the master plan;
3. Significantly affect the road layout as shown on the master plan;
4. Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.

If the planning director determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. *In the event the planning director disapproves the amendment, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission.* For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with ~~the fee schedule document approved by the James City County board of supervisors.~~ *section 24-7 of this chapter.*
- (b) Supplemental information should be submitted in accordance with the “Supplemental Submittal Requirements for Special Use Permits and Rezoning” policy as adopted by the board of supervisors and any additional policies as deemed necessary by the planning director.
- (c) Unless otherwise required by this chapter, upon written request by the applicant, the planning director may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE III, SITE PLAN, BY AMENDING SECTION 24-145, SITE PLAN SUBMITTAL REQUIREMENTS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article III, Site Plan, by amending Section 24-145, Site plan submittal requirements.

Chapter 24 Zoning

Article III. Site Plan

Sec. 24-145. Site plan submittal requirements.

- (a) Site plans shall, at a minimum, identify or contain:
 - (1) Project title, title block, north arrow, legend, graphic scale, zoning, parcel identification number and such information as the names and numbers of adjacent roads, streams and bodies of water, railroads and subdivisions, or other landmarks sufficient to clearly identify the location of the property;
 - (2) Name of engineer, architect, landscape architect, planner and/or licensed surveyor;
 - (3) Vicinity and location of site by an inset map at a scale no less than one inch equal to 2,000 feet;
 - (4) Boundary survey of site;
 - (5) Location, type and size of all entrances to the site. All existing and proposed streets and easements, their names, numbers and width;
 - (6) Existing and proposed utilities with easements and sizes, projected peak water and wastewater flows, watercourses and their names and owners;

- (7) Existing topography using county base mapping (two (2) foot contour or greater with the prior approval of the ~~E~~ngineering and ~~R~~esource ~~P~~rotection ~~D~~irector), or other mapping sources or resources, and proposed finished contours.
- (8) Spot elevations shown at topographic low and high points;
- (9) A landscaped plan showing woodline before site preparation with species and average diameter of trees indicated with location and diameter of single trees in open areas; areas to be screened, fenced, walled and/or landscaped, with approximate arrangements, plant types and sizes; and size and type of trees to be removed having a minimum diameter breast height of 12 inches;
- (10) A tree preservation plan and a phased clearing plan in accordance with sections 24-87 and 24-90;
- (11) An outdoor lighting plan in accordance with section 24-130;
- (12) Provisions for off-street parking, loading spaces and pedestrian walkways including existing and proposed sidewalks, calculations indicating the number of parking spaces required and the number provided;
- (13) Number of floors, floor area, height and location of each building;
- (14) For a multi-family or apartment development, the number, size and type of dwelling units and the location, type and percentage of total acreage of recreation facilities;
- (15) Detailed utility layout including water and sanitary sewer plan with profiles; location of electrical transmission lines, gas pipelines, streetlights and fire hydrants; and showing the locations of garbage and trash disposal facilities;
- (16) Provisions for the adequate control of stormwater drainage and erosion and sedimentation, indicating all proposed temporary and permanent control measures;
- (17) Computation notations to include the total site area, and the amount and percentage of the site covered by open space and buildings, or dwelling units for multi-family or apartment developments;
- (18) Bylaws of homeowner association where applicable;
- (19) Copies of notification to adjacent property owners;

- (20) Copy of conceptual plan (if applicable);
- (21) Narrative description of compliance of plan to any proffers or special use permit conditions; and
- (22) The following environmental information about the site proposed for development including:
 - a. All existing easements, disturbed area, impervious cover, and percent impervious estimates;
 - b. Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable hydrologic soils group A & B);
 - c. Full environmental inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance (perennial stream assessment, delineated wetlands, limits of work);
 - d. Demonstration that the project complies with section 23-9(b)(1), (2), ~~&~~ *and* (3) of the county's Chesapeake Bay Preservation ordinance (how disturbance is being minimized, indigenous vegetation preserved, impervious cover minimized);
 - e. County watershed, steep slopes (grade 25 percent or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and
 - f. Description of Better Site Design or Low Impact Development (LID) techniques if being used.

(b) If the ~~zoning administrator~~ *planning director* determines that one or more of the above submittal requirements is not applicable to the proposed project, the ~~zoning administrator~~ *planning director* may waive those requirements.

(c) The submittal of a site plan with insufficient information shall result in the return of the plans to the applicant without review; such deficiencies shall be noted in written form.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, BY AMENDING SECTION 24-2, DEFINITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions.

Article I. In General

Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Acreage parcel. A parcel of land, regardless of area, described by metes and bounds which is not a numbered lot on any recorded subdivision plat.

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.

Street 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.~~ Streets shall be functionally classified as follows:

- (1) Interstate: A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.
- (2) Expressway *or Freeway*: 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. Streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relatively large volumes of traffic at higher speeds, and not to serve abutting lots except indirectly through intersection streets.~~ 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.~~ Streets designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers. The collector classification is further divided into “major collector” and “minor collector.”

(5) Local or access streets. Streets designed to carry low to moderate volumes of traffic, at low operating speeds. The primary function of these streets is to provide access to individual lots, typically within a residential subdivision.

The functional classification status of a specific road shall be determined by the agent after consulting with the transportation department.

~~Iso-foot candle~~ footcandle diagram. A diagram consisting of lines showing the relative illumination in foot candles from a light source or group of light sources.

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-trailer~~, 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.)

Noninterference/intermodulation study. A study prepared by a licensed engineer indicating potential interference of wireless communications facilities with public safety communication equipment.

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 ~~alteration~~ alteration affects the external dimensions of the building.

Tourist home. A dwelling where lodging or lodging and meals are provided for compensation for up to five rooms and which are open to transients.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 13, RESEARCH AND TECHNOLOGY DISTRICT, BY AMENDING AND RENAMING SECTION 24-461, PERMITTED USES TO NEW NAME USE LIST; BY DELETING SECTION 24-462, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-463, OUTDOOR OPERATIONS AND STORAGE WITH NEW NUMBER 24-462; BY AMENDING AND RENUMBERING SECTION 24-464, DOCUMENTS REQUIRED FOR SUBMISSION WITH NEW NUMBER 24-463; BY DELETING SECTION 24-465, MASTER PLAN – ADMINISTRATIVE REVIEW FEES; BY RENUMBERING SECTION 24-466, PROCEDURES WITH NEW NUMBER 24-464; BY DELETING SECTION 24-467, DEVELOPMENT PLAN; BY DELETING SECTION 24-468, SAME – ADMINISTRATIVE REVIEW FEE; BY RENUMBERING SECTION 24-469, MINIMUM AREA OF DISTRICTS WITH NEW NUMBER 24-465; BY AMENDING AND RENUMBERING SECTION 24-470, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN WITH NEW NUMBER 24-466; BY AMENDING AND RENUMBERING SECTION 24-471, OPEN SPACE WITH NEW NUMBER 24-467; BY AMENDING AND RENUMBERING SECTION 24-472, SETBACK REQUIREMENTS WITH NEW NUMBER 24-468; BY AMENDING AND RENUMBERING SECTION 24-473, HEIGHT LIMITS AND HEIGHT LIMITATION WAIVERS WITH NEW NUMBER 24-469; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-474, SIGN REGULATIONS AND PARKING REQUIREMENTS WITH NEW NUMBER AND NAME 24-470 SIGN REGULATIONS; BY DELETING SECTION 24-475, UTILITIES; AND BY RENUMBERING SECTION 24-476, SITE PLAN REVIEW WITH NEW NUMBER 24-471.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article V, Districts, Division 13, Research and

Technology District, by amending 24-461, Use list; Section 24-462, Outdoor operations and storage; Section 24-463, Documents required for submission; Section 24-464, Procedures; Section 24-465, Minimum area of districts; Section 24-466, Requirements for improvements and design; Section 24-467, Open space; Section 24-468, Setback requirements; Section 24-469, Height limits and height limitation waivers; Section 24-470, Sign regulations; and Section 24-471, Site plan review.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 13. RESEARCH AND TECHNOLOGY DISTRICT, RT

Sec. 24-460. Statement of intent.

The primary purpose of the Research and Technology District, RT, is to establish an area where the principal use of land is for research and technology operations which are not ordinarily compatible with residential and retail business development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for research and technology purposes;
- (2) Encourage large-scale, master-planned developments in a campus or park-like setting;
- (3) Prohibit residential and retail business developments on land reserved for research and technology uses; and
- (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of research and technology uses.

Sec. 24-461. ~~Permitted uses~~ *Use list*.

In the Research and Technology District, RT, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

~~Accessory uses as defined in section 24-2.~~

~~Antennas and towers, self supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.~~

~~An apartment or living quarters for a guard, caretaker, proprietor or other person employed on the premises which is clearly secondary to the research and technology use of the property.~~

~~Banks and other similar financial institutions as an accessory use to other permitted uses.~~

~~Child day care centers as an accessory use to other permitted uses.~~

~~Clinics as an accessory use to other permitted uses.~~

~~Corporate offices.~~

~~Courier services.~~

~~Data processing centers as an accessory use to other permitted uses.~~

~~Fire stations.~~

~~Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses.~~

~~Industrial and technical training schools.~~

~~Laser technology production.~~

~~Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.~~

~~Manufacture or assembly of electronic instruments, electronic devices or electronic components.~~

~~Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.~~

~~Off street parking as required by section 24-54.~~

~~Private streets within "qualifying industrial parks" in accordance with section 24-62.~~

~~Publicly owned solid waste container sites.~~

~~Radio and television studios and accessory antenna or towers, self supported (not attached to buildings),
which are 60 feet or less in height.~~

~~Research, development and design facilities or laboratories.~~

~~Restaurants as an accessory use to other permitted uses.~~

~~Telephone exchanges and telephone switching stations.~~

~~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 camouflaged, and
comply with division 6, Wireless Communications Facilities.~~

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	An apartment or living quarters for a guard, caretaker, proprietor or other person employed on the premises which is clearly secondary to the research and technology use of the property.	P	
Commercial Uses	Accessory uses and structures as defined in section 24-2	P	
	Banks and other similar financial institutions as an accessory use to other permitted uses	P	
	Child day care centers as an accessory use to other permitted uses	P	
	Clinics as an accessory use to other permitted uses	P	
	Corporate offices	P	
	Courier services	P	
	Data processing centers as an accessory use to other permitted uses	P	
	Health clubs, exercise clubs and fitness centers as accessory use to other permitted uses	P	
	Off-street parking as required by section 24-54 article II, division II of this chapter	P	
	Restaurants as an accessory use to other permitted uses	P	
Civic	Fire stations	P	
Utility	Antennas or towers (not attached to buildings) in excess of 60 feet in height		SUP
	Antennas and towers, self-supported (not attached to buildings), and tower mounted wireless communications facilities which are 60 feet or less in height.	P	
	Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Radio and television studios and accessory antenna or towers, self-supported (not attached to buildings), which are 60 feet or less in height	P	
	Railroad facilities including tracks, bridges, switching yards and stations. However, s 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	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height		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, e Extensions or private connections to existing pipelines, which are intended to serve an individual customer and which are accessory to existing or proposed		SUP

	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 that are accessory to existing or proposed development, with no additional connections to be made to the line; and (b) distribution lines and local facilities within a development, including pump stations		SUP
	Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet	P	
	Water impoundments, new or expansion of, 50 acres or more or with dam height of 25 feet or more		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are camouflaged, and comply with division 6, Wireless Communications Facilities	P	
Open	Timbering in accordance with section 24-43	P	
Industrial	Heliports and helistops and accessory uses		SUP
	Industrial and technical training centers or schools	P	
	Laser technology production	P	
	Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	
	Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
	Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments	P	
	Private streets within "qualifying industrial parks" in accordance with section 24-62	P	
	Publicly owned solid waste container sites	P	
	Research, development and design facilities or laboratories	P	
	Solid waste transfer stations and container sites, public or private		SUP
	Warehouse, storage and distribution centers to serve only uses permitted in the Research and Technology District, RT, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	SUP
	Waste disposal facilities		SUP

~~Sec. 24-462. Uses permitted by special use permit only.~~

~~In the Research and Technology District, RT, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit, by the board of supervisors:~~

~~Antennas or towers (not attached to buildings) in excess of 60 feet in height.~~

~~Electrical generation facilities (public or private), steam generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

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

~~Solid waste transfer stations.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities, in excess of 60 feet in height.~~

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

~~Warehouse, storage and distribution centers to serve only uses permitted in the RT, research and technology district, with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Waste disposal facilities.~~

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

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

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

Sec. 24-4632. Outdoor operations and storage.

Any research or technology operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-4198.

Sec. 24-4643. 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) ~~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.~~

(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 location of proposed streets and rights of ways with an indication of whether public or private; the approximate location of common open space areas and all areas proposed for dedication to public use within the project.~~

Each section or area of the master plan shall be designated as follows:

<u>Area Designation</u>	<u>Type of Development</u>
F	Warehouse uses
G	Office uses
H	Light industrial, research or technology uses
I	Institutional or public uses
J	Areas of common open space
M*	Structures containing a mixture of uses
X	Other structures, facilities or amenities

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 users of the RT, research and technology district.

*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(HF)) in the order of their proportion in the structure.

- ~~(5) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:~~
- ~~a. The use;~~
 - ~~b. Approximate development phasing;~~
 - ~~c. Maximum square feet of floor space for office, industrial, research, or technology uses.~~
 - ~~d. Maximum acreage of each use.~~
- ~~(6) Schematic plans which shall indicate the phasing of development and master water, sewer, and drainage plans.~~
- ~~(7) A statement satisfactory to the county attorney on the guarantees and assurances to be provided for the maintenance of common open space, sidewalks, parking, private streets, and other privately owned but common facilities serving the project.~~

~~The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, roads, rights of ways, accesses, open spaces, public uses, and other features located or to be located on the sites. The master plan shall be reviewed and upon approval by the board of supervisors 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 24-467, shall supersede the master plan and schematic plans.~~

~~Sect. 24-465. 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. 24-466. Procedures.

(a) *Report of the planning director.* The planning director may refer copies of the master plan 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, 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 uses at the site in relation to the county's Comprehensive Plan.
- (2) Evaluation and recommended changes in the design of land use and circulation shown on the master plan of the property.
- (3) Impact of the proposal on surrounding property and the environment.

- (4) Final recommendation regarding approval of the application and master plan or changes which are necessary.
- (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, public water and sewer facilities, shown on the development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.

~~Sec. 24-467. Development plan.~~

~~Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any 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.~~

~~Sec. 24-468. 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 accordance with section 24-7 or section 19-15.~~

Sec. 24-469⁵. Minimum area of districts.

Research and technology districts shall be located on a single parcel of land, or separate but contiguous parcels, which shall total not less than twenty-five acres.

Sec. 24-470⁶⁶. Requirements for improvements and design.

- (a) *Water and sewer.* All structures and uses within a research and technology 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 sections 24-53 and 24-474 ~~article II, division 2 of this chapter.~~
- (c) *Street.* All ~~dedicated public~~ streets ~~shown on the development plan~~ shall meet the ~~design and construction~~ requirements of the Virginia Department of Transportation's ~~standards or the county~~

subdivision ordinance, whichever is more stringent. Such public streets shall be coordinated with the major transportation network shown in the Comprehensive Plan. The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of engineering and resource protection. Private streets may be permitted within 'qualifying industrial parks' in accordance with section 24-55 upon the approval of the board of supervisors in accordance with the provisions of section 24-62.

- (d) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the service authority manager and county fire chief. ~~No structure within the district shall generally be further than 400 feet from a hydrant.~~
- (e) ~~*Streetlights*~~ *Outdoor Lighting.* ~~Streetlights~~ *Outdoor lighting* shall ~~generally be provided at each intersection and adequately spaced in parking lots and other public areas~~ *be provided, 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 within or near the development. No lighting fixture shall exceed a height of 30 feet in this district.~~
- (f) ~~*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.~~
- (g) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites, and similar irreplaceable assets shall be preserved to the maximum extent possible.
- (h) *Landscaping.* All landscaping and tree preservation shall be undertaken in accordance with ~~section 24-86~~ *article II, division 4 of this chapter*, and Chapter 23 of the county's Chesapeake Bay Preservation Ordinance.

Sec. 24-47167. Open space.

(a) Development within the research and technology districts shall provide usable open space area to create a park-like setting. The amount of open space shall be not less than ten percent of the developable area of the site, and where possible shall be continuous open space. 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 shall 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~~ *article II, division 4 of this chapter* (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a community character corridor on the Comprehensive Plan which shall be left in a natural, undisturbed state.
- (2) Buffer area(s) of no less than 50 feet around a Resources Management Area 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.

Open space area shall be protected by easements, maintenance agreements and/or other assurances, satisfactory to the county attorney, that set forth the provisions made for the permanent care and maintenance of such property.

Sec. 24-47268. Setback requirements.

(a) *Required perimeter setback from research and technology districts.* For uses permitted in research and technology districts, the following setbacks are required and shall be left in ~~it's a~~ natural undisturbed state:

- (1) A minimum landscaped setback of 100 feet shall be maintained from the right-of-way of any existing or planned public roads which abut the site; and
- (2) A minimum landscaped setback of 50 feet shall be maintained from all property lines adjoining a different zoning district. Where uses permitted in the research and technology district adjoin an existing residentially zoned district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 100 feet.

(b) *Lesser perimeter setback requirements for research and technology districts; criteria for determination.* The ~~development review committee~~ *planning director* may recommend approval of a reduction in the perimeter setback as specified in section 24-47268 (a) (2) only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirements of this section and the intent of ~~section 24-86~~ *article II, division 4 of this chapter* (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas;
- (3) The proposed setback 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; and
- (4) The setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

(c) *Location of structures.* Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be

located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(d) *Lesser setback requirements for research and technology area internal to research and technology districts; criteria for determination.* The ~~development review committee~~ *planning director* may recommend approval of a setback of less than 50 feet as specified in section 24-47268 (c) above, for those areas of a research and technology district that are internal to a research and technology district. A setback reduction may be eligible for review by the ~~development review committee~~ *planning director* only if the following criteria are met:

- (1) The proposed setback, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of ~~section 24-86~~ *article II, division 4 of this chapter* (Landscaping and Tree Preservation Requirements);
- (2) The proposed setback shall have no additional adverse impact on adjacent properties or public areas; and
- (3) The proposed setback 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.

The ~~development review committee~~ *planning director* may recommend approval of a reduction to section 24-47268 (c) upon finding that one or more of the following criteria are met:

- (i) The proposed setback meets the intent of the master plan and is in keeping with the overall character of development that encourages open space; or
- (ii) The proposed setback is for the purpose of integrating proposed research and technology development with adjacent development; or
- (iii) The proposed setback substantially preserves, enhances, integrates and complements existing trees and topography; or
- (iv) The proposed setback is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(e) *Requests for modifications.* Requests for modifications to the setbacks as specified in sections 24-47268 (a) and (c) 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 development review committee 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. *In the event the planning director denies the request 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.*

(f) *No minimum lot size or yard requirements.* Except for required setbacks as stated in this section, there shall be no minimum lot size nor minimum side or rear yard requirements for any lot within a research and technology district other than as specified in approved development plans.

(g) *Uses prohibited.* Landscape setbacks shall not be used for streets or for parking except for entrances and driveways which may cross the setback at a perpendicular or near perpendicular angle as possible.

Sec. 24-473.69. Height limits and height limitation waivers.

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure. ~~Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.~~ Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure ~~and accessory and nonaccessory wireless communication facilities that utilize alternative mounting structures in accordance with division 6, Wireless Communications Facilities,~~ shall be considered part of the structure.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Additional setbacks have been provided as required by section 24-472.68(c); however, the board may waive additional setbacks in excess of 60 feet;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structures will not impair property values in the area;
- (5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, ~~so as to offer adequate protection to~~ life and property; and
- (6) Such structures will not be contrary to the public health, safety and general welfare.

Sec. 24-474.0. Sign regulations and parking requirements.

~~(a)—To assure an appearance and condition which is consistent with the purposes of the Research and Technology District, RT, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.~~

~~(b)—Off street parking and off street loading shall be provided as required in sections 24-53 and 24-54.~~

Sec. 24-475. Utilities.

~~(a)—All development shall be served by public water and sewer.~~

~~(b) The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan of this chapter.~~

Sec. 24-476~~1~~. Site plan review.

All structures or complexes of structures erected, altered or restored within the district shall be subject to Site Plan Review in accordance with article III of this chapter.

Secs. 24-477~~2~~ - 24-481. Reserved.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING AND LOADING, BY AMENDING SECTION 24-62, SPECIAL PROVISIONS FOR PRIVATE STREETS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 2, Highways, Streets, Parking and Loading, Section 24-62, Special provisions for private streets.

Chapter 24. Zoning
ARTICLE II. SPECIAL REGULATIONS
DIVISION 1. IN GENERAL

Division 2. Highways, Streets, Parking and Loading

Sec. 24-62. Special provisions for private streets.

(a) Approval process.

(1) Generally. Private streets may be permitted for the uses listed in Table 1 below upon approval of the board of supervisors unless otherwise specified and shall be coordinated with existing or planned streets of approved master plans and the Comprehensive Plan. Such approval shall be requested in writing.

Table 1: Zoning districts and uses where private streets may be permitted

Use		Qualified Industrial Park per Sec. 24-62(a)(2)	Manufactured Home Park per Sec. 24-181	Single-Family Residential	Multi-Family Residential	All uses permitted in zoning district
Zoning District	A-1, General Agriculture	X	✓	X	X	X
	R-1, Limited Residential	X	X	X	X	X
	R-1, with cluster overlay	X	X	X	X	X
	R-2, General Residential	X	X	X	X	X
	R-2, with cluster overlay	X	X	X	✓	X
	<i>R-3, Residential Redevelopment</i>	X	X	✓	✓	✓
	R-4, Residential Planned Community	✓	✓	✓	✓	✓
	R-5, Multi-Family Residential	X	X	B	B	B
	R-5, with cluster overlay	X	X	B	B	B
	R-6, Low Density Residential	X	X	X	X	X
	R-8, Rural Residential	X	✓	X	X	X
	LB, Limited Business	X	X	X	X	X
	B-1, General Business	X	X	X	X	X
	M-1, Limited Business/Industrial	✓	X	X	X	X
	RT, Research & Technology	✓	X	X	X	X
	M-2, General Industrial	✓	X	X	X	X
	PUD, Planned Unit Development	✓	✓	✓	✓	✓
	MU, Mixed Use	✓	✓	✓	✓	✓
	PL, Public Land	X	X	X	X	X
	EO, Economic Opportunity	✓	✓	✓	✓	✓

✓ : permitted with board approval X: not permitted B: By-right

(2) Qualifying Industrial Parks

- a. A "qualifying industrial park" shall be defined as an industrial and/or business park that has an actual or planned size of at least 1,000,000 square feet. The "Qualifying Industrial Park Square Footage Adjustments" shall be applied, to determine the qualifying industrial park square footage in order to determine whether the qualifying threshold can or would be reached. Qualifying square footage is computed by multiplying the existing or planned total square footage by the square footage credit listed in the following chart.

Qualifying Industrial Park Square Footage Adjustments	
Use	Square Footage Credit
Existing industrial/office/warehouse development	1
Other P permitted D development	0.75
Planned industrial/office/warehouse development	0.75
Other P permitted D development	0.5

The planned development adjustments listed above shall be applied to undeveloped property zoned Mixed-Use, MU; Limited Business/Industrial District, M-1; General Industrial District, M-2; Research and Technology District, RT; and Planned Unit Development, **PUD** and allows nonindustrial/office and/or nonwarehouse activity to occur based on master plan projections which have been approved by the board of supervisors. For undeveloped property not subject to a binding master plan the square footage shall be determined by multiplying 0.75 by 25 percent of the net-developable area of the project.

If an industrial/office/warehouse development is proffered exclusively, the existing development adjustments listed above may be applied upon examination of the proffers.

- b. Requests for board approval of private streets in qualifying industrial parks shall include a traffic impact analysis and square footage estimates for the proposed industrial park. The traffic impact analysis shall be in conformance with the submittal requirements of section 24-23. Additionally, the traffic impact analysis shall address internal circulation and capacity.

(3) Guarantees. The construction of streets whether public or private shall be guaranteed by surety, in an amount and in a form approved by the county attorney.

(4) To the extent streets are private rather than public, the applicant shall also submit assurances satisfactory to the county attorney that a property owner's community association or similar organization has been legally established under which the lots within the area of the final development plan will be

assessed for the cost of maintaining private streets; and that such assessments shall constitute a pro rata lien upon the individual lots shown on the development plan.

(b) Minimum Standards:

(1) Private streets shown on the development plan shall meet the construction and geometric requirements of the Virginia Department of Transportation and the Administrative Guidelines for Certifications of Private Street Construction, except as specified in paragraph (2) below.

(2) If the uniqueness of a proposal requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities, with associated drainage and specifications for curbs and gutters be subject to modification from the specifications established in chapter 19, the development manager or his designee, within the limits hereinafter specified, may waive or modify the specifications otherwise applicable for a particular private road (or road network) if the specifications are not required in the interests of the residents, occupants, workers, customers of businesses and property owners of the development and that the modifications of such specifications are not inconsistent with the interests of the entire county.

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

- a. The waiver or modification shall result in design and construction that is in accordance with accepted engineering standards;
- b. The waiver or modification is reasonable because of the uniqueness of the development or because of the development within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;
- c. Any waiver or modification pertaining to streets is reasonable with respect to the generation of vehicular traffic that is estimated to occur within the area of the development;
- d. Traffic lanes of streets are sufficiently wide enough to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and

- e. Waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon the soil tests for California Bearing Ratio value and erosion characteristics of the particular subgrade support soils in the area.

The applicant may appeal the decision of the development manager or his designee to the development review committee (DRC).

September 11, 2012
BOS Meeting Minutes

In support of projects that do make the commitment¹ to achieve green building certification through Leadership in Energy and Environmental Design (LEED), Earthcraft, or another equivalent certification program, James City County offers the following package of incentives:

1. To help defray the costs of certification program registration and certification, the County will refund 25 percent of the Planning Division site or subdivision construction plan review fees upon the project achieving certification.
2. On-going technical consultations and assistance, including the following components:
 - a. Invitations to no cost or low cost planned County-organized workshops and training sessions that will cover green building topics.
 - b. Opportunities to work with County staff:
 - i. Pre-application meeting to go through the certification program checklist to identify opportunities to coordinate certification points with County requirements.
 - ii. Plan review project participation within Development Management by staff members familiar with green building certification programs. Staff will be available to review and discuss the elements of the project proposed to meet the certification points on an as-needed basis.
3. Recognition of the commitment through the following, at a minimum:
 - a. A "Future James City County Green [Business/Institution/Community]" site sign on location during construction.
 - b. Upon certification, a profile on the County website and on TV Channel 48.
 - c. Upon certification, inclusion in the Planning Commission's Annual Report and recognition at a Board of Supervisors meeting.

Case No. ZO-7-11 -- the Cluster Overlay District ordinance

Case No. ZO-9-11 -- the R-1, R-2, R-3, and R-5 district ordinances, the Residential Redevelopment Policy, and the Workforce Housing Opportunities Policy

Mr. Icenhour stated that he wanted to commend staff for doing a great job of simplifying what is a very complicated issue. He stated that he was confused about the density bonus in the R-5 district ordinance. He stated that if a property was to be re-zoned R-5, it would have to come before the Board, so he believes that the density bonuses in R-5 districts should be at the discretion of the Board not the Planning Commission.

Ms. Cook stated that that section was old language and a carryover from when density bonuses were done administratively. She stated that the ordinance could be amended to state that the density bonuses in R-5 districts would come before the Board.

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.

Mr. Icenhour stated that in the R-4 district table of uses, that assisted living facilities require an SUP. He stated that this is different than the other districts. He stated that this should be amended to be consistent across all the districts.

Mr. Purse stated that staff would be fine with that change.

Mr. Icenhour questioned why there is no density bonus in the R-4 districts like there are in most of the other districts.

Mr. Purse stated that staff made the conscience decision to leave the density bonuses out of the R-4 districts, because there are many R-4 districts already in place.

Mr. McGlennon opened the Public Hearing.

As no one wished to speak to these cases, Mr. McGlennon closed the Public Hearing.

Mr. Icenhour made a motion to approve the R-1 District Ordinance.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4).
NAY: (0). ABSENT: Mr. Kennedy.

Mr. Icenhour made a motion to approve the R-2 District Ordinance.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4).
NAY: (0).. ABSENT: Mr. Kennedy.

Mr. Icenhour made a motion to approve the R-3 District Ordinance.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4).
NAY: (0). ABSENT: Mr. Kennedy.

Mr. Icenhour made a motion to approve the R-5 District Ordinance.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4).
NAY: (0). ABSENT: Mr. Kennedy.

Mr. Icenhour made a motion to defer the Residential Redevelopment Policy, Cluster Overlay Districts, and the Workforce Housing Opportunities Policy until the November 27, 2012, meeting.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4).
NAY: (0). ABSENT: Mr. Kennedy.

Case ZO-8-11 – the R-4, Mixed Use, and PUD district ordinances, and the Multiple Use Districts and Mixed-use Construction Phasing Policy.

Mr. Purse stated that Mr. Icenhour's question about the R-4 district had already been addressed.

Mr. Icenhour made a motion to adopt the R-4 ordinance with the correction stated earlier.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4).
NAY: (0). ABSENT: Mr. Kennedy.

Mr. Icenhour made a motion to adopt the PUD Ordinance, the Mixed Use Ordinance, and the Multiple Use Districts and Mixed-use Construction Phasing Policy.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy.

RESOLUTION

CASE NOS. ZO-0008-2011. MULTIPLE USE DISTRICTS AND MIXED USE

CONSTRUCTION PHASING POLICY

WHEREAS, the task of updating the Mixed Use Zoning District was undertaken as a part of the Board of Supervisors adopted methodology for the zoning ordinance update in May 2010; and

WHEREAS, the 2009 Comprehensive Plan referenced the importance of construction phasing to ensure residential development did not take place before a majority of commercial/industrial development was completed; and

WHEREAS, after meeting with the Policy Committee, the Planning Commission, and the Board of Supervisors, the following policy is recommended for all Mixed Use area development.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

Construction within Mixed Use developments shall be sequenced in accordance with a project build-out schedule submitted for review as a part of the initial application and approved by the Board of Supervisors. As a guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the phasing plan:

- (1) Building permits for up to 10 percent of the residential units may be issued prior to commencing any commercial construction; and
- (2) Certificates of Occupancy (CO) must be issued for at least 25 percent of the commercial square footage as shown on the master plan prior to building permits being issued for any residential unit above 50 percent of the total proposed units as shown on the master plan; and
- (3) Prior to issuance of building permits for construction of the final 20 percent of the residential units, CO must be issued for at least 80 percent of the commercial square footage as shown on the master plan.
- (4) If no residential development is proposed, the construction phasing shall still make assurances that all infrastructure is installed in coordination with the planned build-out of the development.

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF SEPTEMBER 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

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley District
W. Wilford Kale, Jr., Jamestown District (Arrived at 4:02 p.m.)
James G. Kennedy, Stonehouse District – (Absent)
James O. Icenhour, Jr., Powhatan District

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

C. BOARD DISCUSSIONS

1. Energy Use and Carbon Emissions Report

Mr. John Horne, Director of General Services, introduced Ms. Dawn Olesky, the Environmental Coordinator for James City County and stated that Ms. Olesky's primary duty is to be the Energy Manager for the County.

Ms. Olesky gave the Board members a summary of the Energy Use and Carbon Emissions Report that was included in the Work Session Agenda Packet.

Mr. McGlennon asked for clarification on the fuel efficiency of the County's vehicles in the fleet.

Ms. Olesky stated that most of the more fuel-efficient vehicles were purchased in 2007, so the efficiencies noted on the slides do not show as drastic a change. She stated that if the Board was to compare the efficiencies between 2004 and 2007, there would be a very large increase in the efficiencies of the smaller County vehicles.

Mr. Horne stated that the fuel efficiency slide is an indication of all the vehicles in the County Fleet, and therefore, one must take into account that the majority of the County vehicles are big, heavy-duty vehicles that do not have the same fuel efficiency as smaller vehicles. He also stated that the County has not been replacing as many vehicles since the downturn in the economy. Instead, the County has been extending the life of older, less efficient vehicles.

Mr. McGlennon stated that he had noticed that there appeared to be a decrease in total miles travelled in County vehicles. He stated that he believed that was due to an initiative to use County vehicles more efficiently.

Mr. Horne stated that yes; there has been an effort to use County vehicles more efficiently by sharing vehicles and combining trips.

Ms. Jones asked how the vision of reducing carbon emissions by 80 percent by 2050 is to be achieved.

Ms. Olesky stated that with the County's sustainable building policy, all of the new County buildings are more efficient; as older vehicles are replaced with newer, more efficient vehicles as well as more options for renewable energy become available, the County will be able to meet that vision.

Mr. McGlennon noted that as traditional heating and cooling systems are replaced with geothermal heating and air, there would be a decrease in emissions as well.

Mr. Horne stated that as more of the County buildings are brought online utilizing the geothermal heating and air, and more other less efficient buildings are taken off line, the County will continue to move toward the goal.

Mr. McGlennon asked for clarification about the geothermal heating and air system in the County Administration Building, Building D.

Mr. Horne stated that it is more of a hybrid system. The building does not draw its main source of heat and air from geothermal; however, there is a small geothermal system that is utilized to dehumidify the air before it is sent into the building and thus the air conditioning system does not have to work as hard to cool the air.

Mr. Horne stated that even in the older buildings that utilize older heating and air systems, the County is looking for ways to seal the buildings, allowing more of the air to stay inside and allow the systems to not have to work as hard.

Mr. Icenhour asked if there was a way to track annual temperature variations.

Mr. Horne stated that the Energy Star system takes into account that variations in temperature.

Mr. McGlennon thanked Ms. Olesky for her presentation and for her efforts in making the County more efficient. He stated that there are opportunities for the County to set an example for other businesses in the community, especially in regard to the building envelopes and sealing their buildings for more efficient heating and cooling.

2. Zoning/Subdivision Ordinance Update

a. Housekeeping Items and Subdivision Ordinance

Mr. Allen Murphy, Director of Development Management, Mr. Chris Johnson, Acting Director of Planning, Ms. Tammy Rosario, Principal Planner, Ms. Ellen Cook, Planner III, and Mr. Vaughn Poller, Housing and Community Development Administrator, joined the Board for an update on the Zoning and Subdivision Ordinance.

Ms. Rosario presented the Board members with a summary of the memorandum in the Work Session Agenda Packet.

Mr. Icenhour stated that it appeared that the changes to the Housekeeping Items were more along the lines of administrative cleanup and continuity of terminology.

Ms. Rosario stated that it was correct.

Mr. Icenhour questioned, in regard to the Subdivision Ordinance, if the ordinance not previously stated, that Family Subdivisions were zoned R-8 and A-1.

Ms. Cook stated that previously it could be applied in any district, but primarily R-8 and A-1 are used in Subdivisions. She stated that the only benefit to using it in R-1 or R-2 districts is that it does not require road frontage.

Mr. Icenhour asked if the Board had ever seen an application for the Subdivision Ordinance in an R-1 or R-2 district.

Ms. Cook stated that those applications do not require Board action and would be an administrative action.

Mr. Icenhour stated that our changes to the definitions of alternative on-site sewage disposal just restate the State's ordinances.

Ms. Cook stated that it was correct.

Mr. McGlennon stated that for clarification, the State has recently changed their ordinances in regard to alternative on-site sewage disposal systems and that the changes to our ordinances are to coincide with the State's changes.

Mr. McGlennon also asked if staff anticipates more requests for alternative on-site sewage disposal.

Ms. Cook stated that after many discussions with the Health Department, staff's understanding is that in regard to existing lots, there are more alternatives for sewage disposal that are now approved. However, in regard to the creation of new lots, the County's Subdivision Ordinance can specify which types of sewage disposal systems are allowed.

b. Housing Opportunities Resolution

Ms. Cook summarized the changes to the Housing Opportunities resolution that was included in the Work Session Agenda Packet.

Ms. Rosario stated that staff is looking for direction from the Board that the Board wants staff to go.

Mr. McGlennon stated that at the previous Board meeting, the Board was concerned with the combining of the definitions of Workforce and Affordable Housing. He stated that the concern of the Board was that by combining those definitions, it would allow a developer to focus more on the Workforce housing, which the market already provides while ignoring the Affordable housing.

Mr. Icenhour stated that he is very pleased with the revisions and that it puts the focus back where it needs to be, which is on Affordable housing.

Mr. Icenhour stated that the only concern he had was the mechanics of the "cash in lieu of" section.

Mr. Rogers stated that the “cash in lieu of” proffers would be something that the developer would have to propose, but ultimately the Board would have the ultimate decision as to whether or not to accept the proffers.

Mr. McGlennon asked the members of the Board if they were satisfied with the revisions made to the policy. Each member stated yes.

Mr. McGlennon stated that he hoped this clarified the direction from the Board that the Planning Division was looking for.

3. Legislative Agenda

Mr. Rogers presented the Board with the Legislative Agenda and gave a brief summary. He stated if there was any input or items the Board would like to add, now is the time to discuss them. He stated this is a preliminary draft and the Legislative Agenda is not scheduled to come before the Board until November.

Mr. McGlennon asked if the Board was still scheduled to meet with the Legislators in November.

Mr. Rogers stated that was correct; however Delegate Watson will not be able to make that meeting.

Ms. Jones stated that her only issue is with Item No. 2-11. She stated that the title is confusing in regard to the content. Several of the Board members weighed in on an appropriate title. The Board finally decided on Reducing Mandates and Adequately Funding State Mandates.

Mr. Kale stated that he had an issue with Item No. 2-3. He stated that he does not believe that it is a realistic idea to support a rail to connect Richmond to the Peninsula. He stated that this would involve another tunnel and is completely unrealistic. He stated that he did not believe the public would support this idea, especially before handling the issues for vehicles. He stated that he does not believe that this should be part of the Board’s priorities.

Mr. McGlennon asked if this was part of any plan of Transportation Policy Organization.

Mr. Middaugh stated that he did not believe so. He stated that what has been discussed is passenger rail enhancement from the Peninsula to Richmond and on up to Washington D. C. and even further up to Boston.

Ms. Jones stated that this would be utilizing existing infrastructure.

Mr. Middaugh stated that this particular Item No. 2-3 is referring to a new passenger rail that would cut across the west and make its way up to Richmond.

Ms. Jones stated that she would like to see Transportation Funding be moved up the Agenda and take a higher priority than a proposed new passenger rail.

Mr. Kale said that CSX, in its annual report, stated that they are well underway to making revisions to its train station.

Mr. Kale stated that this would be a help to the current passenger rails. He stated that it would improve the flow and the speed of the trains going through the train station.

Mr. McGlennon stated that he felt the Board should support enhancements to existing rail systems, but should not support a new rail system going across the Peninsula.

Mr. Icenhour stated that he concurred with Ms. Jones about moving the Transportation item up in the list as a higher priority.

Mr. McGlennon stated he is not sure that the Board should list the items in terms of priority.

Mr. Rogers questioned whether or not there was any use in grouping the items together. He stated that the agenda could be organized into sections, for example, a transportation section, then a taxation section, and so forth.

Ms. Jones stated that there was a letter to the Governor and the General Assembly stressing the need for improvements to existing infrastructure and the need for funded projects to be coordinated with local areas to minimize the impact on the area. She stated that the letter was a unified voice of all the local governments in the Urban Crescent, stating the need for transportation funding allocation in the budget and that transportation funding needs to be a top priority for the State.

Mr. McGlennon stated that the only section on the Legislative Agenda that seemed to be missing anything is the legislation proposed by the County. He stated that the Board members need to think back about any cases over the last year that have come up against a barrier in State law, or an action that the Board could have taken if not for State law. Mr. McGlennon stated that it may be that there is not anything for this section for this year, but it needs to be contemplated.

Mr. Rogers stated that it has been a quiet year in this regard. He has not heard of anything from the Executive Staff, nor has there been any barrier for the Board that he has seen.

Mr. Rogers stated that the Board may wish to call out specific items from the legislative programs of the Virginia Municipal League (VML) and Virginia Association of Counties (VACo).

Mr. Middaugh stated that there may be items in those other programs that the Board will want to make note of as a way of adding emphasis, for example, transportation funding.

Mr. Rogers also noted that the Board has eliminated any mention of the Dillon Rule and it is not in the Legislative Agenda. He stated that a State-wide effort to modify the Dillon Rule would be worthwhile.

Mr. Icenhour stated that VACo was making an effort on this item as well. He stated that he believes it is worthwhile for the County to continue fighting this issue with the support of the other counties.

Mr. Kale stated the neither party is interested in making changes to the Dillon Rule, so the item is pretty much dead in the General Assembly.

Mr. Icenhour stated that the plan now is to sit down with our local legislative representatives.

Mr. Rogers stated yes and the only issue is that Delegate Watson cannot be at the last meeting in November.

Mr. Icenhour asked about rescheduling the meeting until December.

Mr. Rogers stated that it might be possible if the Board is not proposing any legislation that will have to be drafted.

Mr. Middaugh stated that York County and the City of Williamsburg want to swap Legislative Agendas with James City County so that the municipalities can take a look at the other Agendas and see if there is an item that needs emphasis and support.

Mr. McGlennon stated that if there were no other questions or discussion, he would recommend moving in to the Closed Session.

Mr. McGlennon asked Mr. Middaugh to read the Code Sections for Closed Session and requested a motion.

Mr. Kale made a motion to adjourn the Work Session and go in to Closed Session at 4:52 p.m.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

The Board came out of Closed Session at 5:44 p.m.

Mr. Kale made a motion to certify the Closed Session.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

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 appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, consultation with legal counsel and staff members pertaining to actual or probable litigation.

Mr. Icenhour made a motion to appoint Ms. Lisa Thomas, Mr. John Smith, Mr. Hunter Old, Ms. Andrea Salamy, and Mr. Tucker Edmonds to the Community Action Agency.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

At 5:45 p.m., Mr. McGlennon recessed the Work Session.

Robert Middaugh
Clerk to the Board

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UNAPPROVED POLICY COMMITTEE MEETING

October 11, 2012

4:00 p.m.

County Government Center, Building A

1) Roll Call

Present

Mr. Rich Krapf
Mr. Tim O'Connor
Ms. Robin Bledsoe
Mr. Al Woods

Staff Present

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

Mr. Rich Krapf called the meeting to order at 4:00 p.m.

2) Minutes

Mr. Al Woods moved for approval of the September 4, 2012 minutes.

In a unanimous voice vote the minutes were approved (4-0).

3) Old Business

There was no old business to discuss.

4) New Business

a) Stockpiling

Mr. Jason Purse stated stockpiles are maintained onsite to fill to maintain positive drainage patterns without bringing it from elsewhere. He stated specific details about the stockpiles are sometimes lacking on Erosion and Sediment Control (E&S) plans. A new Zoning Ordinance sections will provide specific guidance, with performance standards including: they must be located onsite, at least 50' from property lines, at least 100' from existing buildings, have minimal impact on existing residential streets, a maximum height of 25' in residential districts and 40' in commercial districts, be temporary in nature, with a two-year window. Waiver requests go to the Development Review Committee (DRC). Staff recommends approval of the ordinance.

Mr. Krapf asked how the numbers were derived.

Mr. Purse stated a lot of them came from York County's ordinance, with assistance from the Engineering and Resource Protection division.

Ms. Robin Bledsoe asked if the ordinance stemmed from aesthetics and drainage.

Mr. Purse stated the County does not have any specific criteria. He stated these are the basic standards, with flexibility.

Mr. Woods asked what would the landscape of other jurisdictions look like.

Mr. Purse stated he did not look a lot at other jurisdictions. He stated when we look at standards for other types of uses, the setbacks are consistent with things in other districts. A 50' or 100' setback from something similar makes sense. Height was not reviewed, but buffers between uses were used. There are similar performance standards in the Mixed Use, Planned Unit Development, and manufactured home ordinances. The 3:1 horizontal to vertical ratio would be considered a good engineering standard to ensure stability.

Mr. Krapf stated he was impressed with the safety and preservation language, including preventing the stockpile from extending into tree drip lines, and erosion language.

Mr. Woods asked if there was language to encourage tree preservation using fencing to prevent soil compression by heavy equipment.

Mr. Purse stated yes.

Mr. O'Connor asked if parcels in Community Character Corridors (CCCs), with a 300' depth, as close as 75', could apply for a waiver.

Mr. Purse stated yes, numbers one through seven can apply for waivers. He stated that was included because there are large infill site along CCCs.

Mr. O'Connor stated the Colonial Heritage pile is about six stories tall, steep, and with lots of runoff.

Mr. Purse stated that one would be able to get a waiver. He stated there are places, such as way in the back of the property, where a 60' pile works. There are situations when developers would need to go higher, which is why staff tried to add flexibility.

Mr. O'Connor stated he did not want to bog people down with multiple requests for stockpiles if they were building a phased project.

Mr. Purse that is why waiver provisions have been built in, although it is not ideal for stockpiles to go from site to site.

Mr. O'Connor stated some people like to see projects phased. He stated he would like to add flexibility without adding cost.

Mr. Howard Price, AES, stated he likes the guidelines because they give better direction. He stated he is concerned that with larger, phased projects, he may have to come back for quite a few waivers. With a large project, two years is not long enough for a stockpile. He asked if the waiver process will be cumbersome.

Mr. Purse stated those big projects are not the norm. He stated having lower performance standards to handle those cases will not get the same thing. Staff could work with applicants on a master plan. The DRC could rule once with having to come back constantly. If a stockpile will be onsite three years, we want to know it is in an appropriate spot.

Mr. Woods asked why we required the DRC, which seems an administrative burden, instead of the director of development, to deal with waivers.

Mr. Purse stated stockpiles would affect the whole community if you move it off site. He stated a lot of these instances require a committee that deals with those overall issues. Staff would be able to consider the planning director doing it.

Mr. Krapf asked the Committee if it was more appropriate for the planning director to have first shot at an appeal, or to have the DRC address it.

Ms. Bledsoe stated that as someone living in New Town, with constant construction, she would want the DRC to review it. She stated she wants to whoever looked at the master plan, whoever is most familiar with the community, to make those decisions.

Mr. O'Connor stated he likes the stockpile regulations, and that the planning director could do it. He stated the DRC meeting once a month would potentially delay someone's work three to four weeks.

Mr. Krapf asked if an HOA or a citizens group have the right to appeal to the DRC if they disagree with the waiver request.

Mr. Purse stated they put in that language last time that it has to specifically deal with density, as a substantive change from the master plan. He stated he did not think it would meet that criteria.

Mr. Woods stated the planning director's first responsibility is to the community, so there is no inconsistency there. He stated everyone is moving together to achieve the same standard.

Mr. Krapf stated he came to the same conclusion, that this is a collaborate approach with staff and the Commission working to the same goals.

Mr. Woods asked if parameters could be crafted, that if exceeded, would go the DRC.

Mr. Purse stated there have been offsite cases in the past. He stated if it is a small site, you cannot stockpile and build on the property.

Mr. O'Connor stated it prevents the perpetual wasted area.

Mr. Purse stated there are waiver criteria that need review, such as CCCs and buffering. He stated that if the planning director reviewed them, there would need to be more concrete language for approvals. The DRC has rooms to make interpretations that the planning director may not.

Mr. O'Connor asked why, if the property is in a CCC, they need a waiver if the stockpile is not visible.

Mr. Purse stated his intention was to give the DRC parameters to review when they consider a waiver. He stated these are not one size fits all.

Mr. Woods asked that regarding the letter of credit, how was it settled that there is no authority independent of a determination made by the Virginia Department of Transportation (VDOT).

Mr. Purse stated that came from the York one, with staff adding additional language. He stated VDOT makes the determination whether stockpiles affect their roadways.

Mr. Woods stated there was no harm putting in language for private roadways. He stated the County would have options, independent of VDOT, if a scenario developed it considered unacceptable.

Mr. Scott Thomas stated the ordinance was necessary because of siting. He stated if the developer uses a private road as a primary, there should be a consideration if it should go somewhere else.

Mr. Woods stated if the pile was in the middle of Kingsmill, it could be impractical for it to go someplace else.

Mr. Purse stated he did not think the County wanted to take over responsibility for private roads.

Mr. Thomas stated the County has never bonded a private roadway. He stated the County does not want to get into that.

Mr. O'Connor stated he had reviewed York's working documents online, which talked about cubic yards versus a quantitative stockpile.

Mr. Thomas stated that in the ordinance, he felt that dimensional things were easier to work with than yardage. He stated all if the standards for Chesapeake Bay would still apply. It would be absurd to give a waiver to an impact of an environmental feature.

Mr. Price asked if the maximum height was the average or highest point.

Mr. Purse stated the highest point.

Mr. O'Connor asked if this had any impact on the upcoming stormwater regulations in 2013-2014.

Mr. Thomas stated things may change, but from what he sees, this would be independent.

Mr. Purse stated there are two issues: if we leave it at DRC, to change the language of the criteria 'could include but not limited to' and looking into whether it is planning director or DRC in general. If it is moved to planning director, he will want some very specific things to be included.

Mr. Woods moved to recommended approval of the ordinance as amended.

In a unanimous voice vote, the Committee recommended approval as amended.

b) Updates to the Housing Opportunities Policy and resulting implications for Residential and Multiple Use districts and Definitions

Ms. Ellen Cook stated the Board had reviewed the policy at their September work session and wanted changes, with a concentration on the term 'affordable.' The Board wanted 'affordable' split from 'workforce housing' to keep an emphasis on that part of the Area Median Income (AMI) range. They specified a target for the 30 to 60% portion of the range, to prevent developers from clustering on the high end. The Board also wanted to adjust the percentage of expected units down the scale to the lower end.

Mr. Woods asked staff to explain the 30% - 60% and 80% - 120% in today's dollars.

Ms. Cook stated the range comes from the Comprehensive Plan, which separates affordable and workforce housing.

Ms. Rosario stated those are based on Housing and Urban Development (HUD) guidelines.

Ms. Cook stated the Board wanted to emphasize the 30%-60% AMI category, thinking that was in the greatest unaddressed need in the community. Thirty-percentage of AMI equals a family income of \$20,000, with a target house price of \$61,000. Sixty-percentage of AMI would be a family making \$40,000, with a target house price of \$120,000.

Ms. Rosario stated at the lowest end, we are typically talking about rental units.

Ms. Cook stated the policy covers rental and home ownership.

Mr. Woods asked if a developer in the program would get reduced development costs.

Ms. Rosario stated there is that potential in the policy, but this also states an overall expectation for any residential development. The County would be requesting 8% of the units be in the 30%-60% range, 7% in the 60%-80% range, and 5% in the 80%-120% range.

Mr. Woods stated he thought it was an incentive program.

Ms. Rosario stated it is an expectation, with incentives, including cash proffer reductions. She stated there is also an in lieu option.

Ms. Cook stated in lieu funds could be used to subsidize rents or as matching money to help construct buildings in that range.

Mr. Woods asked if he was developing a high-value property, could County force him to include affordable housing in his offer.

Mr. Krapf stated that all proffers are voluntary, but they increase costs.

Mr. O'Connor stated this was a policy, not an ordinance. He stated if you have a neighborhood with an average home price of \$800,000, and you add 15% of units that are not compatible, you are creating a dysfunctional neighborhood.

Mr. Krapf stated high-end neighborhoods would probably use the in lieu option. He stated the County wants to encourage affordable housing, and one way to do it is to set expectations with the developers that they address work force housing. If they do not, the cash contribution helps those types of units be constructed.

Mr. Woods stated that in principle, he thought the County was going to employ incentives to encourage behaviors, not penalties. Incentives would allow developers to reduce their costs relative to the market.

Mr. O'Connor stated density was incentivized.

Ms. Rosario asked if we view all proffers as penalties or if, instead, as ways of mitigating impacts.

Mr. O'Connor stated the County says applications must have a certain number of proffers, but for some of the developments to work, you can only come up with a smaller percentage of affordable lots. He stated if the County wants to encourage affordable housing, it should waive proffers.

Ms. Cook stated the policy allows a full reduction of cash proffers in exchange for offering units in the 30%-60% range. She stated it could be more than a \$20,000 tradeoff.

Ms. Rosario stated that coming out of the Comprehensive Plan, this policy was designed to give more guidance to developers.

Mr. Krapf asked if staff got feedback from the development community.

Ms. Rosario stated that representatives of the realtor community had expressed support as had groups like the Williamsburg Area Chamber of Commerce, and that staff had not heard any expressions of concern regarding the Policy. She stated the County decided to step up its game with the Comprehensive Plan, but did not go to inclusionary zoning.

Mr. Woods stated the combination of incentives for affordable housing and density should be economically powerful.

Ms. Cook stated there were incentives in the form of proffer reductions before, but there had never been a consistently policy to guide staff or developers. She stated this Policy provides clarity but maintains some flexibility and room for Commission and Board discretion.

Mr. Krapf stated the policy is not ironclad because it uses the wording 'should' not 'must.' He stated it reads as a very strong encouragement.

Mr. O'Connor stated he was derailed by the language 'should be' and staff describing the policy as an 'expectation.' He stated the term 'subject development' in Item 5 should be defined.

Ms. Cook stated staff would go back and review the term.

Ms. Rosario stated to further that line of thinking, when talking about the average square foot cost to construct units, there should be a comparable measurement.

Mr. O'Connor stated there are neighborhoods with a minimum square footage where it would not work. He stated in a Kingsmill, a 30%-60% AMI paying a high HOA fee would be unrealistic. Forcing someone to join an HOA is a burden. These policies, with Chesapeake Bay and green space requirements, are creating HOAs. At the same time, the County encourages affordable and workforce housing. In some of these cases they are incompatible.

Ms. Bledsoe stated the inclusiveness philosophy has been building for many years. She stated that the County having this option is progress. It is about encouraging inclusiveness in schools and

resources, and is not just about what the developer wants. The policy is reasonable, with fluidity for negotiating room. There is a stigma associated with workforce and affordable housing, but people living in these communities realize that nothing changes.

Mr. Krapf stated he looks at workforce housing as an enhancement to the community. He stated County police living in the community add an extra sense of security. It benefits everyone in the process. This policy echoes the Comprehensive Plan and provides a range of alternatives and incentives. Developers can ignore it and explain their reasons to the Board.

Mr. Woods stated this is direction the County should be headed and the outcome it wants to achieve. He stated he just had questions about the method.

Mr. O'Connor stated the County should ensure there are lots of good incentives in place. He stated he is concerned with elevating the prices for people living in those neighborhoods.

Mr. Woods stated a large project can take a section and put the affordable housing in one little area.

Ms. Bledsoe stated that the affordable and workforce units are all over New Town and it looks nice. She stated they are across the street from her home. They were sometimes smaller, but not less attractive.

Mr. O'Connor stated it works in New Town because it is urban. He stated there are other subdivisions where affordable housing creates a disparity.

Mr. Krapf stated in the sentence '...in lieu of a contribution to the housing fund...' to change the language from the 'the director, at his sole discretion' to 'the planning director may consult' to remove the gender.

Mr. O'Connor moved to recommend approval of the Housing Opportunities Policy with amendments to the definition of 'subject development' and to the planning director gender language.

In a unanimous voice vote, the Committee recommended approval (3-0; Absent: Bledsoe).

5) Other Business

Mr. Purse stated he would send out a list of brief descriptions of CIP proposals so the Committee can review who it wants to speak with at their December CIP review meetings.

6) Adjournment

Mr. Woods moved to adjourn. The meeting was adjourned at 5:40 p.m.

Rich Krapf, Chair of the Policy Committee

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; ARTICLE V, DISTRICTS, DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-245, BUFFER REQUIREMENTS; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-266, BUFFER REQUIREMENTS; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.7, OVERALL DENSITY WITHIN SUBDIVISIONS; DIVISION 6, MULTIFAMILY RESIDENTIAL DISTRICT, R-5, SECTION 24-311, BUFFER AND SETBACK REQUIREMENTS; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-287, DENSITY; SECTION 24-492, SETBACK AND/OR BUFFER REQUIREMENTS AND YARD REGULATIONS; AND DIVISION 15, MIXED USE, MU, SECTION 24-519, DENSITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions; Article V, Districts, Division 3, Limited Residential District, R-1, Section 24-245, Buffer requirements; Division 4, General Residential District, R-2, Section 24-266, Buffer requirements; Division 4.1, Residential Redevelopment District, R-3, Section 24-273.7, Overall density within subdivisions; Division 6, Multifamily Residential District, R-5, Section 24-311, Buffer and setback requirements; Division 14, Planned Unit Development Districts, PUD, Section 24-287, Density; Section 24-492, Setback and/or buffer requirements and yard regulations; and Division 15, Mixed use District, MU, Section 24-519, Density.

Chapter 24. Zoning

Article I. In General

Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Affordable 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 80 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

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 greater than 80 percent and 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

Article V. Districts

Division 3. Limited Residential District, R-1

Sec. 24-245. Buffer requirements.

(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 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 and* 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.

Division 4. General Residential District, R-2

Sec. 24-266. Buffer requirements.

(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 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 and* 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.

Division 4.1 Residential Redevelopment District, R-3

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 <i>affordable and</i> workforce housing (starting above the threshold set forth in the Residential Redevelopment Policy, as amended).	2, up to a max of 4

Division 6. Multifamily Residential District, R-5

Sec. 24-311. Buffers and setback requirements

(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 *affordable and* 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.

Division 15. Mixed Use, MU

Sec. 24-519. Density.

(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 <i>affordable and</i> workforce housing (starting above the threshold set in the county's workforce housing opportunities policy)	2, up to a max of 4

Division 14. Planned Unit Development Districts, PUD

Sec. 24-487. Density.

(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 <i>affordable and</i> workforce housing (starting above the threshold set in the county's workforce housing opportunities policy)	2, up to a max of 4

Sec. 24-492. Setback and/or buffer requirements and yard regulations.

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 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 majority of the development's units are dedicated to *affordable and* 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 director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

AffordWF_Adopted-Amend_ord

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 1, RESIDENTIAL CLUSTER DEVELOPMENT, BY AMENDING SECTION 24-538, STATEMENT OF INTENT; SECTION 24-540, WHERE PERMITTED; SECTION 24-541, MINIMUM SITE SIZE; SECTION 24-542, PERMITTED USES; SECTION 24-544, BUFFER REQUIREMENTS; AND SECTION 24-545, SETBACK REQUIREMENTS; BY AMENDING AND RENAMING SECTION 24-547, YARD REGULATIONS WITH NEW NAME YARD REQUIREMENTS; BY AMENDING SECTION 24-548, DENSITY; AND SECTION 24-549, DENSITY STANDARDS; BY RENUMBERING SECTION 24-550, BMP REQUIREMENTS TO NEW NUMBER 24-553; BY RENUMBERING SECTION 24-551, PERFORMANCE ASSURANCE TO NEW NUMBER 24-554; BY ADDING NEW SECTION 24-551, OPEN SPACE DEVELOPMENT DESIGN ELEMENTS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-552, AMOUNT OF OPEN SPACE REQUIRED TO NEW NUMBER AND NAME SECTION 24-550, OPEN SPACE; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-553, OWNERSHIP OF OPEN SPACE TO NEW NUMBER AND NAME SECTION 24-552, ESTABLISHMENT OF HOMEOWNERS ASSOCIATION; BY AMENDING AND RENUMBERING SECTION 24-554, REVIEW AND APPROVAL PROCESS TO NEW NUMBER SECTION 24-556, AND BY ADDING NEW SECTION 24-555, PEDESTRIAN ACCOMODATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VI, Overlay Districts, Division 1, Cluster Overlay District, by amending Section 24-538, Statement of intent; Section 24-540, Where permitted; Section 24-541, Minimum site size; Section 24-542, Permitted uses; Section 24-544, Buffer requirements; Section 24-545, Setback requirements; Section 24-547, Yard requirements; Section 24-548, Density; Section 24-549, Density standards; Section 24-550, Open space; Section 24-551, Open space development design elements;

Section 24-552, Establishment of homeowners association; Section 24-553, BMP requirements; Section 24-554, Performance assurance; Section 24-255, Pedestrian accommodations; and Section 24-256 Review and approval process.

Chapter 24

ARTICLE VI. OVERLAY DISTRICTS

DIVISION 1. RESIDENTIAL CLUSTER DEVELOPMENT

Sec. 24-538. Statement of intent.

The purpose and intent of this article is to achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable *and 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 *and 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 *and 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 *and 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 *and 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 a 50-acre parcel has 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.

<i>Density</i>	<i>Percent of developable acreage as open space</i>	<i>Required density bonus points from list below</i>
<i>Up to 1</i>	<i>25 percent</i>	<i>None</i>
<i>More than 1, but no more than 2</i>	<i>25 percent</i>	<i>2</i>
<i>More than 2, but no more than 3</i>	<i>30 percent</i>	<i>4</i>
<i>More than 3, but no more than 4</i>	<i>35 percent</i>	<i>6</i>

	<i>Bonus Item Options</i>	<i>Bonus Points</i>
<i>A.</i>	<i>For every 10 percent of the units committed to provision of affordable and workforce housing (starting above the threshold set in the county's housing opportunities policy, as amended)</i>	<i>2, up to a max of 4</i>

B.	<i>Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of better site design/low impact development techniques, as approved by the engineering and resource protection division</i>	1.5
C.	<i>Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division</i>	1.5
D.	<i>Meeting a majority of items (a) – (d) listed in section 24-551, Open space development design elements, as determined by the planning director</i>	1.5
E.	<i>Achieving green building certification using EarthCraft, LEED or equivalent program for all units</i>	1
F.	<i>Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee</i>	1
G.	<i>Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved greenway master plan, the Virginia outdoors plan, or such other useful and logical location as approved by the parks and recreation director or designee</i>	1
H.	<i>Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present</i>	1
I.	<i>Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size</i>	1
J.	<p><i>Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least five percent of the developable area of the site.</i></p> <ol style="list-style-type: none"> <i>1. <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer;</i> <i>2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer</u> (retain at least 50 percent of these soils on site);</i> <i>3. <u>Conservation area as identified by an approved watershed management plan;</u> or</i> <i>4. <u>Wildlife habitat corridors</u> that:</i> <ol style="list-style-type: none"> <i>a. <u>Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and</u></i> <i>b. <u>Consist of mature forestland</u></i> 	1
K.	<i>Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter</i>	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 division, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected though a conservation easement dedicated to the county or other legal entity approved by the county attorney.

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

- (1) Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;*
- (2) Areas on site used to achieve density bonus points in accordance with section 24-549;*
- (3) The following areas, up to the percent specified:*
 - a. Golf courses cannot exceed 30 percent of the developable open space required*
 - b. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and*

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

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

(1) Area on any individual private lots, or in the case of condominiums, within 15 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 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 open space.

(1) Conservation/general open space:

a. Located to preserve existing significant natural and historic features and scenic viewsheds such as ponds and views to open water, particularly those than can be seen from public roads;

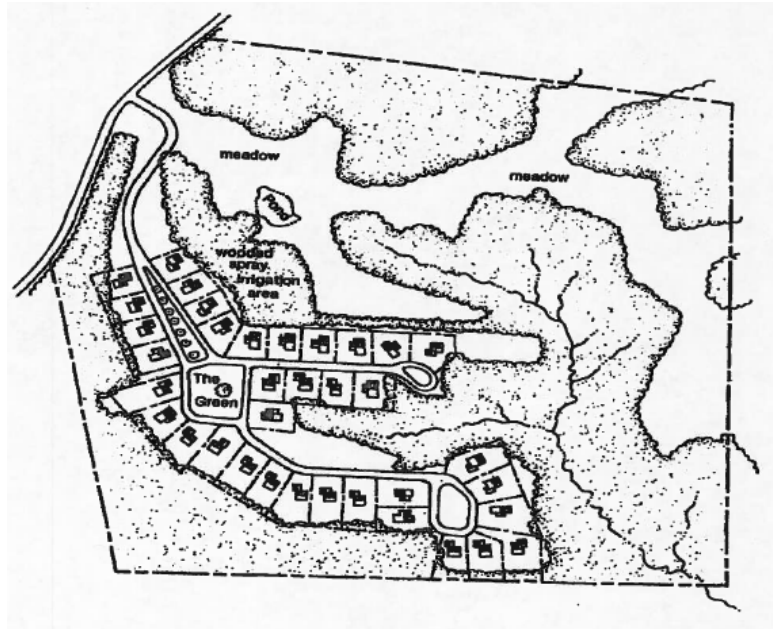


Figure 1

(Graphic provided by Natural Lands Trust with permission)

- 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;

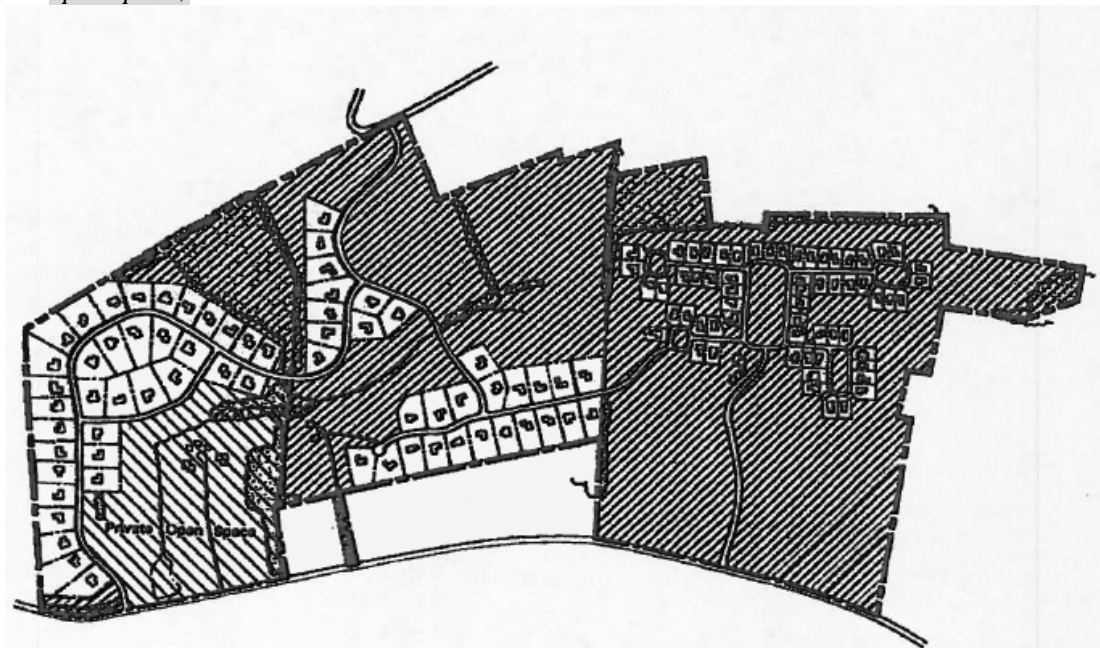


Figure 2

(Graphic provided by Natural Lands Trust with permission)

- 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; and*
- (d) *The design should use a creative layout. Examples include:*
 - (1) *Fronting on open space;*
 - (2) *Constructed with one side exterior wall along the side property line to allow side or rear yard garages;*
 - (3) *Detached or attached homes on loop lanes;*
 - (4) *Use of better site design techniques such as group or shared parking, and shared driveways; and*
 - (5) *Clear access from the units to the open space by abutting it, or via sidewalks or trails.*

Sec. 24-5532. Ownership of open space. Establishment of homeowners association.

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

- ~~(1) The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the county; and the method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property.~~
- ~~(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.~~

A homeowners association shall be established in accordance with chapter 19 of the county code. The homeowners association documents shall set forth the nature (recreation or conservation) and location of the open space(s) either through illustration or through incorporation by reference of the development's master plan. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan.

Sec. 24-5503. BMP requirements.

To assure an appearance and condition which is consistent with the purpose of the residential cluster development overlay district, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

Sec. 24-5514. Performance assurance.

For all improvements proposed by the applicant pursuant to section 24-549, assurances shall be provided, satisfactory to the county attorney, that such improvements will be constructed and completed for use by project residents within a specific, reasonable period of time.

Sec. 24-555. Pedestrian accommodations.

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

Sec. 24-5546. Review and approval process.

~~(a) Review required. A master plan for a residential cluster development proposed under this article shall be filed with the planning director, who shall submit it to the planning commission and board of supervisors in~~

~~instances where a special use permit is required or to the development review committee in cases where a special use permit is not required. The planning director shall recommend action on the plan to the planning commission, and to the board of supervisors in instances where a special use permit is required. The planning commission and board of supervisors, where applicable, shall approve the master plan upon finding that:~~

- ~~(1) Such cluster development will preserve the environmental integrity of the site by protecting features such as wetlands, steep slopes, stream valleys, or natural vegetation; and~~
- ~~(2) The cluster development will not impair the character of the area or create unacceptable adverse off-site infrastructure impacts; and~~
- ~~(3) The proposed project is in accordance with the Comprehensive Plan of James City County; and~~
- ~~(4) The structures within the residential cluster development are sited in a way that preserves prominent open space features which are within or adjoin the site, such as open fields or farmland, scenic vistas, sight lines to historic areas or structures, and archaeological sites.~~

~~(b) *Master plan.* The master plan shall identify proposed areas and uses of open space including the nondevelopable areas. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or a planner. A scale shall be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. It shall include:~~

- ~~(1) An inset map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or landmarks.~~
- ~~(2) A north arrow.~~
- ~~(3) The location of existing property lines, existing above and below ground utility easements, scenic easements, watercourses or lakes, wooded areas and existing woods which are within or adjoin the property.~~
- ~~(4) The boundaries of each section, topography and approximate location of proposed streets, proposed areas and uses of open space, proposed parking areas, proposed recreation areas, proposed lots and/or buildings, and phasing of development.~~
- ~~(5) Marginal data which shows the gross acreage of the site, the net developable area, the proposed facilities qualifying for density bonuses or required per the density standards, the total number of dwelling units and/or lots, the number of bonus units and/or lots, the minimum amount of open space required by section 24-551(a) and the total amount of open space.~~
- ~~(6) Master water, sewer and drainage plans and schematic plans.~~
- ~~(7) All required setbacks, right-of-way buffers and perimeter buffers; all preserved tree areas, preserved slopes, open space areas and proposed bicycle/pedestrian access thereto; and proposed storm water management facilities.~~

~~(c) *Status of master plan.* The approval of the master plan under this section shall not be considered an approved preliminary plat as defined in the subdivision ordinance.~~

~~—(d) *Administrative consistency review.* The planning director may determine certain minor changes to a development plan are consistent with the master plan. A conceptual plan may be submitted to the planning director for this purpose in a form sufficient to illustrate the proposed deviations. For the purpose of this section, minor determinations of consistency include changes that meet all of the following:~~

- ~~(1) Do not significantly affect the general location or classification of housing units or buildings as shown on the master plan.~~
- ~~(2) Do not significantly alter the distribution of recreation or open space areas on the master plan.~~
- ~~(3) Do not significantly affect the road layout as shown on the master plan.~~
- ~~(4) Do not significantly alter the character of land uses or other features or conflict with any binding conditions placed on the corresponding legislatively approved case associated with the master plan.~~

~~—The planning director shall notify the chair of the development review committee when minor determinations of consistency are approved. Determinations of consistency that do not meet the criteria listed above shall follow the procedures for development plan review as outlined in section 24-554 (e) of the zoning ordinance.~~

~~—(e) *Development plan review.* Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, which ever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the planning commission concludes, after reviewing written comments from the planning director, that the plan does not significantly alter the character of land uses or other features or conflict with any binding conditions placed on the approval of rezoning. A conceptual plan may be submitted to the planning commission for this purpose in a form sufficient to illustrate the proposed deviations. If the planning commission determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.~~

~~(f) *Master plan review fees.* Submittal of a master plan shall be accompanied by the fee charged for master plan review in accordance with section 24-7 of this chapter.~~

~~(g) *Master plan Agreement.* Prior to final approval of the first sectional plan, an agreement shall be executed between the developer and the county which shall be binding upon the developer, his successors, assigns or heirs to the effect that the approved master plan shall govern the development of the total residential cluster development. This provision does not preclude the adjustment of the plan in accordance with section 24-553(d).~~

~~(h) *Sectional plans Action.* Sectional plans submitted in accordance with subsection (d) shall be reviewed in accordance with and shall meet the requirements of, article III of this chapter or the county's subdivision~~

~~ordinance, whichever is appropriate. However, all sectional plans submitted for moderate density cluster development shall be reviewed in accordance with and meet the requirements of article III of this chapter.~~

(a) Conceptual plan and master plan. Any conceptual plan or master plan for a residential cluster development proposed under this division shall include the elements listed below. For master plans, these elements shall be in addition to meeting the requirements of section 24-23.

- (1) Depiction and/or documentation of the items that the applicant plans to pursue when a bonus density above the base density is sought;*
- (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, which 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 its findings regarding the extent that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the Comprehensive Plan.

b. A master plan in accordance with section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the planning commission.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November,
2012.

ZO-07-11_ZO-09-11Overlay_ord

RESOLUTION

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 approval of the Housing Opportunities Policy to the Planning Commission on October 11, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, recommended ____ of the Housing Opportunities Policy on November 7, 2012 by a vote of ____.

NOW THEREFORE, BE IT RESOLVED, that the Board of Supervisors of James City County, Virginia, hereby establishes the following Housing Opportunities Policy in order to identify criteria whereby the provision of workforce housing in residential and multiple-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 affordable and workforce housing in all rezoning applications that include a residential component.

This policy identifies criteria whereby the provision of affordable and 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. Definitions

- a. Affordable 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 80 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).
- b. 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 greater than 80 percent and 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

2. Provision and Integration of 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 to (percent of AMI):	Percent of the development's proposed dwelling units expected
30 percent – 60 percent	8
Over 60 percent - 80 percent	7
Over 80 percent – 120 percent	5

- b. These units should be fully integrated in the development with regard to location, architectural detailing, quality of exterior materials, and general appearance.

3. Applicability of Cash Proffers for Housing Opportunity Dwelling 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 of AMI):	Percent cash proffer reduction:
30 percent – 60 percent	100 percent
Over 60 percent - 80 percent	60 percent
Over 80 percent – 120 percent	30 percent

4. Retention of Housing Opportunity Units Over Time

- a. Rental units must be made available at the targeted rents for a period of at least 30 years.
- b. Sales of all targeted for-sale 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.

5. In-lieu Contribution to the Housing Fund

Applicants may choose to offer cash contributions in-lieu of the provision of the percentages of affordable and 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 to (percent of AMI):	Cash in-lieu amount
30 percent – 60 percent	The cost to construct a 1,200 square foot dwelling as determined below
Over 60 percent - 80 percent	The cost to construct a 1,200 square foot dwelling as determined below
Over 80 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 an affordable/workforce dwelling unit, which will be added to the median cost of a lot in the proposed subject development. The dwelling unit construction cost shall be determined based on the cost information provided by at least three builders of affordable/workforce dwellings in James City County. If no costs are available from James City County builders, the Director may consult builders from nearby localities. The anticipated median cost of a lot in the proposed development shall be documented and submitted by the developer; in the case of a proposed all-apartment development, the developer shall work with the Housing and Community Development Director to reach an acceptable estimate based on land and infrastructure costs.

6. 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 affordable and workforce housing income range, for the proffered 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 affordable and workforce housing price range as stated in the definitions¹, which shall be calculated and made available on an annual basis by the County.

- i. With regard to the soft-second mortgages, the James City County Office of Housing and Community Development (“OHCD”) shall be named beneficiary of a second deed of trust for an amount equal to the sales price of the market rate unit and the sales price of the proffered unit. The soft second shall be a forgivable loan, upon the terms specified in Section 5 above, in a form approved by OHCD and the County Attorney. The soft second deed of trust, the deed of trust note, and the settlement statement shall be subject to the approval of the County Attorney and Housing and Community Development Director prior to closing. The original note and deed of trust and a copy of the settlement statement identifying the net sales price shall be delivered by the closing agent of the OHCD after the deed of trust is recorded and no later than 45 days after closing. If down-payment assistance loans are authorized by OHCD, the lien on the deed of trust for the soft second may be recorded in third priority.
- ii. Owner shall consult with and accept referrals of, and sell to qualified buyers from the OHCD on a noncommission basis.
- iii. Prior to closing, OHCD shall be provided with copies of the HUD deed and the original deed of trust and note for the soft second.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

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

MEMORANDUM

DATE: November 7, 2012

TO: The Planning Commission

FROM: Ellen Cook, Senior Planner II

SUBJECT: Updates to the Housing Opportunities Policy and amendments for the Residential and Multiple Use districts and Definitions

On July 11, 2012, the Planning Commission considered and recommended approval of the Residential districts, including the Workforce Housing Opportunities Policy, the Multiple Use districts, and the Definitions section. These ordinances then proceeded to the Board of Supervisor's September 11, 2012 meeting. At that meeting, the Board discussed the workforce housing policy and expressed concern about whether the policy sufficiently addressed the lower end of the targeted Area Median Income (AMI) range. The Board deferred the policy, along with two other items (the Cluster Overlay District, and the R-3 Redevelopment Policy) which it considered would be most affected by any changes to the terminology or substance of the workforce housing policy. The Board adopted the other Residential districts and Multiple Use districts, as well as the Definitions section (with the definition of "workforce" removed).

Subsequently, staff made revisions to the Workforce Housing Opportunities Policy in the following respects:

- split the term "workforce" back into two terms--"affordable" and "workforce" (which correspond to percentages of Area Median Income),
- added a third row to the tables in Sections 2 and 5 to split out and specify a target for the 30 – 60% of AMI category, and
- adjusted the corresponding percentages of expected units within a development to focus on the affordable portion of the spectrum.

The Board considered these revisions at its September 25, 2012 work session and concurred with the changes. These changes were then brought to the October 11, 2012 Policy Committee meeting. The Policy Committee recommended approval of the Policy with two items to be changed – clarification of the lot costs sentence in item 5, and revision to a sentence in item 5 to make it gender-neutral.

Staff also shared with the Policy Committee at the October 11, 2012 meeting that the return to the use of both the term "affordable" and "workforce" would have an effect throughout the Residential and Multiple Use districts and in the Definitions section. In the Residential and Multiple Use districts (and associated policies, such as the Residential Redevelopment Policy), staff noted that changes would be brought forward to include both terms where only "workforce" was currently included. Since the Board deferred the Cluster Overlay District and the Residential Redevelopment Policy, those two documents have been included for Planning Commission re-consideration as a whole (see Attachments 5 and 6). Since the Board adopted the other Residential and Multiple Use districts, the terminology changes in those districts are being brought forward as amendments to the adopted ordinances (see Attachment 7). Similarly, in the adopted Definitions section, the previous definition of "workforce" would be amended, and a new definition of affordable would be added (see Attachment 7).

Staff recommends that the Planning Commission recommend approval of the Housing Opportunities Policy, the Cluster Overlay District, and the Residential Redevelopment Policy. Staff also recommends that the Planning Commission recommend approval of the amendments to the Definitions section; R-1, Limited Residential; R-2, General Residential; R-3, Residential Redevelopment; R-5, Multifamily Residential; PUD, Planned Unit Development; and MU, Mixed Use Districts.

A handwritten signature in black ink that reads "Ellen Cook". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Ellen Cook

Attachments

1. Minutes of the September 11, 2012 Board of Supervisors meeting
2. Minutes of the September 25, 2012 Board of Supervisors work session
3. Unapproved minutes of the October 11, 2012 Policy Committee meeting
4. Housing Opportunities Policy Resolution
5. Cluster Overlay District Ordinance
6. Residential Redevelopment Policy Resolution
7. Ordinance amending the definitions section and the residential and multiple use districts

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 affordable and workforce housing units, where at least 50 percent of all proposed housing units are targeted to families earning 30-120 percent of Area Median Income (AMI), with a minimum of 25 percent of all proposed housing units targeted to families earning 30-80 percent of AMI.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of November, 2012.

MEMORANDUM

DATE: November 7, 2012

TO: The Planning Commission

FROM: Ellen Cook, Senior Planner II

SUBJECT: Case No. SO-0001-2011 Subdivision Ordinance

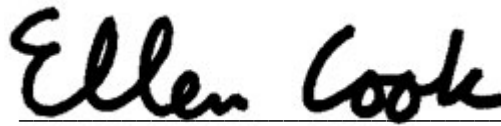
As Stage III in the process for the Subdivision Ordinance, staff has prepared final ordinance language for the Planning Commission's consideration and recommendation. During Stage II, the Policy Committee considered the draft language on September 4, 2012. The Policy Committee concurred with the changes as presented, with the suggested addition of a definition for multifamily and several other minor revisions for consistency and clarity. The draft language, together with a record of the Policy Committee's input, was then considered by the Board of Supervisors at its September 25, 2012 work session. The Board did not request any additional changes.

Included in the amendments to the Subdivision Ordinance are the following items:

- With regard to onsite sewage disposal systems, amendments to better match terms used in the *Code of Virginia*, to clarify submittal requirements, and to clarify the procedural need to obtain a certification letter of approval from the Health Department prior to approval of new lots by the County;
- A requirement in the family subdivision provisions for five years of ownership prior to subdivision and limitation of its use to the R-8, Rural Residential and A-1, General Agricultural zoning districts; and
- General updates and clarifications in response to agency (JCSA, Engineering and Resource Protection, etc.) comments and to frequently asked questions. This last category includes the changes discussed at the September 4, 2012 Policy Committee meeting.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the attached revised Subdivision Ordinance to the Board of Supervisors.



Ellen Cook

Attachments:

1. Minutes of the September 25, 2012 Board of Supervisors work session
2. Subdivision Ordinance

AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF SEPTEMBER 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

John J. McGlennon, Chairman, Roberts District
Mary K. Jones, Vice Chairman, Berkeley District
W. Wilford Kale, Jr., Jamestown District (Arrived at 4:02 p.m.)
James G. Kennedy, Stonehouse District – (Absent)
James O. Icenhour, Jr., Powhatan District

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

C. BOARD DISCUSSIONS

1. Energy Use and Carbon Emissions Report

Mr. John Horne, Director of General Services, introduced Ms. Dawn Olesky, the Environmental Coordinator for James City County and stated that Ms. Olesky's primary duty is to be the Energy Manager for the County.

Ms. Olesky gave the Board members a summary of the Energy Use and Carbon Emissions Report that was included in the Work Session Agenda Packet.

Mr. McGlennon asked for clarification on the fuel efficiency of the County's vehicles in the fleet.

Ms. Olesky stated that most of the more fuel-efficient vehicles were purchased in 2007, so the efficiencies noted on the slides do not show as drastic a change. She stated that if the Board was to compare the efficiencies between 2004 and 2007, there would be a very large increase in the efficiencies of the smaller County vehicles.

Mr. Horne stated that the fuel efficiency slide is an indication of all the vehicles in the County Fleet, and therefore, one must take into account that the majority of the County vehicles are big, heavy-duty vehicles that do not have the same fuel efficiency as smaller vehicles. He also stated that the County has not been replacing as many vehicles since the downturn in the economy. Instead, the County has been extending the life of older, less efficient vehicles.

Mr. McGlennon stated that he had noticed that there appeared to be a decrease in total miles travelled in County vehicles. He stated that he believed that was due to an initiative to use County vehicles more efficiently.

Mr. Horne stated that yes; there has been an effort to use County vehicles more efficiently by sharing vehicles and combining trips.

Ms. Jones asked how the vision of reducing carbon emissions by 80 percent by 2050 is to be achieved.

Ms. Olesky stated that with the County's sustainable building policy, all of the new County buildings are more efficient; as older vehicles are replaced with newer, more efficient vehicles as well as more options for renewable energy become available, the County will be able to meet that vision.

Mr. McGlennon noted that as traditional heating and cooling systems are replaced with geothermal heating and air, there would be a decrease in emissions as well.

Mr. Horne stated that as more of the County buildings are brought online utilizing the geothermal heating and air, and more other less efficient buildings are taken off line, the County will continue to move toward the goal.

Mr. McGlennon asked for clarification about the geothermal heating and air system in the County Administration Building, Building D.

Mr. Horne stated that it is more of a hybrid system. The building does not draw its main source of heat and air from geothermal; however, there is a small geothermal system that is utilized to dehumidify the air before it is sent into the building and thus the air conditioning system does not have to work as hard to cool the air.

Mr. Horne stated that even in the older buildings that utilize older heating and air systems, the County is looking for ways to seal the buildings, allowing more of the air to stay inside and allow the systems to not have to work as hard.

Mr. Icenhour asked if there was a way to track annual temperature variations.

Mr. Horne stated that the Energy Star system takes into account that variations in temperature.

Mr. McGlennon thanked Ms. Olesky for her presentation and for her efforts in making the County more efficient. He stated that there are opportunities for the County to set an example for other businesses in the community, especially in regard to the building envelopes and sealing their buildings for more efficient heating and cooling.

2. Zoning/Subdivision Ordinance Update

a. Housekeeping Items and Subdivision Ordinance

Mr. Allen Murphy, Director of Development Management, Mr. Chris Johnson, Acting Director of Planning, Ms. Tammy Rosario, Principal Planner, Ms. Ellen Cook, Planner III, and Mr. Vaughn Poller, Housing and Community Development Administrator, joined the Board for an update on the Zoning and Subdivision Ordinance.

Ms. Rosario presented the Board members with a summary of the memorandum in the Work Session Agenda Packet.

Mr. Icenhour stated that it appeared that the changes to the Housekeeping Items were more along the lines of administrative cleanup and continuity of terminology.

Ms. Rosario stated that it was correct.

Mr. Icenhour questioned, in regard to the Subdivision Ordinance, if the ordinance not previously stated, that Family Subdivisions were zoned R-8 and A-1.

Ms. Cook stated that previously it could be applied in any district, but primarily R-8 and A-1 are used in Subdivisions. She stated that the only benefit to using it in R-1 or R-2 districts is that it does not require road frontage.

Mr. Icenhour asked if the Board had ever seen an application for the Subdivision Ordinance in an R-1 or R-2 district.

Ms. Cook stated that those applications do not require Board action and would be an administrative action.

Mr. Icenhour stated that our changes to the definitions of alternative on-site sewage disposal just restate the State's ordinances.

Ms. Cook stated that it was correct.

Mr. McGlennon stated that for clarification, the State has recently changed their ordinances in regard to alternative on-site sewage disposal systems and that the changes to our ordinances are to coincide with the State's changes.

Mr. McGlennon also asked if staff anticipates more requests for alternative on-site sewage disposal.

Ms. Cook stated that after many discussions with the Health Department, staff's understanding is that in regard to existing lots, there are more alternatives for sewage disposal that are now approved. However, in regard to the creation of new lots, the County's Subdivision Ordinance can specify which types of sewage disposal systems are allowed.

b. Housing Opportunities Resolution

Ms. Cook summarized the changes to the Housing Opportunities resolution that was included in the Work Session Agenda Packet.

Ms. Rosario stated that staff is looking for direction from the Board that the Board wants staff to go.

Mr. McGlennon stated that at the previous Board meeting, the Board was concerned with the combining of the definitions of Workforce and Affordable Housing. He stated that the concern of the Board was that by combining those definitions, it would allow a developer to focus more on the Workforce housing, which the market already provides while ignoring the Affordable housing.

Mr. Icenhour stated that he is very pleased with the revisions and that it puts the focus back where it needs to be, which is on Affordable housing.

Mr. Icenhour stated that the only concern he had was the mechanics of the "cash in lieu of" section.

Mr. Rogers stated that the “cash in lieu of” proffers would be something that the developer would have to propose, but ultimately the Board would have the ultimate decision as to whether or not to accept the proffers.

Mr. McGlennon asked the members of the Board if they were satisfied with the revisions made to the policy. Each member stated yes.

Mr. McGlennon stated that he hoped this clarified the direction from the Board that the Planning Division was looking for.

3. Legislative Agenda

Mr. Rogers presented the Board with the Legislative Agenda and gave a brief summary. He stated if there was any input or items the Board would like to add, now is the time to discuss them. He stated this is a preliminary draft and the Legislative Agenda is not scheduled to come before the Board until November.

Mr. McGlennon asked if the Board was still scheduled to meet with the Legislators in November.

Mr. Rogers stated that was correct; however Delegate Watson will not be able to make that meeting.

Ms. Jones stated that her only issue is with Item No. 2-11. She stated that the title is confusing in regard to the content. Several of the Board members weighed in on an appropriate title. The Board finally decided on Reducing Mandates and Adequately Funding State Mandates.

Mr. Kale stated that he had an issue with Item No. 2-3. He stated that he does not believe that it is a realistic idea to support a rail to connect Richmond to the Peninsula. He stated that this would involve another tunnel and is completely unrealistic. He stated that he did not believe the public would support this idea, especially before handling the issues for vehicles. He stated that he does not believe that this should be part of the Board’s priorities.

Mr. McGlennon asked if this was part of any plan of Transportation Policy Organization.

Mr. Middaugh stated that he did not believe so. He stated that what has been discussed is passenger rail enhancement from the Peninsula to Richmond and on up to Washington D. C. and even further up to Boston.

Ms. Jones stated that this would be utilizing existing infrastructure.

Mr. Middaugh stated that this particular Item No. 2-3 is referring to a new passenger rail that would cut across the west and make its way up to Richmond.

Ms. Jones stated that she would like to see Transportation Funding be moved up the Agenda and take a higher priority than a proposed new passenger rail.

Mr. Kale said that CSX, in its annual report, stated that they are well underway to making revisions to its train station.

Mr. Kale stated that this would be a help to the current passenger rails. He stated that it would improve the flow and the speed of the trains going through the train station.

Mr. McGlennon stated that he felt the Board should support enhancements to existing rail systems, but should not support a new rail system going across the Peninsula.

Mr. Icenhour stated that he concurred with Ms. Jones about moving the Transportation item up in the list as a higher priority.

Mr. McGlennon stated he is not sure that the Board should list the items in terms of priority.

Mr. Rogers questioned whether or not there was any use in grouping the items together. He stated that the agenda could be organized into sections, for example, a transportation section, then a taxation section, and so forth.

Ms. Jones stated that there was a letter to the Governor and the General Assembly stressing the need for improvements to existing infrastructure and the need for funded projects to be coordinated with local areas to minimize the impact on the area. She stated that the letter was a unified voice of all the local governments in the Urban Crescent, stating the need for transportation funding allocation in the budget and that transportation funding needs to be a top priority for the State.

Mr. McGlennon stated that the only section on the Legislative Agenda that seemed to be missing anything is the legislation proposed by the County. He stated that the Board members need to think back about any cases over the last year that have come up against a barrier in State law, or an action that the Board could have taken if not for State law. Mr. McGlennon stated that it may be that there is not anything for this section for this year, but it needs to be contemplated.

Mr. Rogers stated that it has been a quiet year in this regard. He has not heard of anything from the Executive Staff, nor has there been any barrier for the Board that he has seen.

Mr. Rogers stated that the Board may wish to call out specific items from the legislative programs of the Virginia Municipal League (VML) and Virginia Association of Counties (VACo).

Mr. Middaugh stated that there may be items in those other programs that the Board will want to make note of as a way of adding emphasis, for example, transportation funding.

Mr. Rogers also noted that the Board has eliminated any mention of the Dillon Rule and it is not in the Legislative Agenda. He stated that a State-wide effort to modify the Dillon Rule would be worthwhile.

Mr. Icenhour stated that VACo was making an effort on this item as well. He stated that he believes it is worthwhile for the County to continue fighting this issue with the support of the other counties.

Mr. Kale stated the neither party is interested in making changes to the Dillon Rule, so the item is pretty much dead in the General Assembly.

Mr. Icenhour stated that the plan now is to sit down with our local legislative representatives.

Mr. Rogers stated yes and the only issue is that Delegate Watson cannot be at the last meeting in November.

Mr. Icenhour asked about rescheduling the meeting until December.

Mr. Rogers stated that it might be possible if the Board is not proposing any legislation that will have to be drafted.

Mr. Middaugh stated that York County and the City of Williamsburg want to swap Legislative Agendas with James City County so that the municipalities can take a look at the other Agendas and see if there is an item that needs emphasis and support.

Mr. McGlennon stated that if there were no other questions or discussion, he would recommend moving in to the Closed Session.

Mr. McGlennon asked Mr. Middaugh to read the Code Sections for Closed Session and requested a motion.

Mr. Kale made a motion to adjourn the Work Session and go in to Closed Session at 4:52 p.m.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

The Board came out of Closed Session at 5:44 p.m.

Mr. Kale made a motion to certify the Closed Session.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

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 appointment of individuals to County boards and/or commissions, and Section 2.2-3711(A)(7) of the Code of Virginia, consultation with legal counsel and staff members pertaining to actual or probable litigation.

Mr. Icenhour made a motion to appoint Ms. Lisa Thomas, Mr. John Smith, Mr. Hunter Old, Ms. Andrea Salamy, and Mr. Tucker Edmonds to the Community Action Agency.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Kale, Ms. Jones, Mr. McGlennon (4). NAY: (0). ABSENT: Mr. Kennedy (1).

At 5:45 p.m., Mr. McGlennon recessed the Work Session.

Robert Middaugh
Clerk to the Board

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ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 19, SUBDIVISIONS, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 19-2, DEFINITIONS; BY AMENDING SECTION 19-12, VACATION OF RECORDED PLAT; BY AMENDING SECTION 19-14, PRIVATE STREETS DECLARATION; BY AMENDING SECTION 19-15, FEES; BY AMENDING SECTION 19-17, SPECIAL PROVISIONS FOR FAMILY SUBDIVISIONS; BY AMENDING SECTION 19-18, EXCEPTIONS; BY AMENDING SECTION 19-19, PREAPPLICATION CONFERENCE AND SUBMISSION OF CONCEPTUAL PLAN; BY AMENDING AND RENAMING SECTION 19-20, MASTER PLAN WITH NEW NAME OVERALL PLAN; BY AMENDING SECTION 19-21, CLASSIFICATION OF SUBDIVISIONS; BY AMENDING AND RENAMING SECTION 19-22, PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS, TOWNHOUSE OR CONDOMINIUM SUBDIVISIONS WITH NEW NAME PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS OR MULTIFAMILY SUBDIVISIONS; BY AMENDING SECTION 19-23, PROCEDURE FOR PRELIMINARY PLAN REVIEW FOR MAJOR SUBDIVISIONS; BY AMENDING SECTION 19-24, PROCEDURE FOR PRELIMINARY PLAN REVIEW FOR MAJOR SUBDIVISIONS OF FEWER THAN FIFTY LOTS; BY AMENDING SECTION 19-27, PRELIMINARY PLAN-SUBMITTAL REQUIREMENTS; BY AMENDING AND RENAMING SECTION 19-28, PRELIMINARY PLAN-TOWNHOUSE AND CONDOMINIUM SUBDIVISIONS WITH NEW NAME PRELIMINARY PLAN-MULTIFAMILY SUBDIVISIONS; BY AMENDING SECTION 19-29, FINAL PLAN-SUBMITTAL REQUIREMENTS; BY AMENDING SECTION 19-30, PROCEDURE FOR APPROVAL OF FINAL PLAN; BY AMENDING SECTION 19-32, LAND MUST BE SUITABLE; BY AMENDING SECTION 19-33, LOCATION OF UTILITIES; BY AMENDING SECTION 19-34, LOCATIONS AND SPECIFICATIONS FOR MONUMENTS; BY AMENDING SECTION 19-35, LOT CORNER MONUMENTS; BY AMENDING SECTION 19-36, MONUMENTS-GENERAL REQUIREMENTS; BY AMENDING SECTION 19-37, EASEMENTS; BY AMENDING SECTION 19-39, LOT

ARRANGEMENTS, DESIGN AND SHAPE; BY AMENDING AND RENAMING SECTION 19-40, LOT LOCATION WITH NEW NAME LOT ACCESS AND FRONTAGE; BY DELETING SECTION 19-41, SIDE LOT LINES; BY ADDING NEW SECTION 19-41, BUILDING SETBACKS AND YARDS; BY ADDING NEW SECTION 19-42, STREET RIGHT-OF-WAY DEDICATION, BY ADDING NEW SECTION 19-43, LOT WIDTH; BY RENUMBERING SECTION 19-42, LOT REMNANTS WITH NEW NUMBER 19-44; BY AMENDING AND RENUMBERING SECTION 19-43, DOUBLE FRONTAGE LOTS WITH NEW NUMBER 19-45; BY RENUMBERING SECTION 19-44, SEPARATE OWNERSHIP OF LOTS TO BE SUBDIVIDED WITH NEW NUMBER 19-46; BY AMENDING AND RENUMBERING SECTION 19-45, LOT FRONTAGE WITH NEW NUMBER 19-47; BY AMENDING AND RENUMBERING SECTION 19-46, BLOCK LENGTH WITH NEW NUMBER 19-48; BY RENUMBERING SECTION 19-47, BLOCK WIDTH WITH NEW NUMBER 19-49; BY AMENDING AND RENUMBERING SECTION 19-48, STREET ALIGNMENT AND LAYOUT WITH NEW NUMBER 19-50; BY AMENDING AND RENUMBERING SECTION 19-49, STREET CONSTRUCTION STANDARDS WITH NEW NUMBER 19-51; BY AMENDING AND RENUMBERING SECTION 19-50, STREET DRAINAGE WITH NEW NUMBER 19-52; BY AMENDING, RENUMBERING AND RENAMING SECTION 19-51, SIDEWALKS WITH NEW NUMBER AND NAME 19-53, PEDESTRIAN ACCOMMODATIONS; BY AMENDING AND RENUMBERING SECTION 19-52, CUL-DE-SAC STREETS WITH NEW NUMBER 19-54; BY AMENDING AND RENUMBERING SECTION 19-53, PRIVATE STREETS WITH NEW NUMBER 19-55; BY RENUMBERING SECTION 19-54, STREET AND SUBDIVISION NAMES WITH NEW NUMBER 19-56; BY AMENDING AND RENUMBERING SECTION 19-55, STREET SIGNS WITH NEW NUMBER 19-57; BY AMENDING AND RENUMBERING SECTION 19-56, PUBLIC WATER WITH NEW NUMBER 19-58; BY AMENDING AND RENUMBERING SECTION 10-57, WATER FACILITIES WITH NEW NUMBER 19-59; BY RENUMBERING SECTION 19-58, INDIVIDUAL WELLS WITH NEW NUMBER 19-60; BY AMENDING AND RENUMBERING SECTION 19-59, PUBLIC SEWER WITH NEW NUMBER 19-61; BY AMENDING AND RENUMBERING SECTION 19-60, INDIVIDUAL SEWER WITH NEW NUMBER

19-62; BY AMENDING AND RENUMBERING SECTION 19-61, REGULATIONS GOVERNING UTILITY SERVICE WITH NEW NUMBER 19-63; BY AMENDING AND RENUMBERING SECTION 19-62, INSPECTIONS OF PUBLIC WATER, SEWER, AND STORMWATER SYSTEM WITH NEW NUMBER 19-64; BY RENUMBERING SECTION 19-63, FIRE PROTECTION WITH NEW NUMBER 19-65; BY AMENDING AND RENUMBERING SECTION 19-64, STREETLIGHTS WITH NEW NUMBER 19-66; BY RENUMBERING SECTION 19-65, OFF-SITE SEWER, WATER, AND DRAINAGE COSTS WITH NEW NUMBER SECTION 19-67; BY RENUMBERING SECTION 19-66, OFF-SITE ROAD IMPROVEMENTS WITH NEW NUMBER 19-68; BY RENUMBERING SECTION 19-67, DEDICATION AND RESERVATION OF LAND FOR PUBLIC PURPOSES WITH NEW NUMBER 19-69; BY RENUMBERING SECTION 19-68, ESTABLISHMENT OF HOMEOWNERS ASSOCIATION WITH NEW NUMBER 19-70; BY RENUMBERING SECTION 19-69, ENTRANCE FEATURE REVIEW WITH NEW NUMBER 19-71; BY RENUMBERING SECTION 19-70, STORMWATER MANAGEMENT FEATURE REVIEW WITH NEW NUMBER 19-72; BY AMENDING AND RENUMBERING SECTION 19-71, SHARED DRIVEWAY REQUIREMENTS FOR MINOR SUBDIVISIONS WITH NEW NUMBER 19-73; AND BY AMENDING AND RENUMBERING SECTION 19-72, INSTALLATION OF IMPROVEMENTS AND BONDING WITH NEW NUMBER 19-74.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 19, Subdivisions, is hereby amended and reordained by amending Section 19-2, Definitions; Section 19-12, Vacation of recorded plat; Section 19-14, Private Streets Declaration; Section 19-15, Fees; Section 19-17, Special provisions for family subdivisions; Section 19-18, Exceptions; Section 19-19, Preapplication conference and submission of conceptual plan; Section 19-20, Overall plan; Section 19-21, Classification of subdivisions; Section 19-22, Procedure for review of minor subdivisions or multifamily subdivisions; Section 19-23, Procedure for preliminary plan review for major subdivisions; Section 19-24, Procedure for preliminary plan review for major subdivisions of fewer than fifty lots; Section 19-27, Preliminary plan-Submittal requirements; Section 19-28, Preliminary plan-multifamily subdivisions; Section 19-29, Final plan-submittal

requirements; Section 19-30, Procedure for approval of final plan; Section 19-32, Land must be suitable; Section 19-33, Location of utilities; Section 19-34, Locations and specifications for monuments; Section 19-36, Monuments-general requirements; Section 19-37, Easements; Section 19-39, Lot arrangements, design and shape; Section 19-40, Lot access and frontage; Section 19-41, Building setbacks and yards; Section 19-42, Street right-of-way dedication; Section 19-43, Lot width; Section 19-44, Lot remnants; Section 19-45, Double frontage lots; Section 19-46, Separate ownership of lots to be subdivided; Section 19-47, Lot frontage; Section 19-48, Block length; Section 19-49, Block width; Section 19-50, Street alignment and layout; Section 19-51, Street construction standards; Section 19-52, Street drainage; Section 19-53, Pedestrian accommodations; Section 19-54, Cul-de-sac streets; Section 19-55, Private streets; Section 19-56, Street and subdivision names; Section 19-57, Street signs; Section 19-58, Public water; Section 19-59, Water facilities; Section 19-60, Individual wells; Section 19-61, Public sewer; Section 19-62, Individual sewer; Section 19-63, Regulations governing utility service; Section 19-64, Inspections of public water, sewer, and stormwater system; Section 19-65, Fire protection; Section 19-66, Streetlights; Section 19-67, Off-site sewer, water and drainage costs; Section 19-68, Off-site road improvements; Section 19-69, Dedication and reservation of land for public purposes; Section 19-70, Establishment of homeowners association; Section 19-71, Entrance feature review; Section 19-72, Stormwater management features review; Section 19-73, Shared driveway requirements for minor subdivisions; and Section 19-74, Installation of improvements and bonding.

Chapter 19

SUBDIVISIONS

ARTICLE I. GENERAL PROVISIONS

Sec. 19-1. Short Title.

This chapter shall be known and may be cited as the "Subdivision Ordinance of James City County, Virginia," or simply as the "Subdivision Ordinance."

Sec. 19-2. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter.

Agent. The James City County ~~Director of Planning~~ *director* or his designee.

Alternative onsite sewage disposal system. A treatment works that is not a conventional onsite sewage disposal system and does not result in a point source discharge.

Approved. The word "approved" shall be considered to be followed by the words "or disapproved," when the sense so requires.

~~*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 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.~~

Block. Land containing lots which are bounded by streets or a combination of conservation areas, streets, public parks, cemeteries, railroads, rights-of-way, shorelines or boundaries of the county.

Brownfield site. Real property wherein the expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

~~*Central water systems.* A water system in which all connections in the subdivision are served by one or more water sources through a common distribution system owned and operated by the James City Service Authority. Central water system shall include all structures, hydrants, property, equipment and appurtenances used in the production, storage and distribution of water.~~

Commission. The James City County Planning Commission.

Common open space. A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants, and owners within that development in which ownership is held in common with other owners of that development.

~~*Condominium.* A building, or group of buildings, in which units are owned individually, and the structures, common area, and common facilities are owned by all the owners on a proportional, undivided basis.~~

Conventional onsite sewage disposal system. A treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield.

County attorney. The James City County Attorney or his designee.

County engineer. The James City County Engineer or his designee.

Cul-de-sac. A street with only one outlet having a circular turn-around for a safe and convenient reverse traffic movement.

Development review committee. An administrative subcommittee of the commission charged with reviewing major subdivisions, conceptual plans, appeals of agent decisions, and exceptions to this chapter and making recommendations to the commission.

Division of building safety and permits. The James City County Director of Building Safety and Permits or his designee.

Dwelling. Any structure, or portion thereof, which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, 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. *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.

Easement. A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

Engineering and resource protection division. The Director of the James City County Engineering and Resource Protection Division or his designee.

Fire chief. The James City County Fire Chief or his designee.

Governing body. The James City County Board of Supervisors.

Health department. The Commonwealth of Virginia Department of Health or an authorized official, agent or employee thereof.

Highly erodible soils. Soils (excluding vegetation) with an erodibility index (EI) from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined by the Universal Soil Loss Equation as the product of the formula $RKLS-T$, as defined by the "Food Security Act (F.S.A.) Manual" of August, 1988 in the "Field Office Technical Guide" of the U.S. Department of Agriculture Soil Conservation Service, where K is the soil susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is the combined effects of slope length and steepness; and T is the soil loss tolerance.

Highly permeable soils. Soils with a given potential to transmit water through the soil profile. Highly permeable soils are identified as any soil having a permeability equal to or greater than six inches of water movement per hour in any part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very rapid") as found in the "National Soils Survey Handbook" of July 1983 November 1996, as amended, in

the “Field Office Technical Guide” of the U.S. Department of Agricultural ~~Soil and~~ **Natural Resources** Conservation Service.

Hydric soils. Soils that are saturated, flooded or ponded long enough during the growing seasons to develop anaerobic conditions in the upper part, which are saturated for usually one week or more in the growing period and have the capacity to support hydrophytic **wetland** vegetation.

Impervious cover. A surface composed of any material that significantly impedes or prevents infiltration of water into the soil. Impervious surfaces include, but are not limited to: roofs, buildings, streets, parking areas, and any concrete, asphalt, or compacted gravel surface.

Improvements. All public and quasipublic utilities and facilities including, but not limited to, streets, sanitary sewers, waterlines, stormwater management and erosion control facilities, electrical service, monuments, signs, sidewalks and streetlights required by this chapter.

Lot. A parcel of land occupied or to be occupied by a main structure or group of main structures and accessory structures, together with such yards, open space, lot width, and lot areas as are required by Chapter 24, Zoning, either shown on a plat of record or considered as a unit of property and described by metes and bounds. A lot is synonymous with parcel or tract.

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 shorter of the two sides fronting on streets.

Lot, double frontage. An interior lot having frontage on two streets.

Lot, flag. 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.

Lot, frontage. The ~~minimum width~~ **measurement** of a lot ~~measured~~ along a street right of way from one side lot line to the other ~~along a straight line~~.

Lot, interior. Any lot other than a corner lot.

Lot of record. A lot, a plat or description of which has been recorded in the clerk’s office of the circuit court.

***Lot width.* The horizontal distance between side lot lines measured at the setback line.**

Monument. An iron pipe a minimum of 3/4 inches in diameter with a 24 inch length or a 5/8 inches in diameter reinforcing bar with a 24 inch length driven three inches to nine inches below the surface of the adjacent ground or an alternate type as approved by the **agent** ~~county engineer~~.

Plat. A map or plan for a tract or parcel of land meeting the requirements of this chapter which is to be or which has been subdivided. When used as a verb, "plat" is synonymous with “subdivide.”

Property. A unit or units of land of such size and dimensions that it may be subdivided into two or more lots.

Public sewer. A sewer system owned and operated by a municipality, county, service authority or the Hampton Roads Sanitation District Commission, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department and State Water Control Board where appropriate.

Public water. A water system owned and operated by a municipality, county or service authority, approved by the governing body, licensed by the State Corporation Commission if required by law, and approved by the health department.

Right-of-way. The total width of land dedicated or reserved for public or restricted travel, including pavement, ditches, drainage facilities, curbing, gutters, pipes, sidewalks, shoulders and land necessary for the maintenance thereof. The right-of-way may contain public or private utilities.

Road, future or planned future right-of-way. Any road or similar transportation facility as shown on an approved plan of development or master plan or designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, ~~Peninsula Transportation Plan~~ *Hampton Roads Long Range Transportation Plan* or any road plan adopted by the board of supervisors.

Runoff. Precipitation which enters downstream waterways or properties.

~~*Septic tank system.* An individual nondischarge system approved by the health department which contains all the necessary apparatus for treating wastewater including a sewage holding tank and areas identified for primary and reserve drainfields.~~

Service authority. The James City Service Authority.

Service authority manager. The manager of the James City Service Authority or his designee.

Service authority regulations. The James City Service Authority *Regulations Governing Utility Service.*

Setback line. A line showing the closest point from a property line that a dwelling or principal structure may be constructed consistent with the zoning ordinance.

Soil absorption systems. On-site sewage disposal systems which utilize the soil to provide final treatment and disposal of effluent from a septic tank in a manner that does not result in a point-source discharge and does not create a nuisance, health hazard or ground or surface water pollution.

~~*Stormwater division.* The director of the James City County stormwater division or his designee.~~

Street. An existing or platted right-of-way dedicated for the use of the general public, or portions thereof, either accepted by the transportation department or approved as a private transportation system under the zoning ordinance. A street shall provide access to property by vehicular and pedestrian traffic for all purposes of travel transportation or parking to which it is adopted and devoted. This term is synonymous with road, lane, drive, avenue, right-of-way, highway, or any other thoroughfare.

Street functional classification. *Streets shall be functionally classified as follows:*

- 1. Interstate: A highway that is part of the nationwide U.S. Interstate Highway System connecting or involving different states.*
- 2. Expressway and freeway: A roadway designated exclusively for unrestricted movement of traffic. Access is only with selected arterial streets by means of interchanges.*
- 3. Arterial streets (principal, minor) Streets and roads which function within a regional network conveying traffic between major activity centers. The purpose of such streets is to carry relatively large volumes of traffic at higher speeds, and not to serve abutting lots except indirectly through intersecting streets. The arterial classification is further subdivided into "principal arterial" and "minor arterial" based on traffic volumes.*
- 4. Collector streets (major, minor) Streets designed to conduct and distribute traffic between streets of lower order and streets of higher order linking major activity centers. The collector classification is*

further divided into “major collector” and “minor collector.”

5. *Local or access streets.* Streets designed to carry low to moderate volumes of traffic, at low operating speeds. The primary function of these streets is to provide access to individual lots, typically within a residential subdivision.

The functional classification status of a specific road shall be determined by the agent after consulting with the transportation department.

Subdivide. The division of property into two or more lots.

Subdivider. An individual, corporation, partnership or other entity owning any property to be subdivided.

~~*Townhouse.* A dwelling unit for single family occupancy in a structure containing three or more such dwelling units 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 units, and each of which is serviced by an individual exterior entrance or entrances.~~

Transportation department. The Commonwealth of Virginia Department of Transportation or an authorized official, agent or employee thereof.

Yard. The space which lies between the lot line and the nearest point of a structure. The minimum yard required is defined for each zoning district.

Sec. 19-3. Compliance with chapter mandatory.

(a) No person shall subdivide land without making and recording a plat of subdivision and fully complying with the provisions of this chapter.

(b) No plat of any subdivision shall be recorded unless and until it shall have been submitted to and approved by the agent.

(c) No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein unless such subdivision was lawfully created prior to the adoption of a subdivision ordinance applicable thereto; provided, that nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.

(d) No clerk of any court shall file or record a plat of a subdivision required by this chapter until such plat has been approved by the agent as required herein.

(e) The requirements of this chapter shall be considered separate from, and supplementary to, any requirements otherwise specified by this Code or by state or federal law. Nothing contained herein shall excuse compliance with other applicable ordinances or laws. Where local requirements are in conflict with mandatory state or federal requirements, the state or federal requirements shall prevail.

Sec. 19-4. Penalties.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating the provisions of this chapter shall be subject to a fine of not more than \$500.00 for each lot or parcel of land so subdivided or transferred or sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt any transaction from such penalties or from other remedies.

State law reference-Code of Va., §15.2-2254

Sec. 19-5. Administration and enforcement of chapter.

The agent is hereby delegated to administer and enforce the provisions of this chapter. The agent shall be considered the agent of the governing body. Notwithstanding an appeal as provided for in section 19-8, approval or disapproval by the agent shall constitute approval or disapproval as though it were given by the governing body. The agent may consult with the commission on matters contained herein and may call for written opinions or decisions from other county departments, the transportation department, and the health department in considering details of any submitted plat.

State law reference-State law governing land subdivision and development, Code of Va., § 15.2-2240 et seq.

Sec. 19-6. Effect of private contracts.

This chapter bears no relation to any private easement, covenant, agreement or restriction, and the responsibility of enforcing such private easement, covenant, agreement or restriction is not implied herein to any public official. When this chapter calls for more restrictive standards than are required by private contract, the provisions of this chapter shall control.

Sec. 19-7. Changes, erasures and revisions.

No change, erasure or revision shall be made on any preliminary or final plat, nor on accompanying data sheets, after the agent has approved in writing the plat or sheets, unless authorization for such changes has been granted in writing by the agent.

Sec. 19-8. Subdivider may appeal from disapproval of plat.

In the event a plat for subdivision is disapproved by the agent or commission, the subdivider may appeal to the governing body. The governing body may override the recommendation of the agent or commission and approve said plat. No appeal shall be made unless it is filed in writing with the clerk of the governing body within 30 days of disapproval by the agent or commission.

Sec. 19-9. Plan and plat preparation-by whom prepared.

Each subdivision plan and plat shall be prepared by an individual duly qualified as set forth in title 54.1 of the Code of Virginia.

Sec. 19-10. How chapter may be amended.

This chapter may be amended in whole or in part by the governing body. Any such amendment shall either originate with or be submitted to the commission for recommendation prior to adoption. If no recommendation is received from the commission after 60 days from submission, the governing body may act without a recommendation. No such amendment shall be adopted without a public hearing having been held by the governing body.

State law references-For state law as to amendments to county subdivision ordinances, see Code of Va., § 15.2-2253; required filing of amendments, Code of Va., § 15.2-2252.

Sec. 19-11. Resubdivision same as subdivision.

Any change in a recorded subdivision plat that modifies, creates or adjusts lot lines shall be approved in the same manner and under the same requirements as a new subdivision. This section applies to any subdivision plat of record, whether or not recorded prior to the adoption of a subdivision ordinance. Where a street, alley, easement for public passage or other public area laid out or described in such plat is affected, the plat shall be vacated pursuant to section 19-12 prior to resubdivision.

Sec. 19-12. Vacation of recorded plat.

Any recorded plat, or part thereof, may be vacated *by the governing body* pursuant to ~~section~~ *Code of Va., § 15.2-2271 through section § 15.2-2276 of the Code of Virginia*, as amended. Any such vacation shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in, and to reinvest to the owners, proprietors and trustee, if any, the title to the streets, alleys, easements for public passage and other public areas laid out or described in such plat.

Sec. 19-13. Construction and severability of provisions.

This chapter shall be liberally construed so as to effectuate its purposes. If any clause, sentence, paragraph, section or subsection of this chapter shall be adjudged by any court of competent jurisdiction to be invalid for any reason, including a declaration that it is contrary to the constitution of the Commonwealth or of the United States, or if the application thereof to any government, agency, person or circumstance is held invalid, such judgment or holding shall be confined in its operation to the clause, sentence, paragraph, section or subsection hereof, or the specific application hereof, directly involved in the controversy in which the judgment or holding shall have been rendered or made, and shall not in any way affect the validity of any other clause, sentence, paragraph, section or subsection hereof, or affect the validity of the application thereof to any other government, agency, person or circumstance.

Sec. 19-14. Private streets declaration.

If approved streets in a subdivision are not to be constructed to meet the standards necessary for inclusion in the secondary system of state highways, or are not to be dedicated to the ~~Virginia Department of Transportation~~ *department*, the subdivision plat and all deeds conveying lots in the subdivision, shall contain a statement advising that the streets in the subdivision shall not be maintained by the transportation department or the county, and where applicable, do not meet state design standards.

Sec. 19-15. Fees.

Fees shall be charged to offset the cost of reviewing plats and plans, making inspections and other expenses incident to the administration of this chapter. The following fees shall be charged and collected as provided below:

- (1) *General plan review.* There shall be a fee for the examination of every plan reviewed by the agent or commission. For all subdivisions that do not require public improvements, the fee for a major or minor subdivision shall be \$200.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. For all subdivisions that require public improvements, the fee for a major or minor subdivision

shall be \$250.00 per plan plus \$70.00 per lot for each lot over two lots in the subdivision plat. The fee for townhouse or condominium subdivisions which have undergone site plan review shall be \$50.00. The fee shall be submitted to the agent at the time of filing the plat for review. Any check shall be payable to the James City County treasurer. An additional fee of \$250.00 shall be collected for any review after the second re-submission not to include resubmittals that are the result of substantial redesign due to additional agency comments.

- (2) *Inspection fee for water and sewer lines.* There shall be a fee for the inspection by the service authority of public water and sewer system installations. Such fee shall be \$1.43 per foot for every foot of sewer main or water main constructed and shall be submitted as specified by the service authority regulations.
- (3) *Inspection fee for stormwater installations.* There shall be a fee for the inspection by the stormwater division of public stormwater installations and private stormwater installations required in accordance with section 23-10(4). Such fee shall be \$900 per practice for each best management practice constructed and \$.90 per foot for every foot of stormwater drain or channel constructed and shall be submitted at the time of filing an application for a land disturbance permit.
- (4) *Fees waived.* Payment of any permit fees established in section 19-15 shall be waived for the county, any entity created solely by the county and those regional entities to which the county is a party provided that: (1) ~~The~~ the other parties to the regional entity similarly waive fees; and (2) ~~The~~ the regional entity has locations in more than one locality.

Sec. 19-16. Saving provision.

The adoption of this chapter shall not abate any pending action, liability or penalty of any person accruing or about to accrue, nor waive any right of the county under any provision in effect prior to the adoption of this chapter, unless expressly provided for in this chapter. Any subdivision plan which has received preliminary approval prior to the adoption of this chapter and for which a final plat is recorded within one year from the date of preliminary approval shall have vested rights under the ordinance in effect at the date of preliminary approval. Failure to record a plat within one year shall render the preliminary approval null and void.

Sec. 19-17. Special provisions for family subdivisions.

In the Rural Residential, R-8, and General Agricultural, A-1 districts, ~~A~~ a single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor under Virginia Code section 16.1-331 et seq., or parent of the owner. Such subdivision shall be subject only to the following provisions:

- (1) *The property owner shall have owned the lot or parcel for a period of not less than five years prior to the application for a family subdivision. The property owner shall provide evidence of ownership satisfactory to the county attorney's office with the subdivision application.*
- (2) Only one such division shall be allowed per family member and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three years unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy.

- (23) The minimum width, yard and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the zoning ordinance. Land proposed for subdivision shall be suitable for platting in accordance with section 19-32.
- (34) For property not served with public water and public sewer, each lot shall have its ~~septic tank~~ *onsite sewage disposal* system and water source approved by the health department and shall be shown on the subdivision plat.
- (45) Each lot or parcel of property shall front on a road which is part of the transportation department system of primary or secondary highways or shall front upon a private drive or road which is in a right-of-way or easement of not less than 20 feet in width. Such right-of-way shall remain private and shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches and a minimum width of ten feet. The right-of-way shall be maintained by the adjacent property owners in a condition passable at all times. The provision of an all-weather drive shall be guaranteed in accordance with section 19-72. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and drive construction disturbs more than 2,500 square feet.
- (56) The corners of all lots created by family subdivisions shall be marked with iron pipes as provided for in section 19-35.
- (67) A final subdivision plan shall be submitted to the agent for approval as provided in section 19-29 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fee set forth in section 19-15.
- (78) The above requirements shall be set forth in a subdivision agreement approved by the county attorney and recorded in the circuit court clerk's office for the City of Williamsburg and County of James City.

Sec. 19-18. Exceptions.

The commission may grant an exception to any requirement of the chapter, subject to the following:

- (1) No such exception shall be granted unless the subdivider petitions the commission in writing. The petition *should be submitted with the initial submission of the subdivision plan and* shall state fully the grounds for the exception and all the facts relied upon by the subdivider. The agent may require such additional information as he may deem necessary to process the request for the exception.
- (2) The agent shall provide written notification of the exception request to all adjacent property owners. The notification shall adhere to the following requirements:
 - (a) Such notice shall specifically describe the exception requested and the date, time and location of the development review committee meeting first considering such request; and
 - (b) Such notice shall be mailed by the agent at least ten days before the development review committee meeting; and
 - (c) Evidence that such notice was sent by first class mail to the last known address as shown on the current real estate tax assessment book shall be deemed adequate compliance.

- (3) The burden shall be on the subdivider to demonstrate the need for an exception.
- (4) The commission shall not approve any exception unless it first receives a recommendation from the development review committee and unless it finds that:
 - (a) Strict adherence to the ordinance requirement will cause substantial injustice or hardship;
 - (b) The granting of the exception will not be detrimental to public safety, health, or welfare, and will not adversely affect the property of others;
 - (c) The facts upon which the request is based are unique to the property and are not applicable generally to other property so as not to make reasonably practicable the formulation of general regulations to be adopted as an amendment to this chapter;
 - (d) No objection to the exception has been received in writing from the transportation department, health department, or fire chief; and
 - (e) The hardship or injustice is created by the unusual character of the property, including dimensions and topography, or by other extraordinary situation or condition of such property. Personal, financial, or self-inflicted hardship or injustice shall not be considered proper justification for an exception.
- (5) The commission in authorizing an exception may impose such reasonable conditions in addition to the regulations of this chapter as it may deem necessary in the public interest. The commission may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.
- (6) If granted, such exception shall be specifically stated in writing together with the supporting justifications and filed with the subdivision plan or such plat or plans deemed necessary by the agent. A note shall be prominently placed on the record plat detailing any exception so granted.

ARTICLE II. PROCEDURES AND DOCUMENTS TO BE FILED

Sec. 19-19. Preapplication conference and submission of conceptual plan.

- (a) Before submittal of any preliminary or final subdivision plan, the applicant is advised to confer with the subdivision agent and such other agencies of the state and county as the agent deems advisable concerning the proposed subdivision.
- (b) Prior to the submission of any major subdivision plan, the applicant or his representative is advised to submit three copies of a conceptual plan for review by the ~~director of planning~~ *planning director*, or his designee; such action does not constitute the submission of a preliminary plan and is not to be construed as an application for approval in computing time limitations in relation thereto. The planning division shall transmit comments to the applicant within 21 calendar days of submittal of a *conceptual* plan which meets all applicable submittal criteria.
- (c) The conceptual plan may be granted conceptual plan approval with conditions that should be satisfied prior to final plan approval by the zoning administrator; such action does not constitute final subdivision approval or preliminary plan approval. ~~Submittal of a preliminary plan that does not incorporate the conditions set forth during the conceptual plan review period, shall be reviewed by the commission under the~~

~~requirements of section 19-23.~~ Unless required by the planning director, a resubmittal of conceptual plans shall not be necessary.

(d) Conceptual plans shall, at a minimum, ~~show~~ identify or contain:

- (1) property lines, *project title, title block, legend, north arrow and graphic scale, zoning and zoning of surrounding properties*
- (2) ~~building locations and orientation~~ *vicinity and location maps and site address*
- (3) ~~building locations on adjacent properties~~ *county tax parcel identification number, site boundary and parcel site information*
- (4) ~~location of parking area(s)~~ *building location and orientation, location of buildings on adjacent properties, building and landscape setbacks, buffers such as resource protection areas (RPA) and community character corridors (CCC)*
- (5) ~~landscape areas/buffers~~
- (6) ~~entrances/exits/access to the site (vehicular, pedestrian, greenway, etc.)~~ *and location of nearby roads*
- (7) ~~greenway connections (on-site and those adjacent to the subject property)~~
- (8) *narrative description of the proposed use of site*
- (9) ~~building/landscape setbacks per James City County ordinance~~
- (10) ~~site zoning and zoning of surrounding properties~~
- (11) ~~location of stormwater management facilities~~
- (12) ~~graphic scale~~
- (13) ~~recorded easements (conservation, utility, rights-of-way, etc.)~~
- (14) ~~unique natural/visual features (viewsheds, water features, wetlands, RPA buffer, known archaeological sites, etc.)~~
- (15) ~~unique natural/visual features to be preserved (mature or specimen trees, known archaeological sites, etc.)~~
- (16) ~~list of currently binding proffers or special use permit conditions~~
- (17) ~~location of entry signs~~
- (18) ~~existing topography of site~~ *using county base mapping (five foot contour) or other mapping sources or surveys*

(e) If the planning director determines that one or more of the above submittal requirements is not applicable to the proposed project, the planning director may waive those requirements.

Sec. 19-20. ~~Master plan~~ Overall plan.

For multiphased subdivisions *which are not subject to a binding master plan approved in accordance with article I of the zoning ordinance*, the subdivider shall submit to the agent ~~a master~~ *an overall* plan for all phases of the proposed subdivision as part of the *first* preliminary plan submittal. The purpose of such a ~~master~~ *an overall* plan is to permit the agent to advise the subdivider whether his plans are generally in accordance with the requirements of this chapter. The commission, upon submission of any ~~master overall~~ plan, may study it and advise the subdivider where it appears that changes are appropriate. The agent may mark the ~~master overall~~ plan indicating appropriate changes. The subdivider shall return such ~~master overall~~ plan to the agent with each preliminary plan. The ~~master overall~~ plan shall, at a minimum, show the name, location and dimensions of all streets entering the property, adjacent to the property or terminating at the boundary of the property to be subdivided. It shall also show the location of all proposed streets, their *category functional classification* (e.g., arterial, collector, etc.) and any future extensions, lots, development phases, parks, playgrounds and other proposed uses of the land to be subdivided and their approximate dimensions and a conceptual layout of the water and sewer systems. The ~~master overall~~ plan is not binding on the subdivider or the governing body. Review of an ~~an master overall~~ plan does not constitute final subdivision approval or

preliminary plan approval. For multiphased subdivisions reviewed under this section, review of an ~~master overall~~ plan does not, in any way, guarantee approval of future subdivision phases.

Sec. 19-21. Classification of subdivisions.

Parcels of land existing as of January 1, 1989, shall be considered and known as “parent parcels.”

(a) *Minor subdivision.* A minor subdivision shall be ~~any~~ division of a ~~tract of land~~ *parent parcel* into not more than five ~~lots~~ *parcels* abutting an existing public road within the transportation department system of ~~primary or secondary highways~~ and which does not create a new street or extend an existing street.

(1) Any contiguous or internal property owned by the same subdivider, or deemed by the agent as a logical part of a contiguous or internal subdivision, cannot be subdivided into greater than five ~~lots~~ *parcels* without being reviewed as, and meeting the requirements of, a major subdivision. *Any such subdivisions of a parent parcel shall not exceed a total of nine parcels, including the parent parcel.*

(2) ~~A minor subdivision may include family subdivisions as defined herein.~~ *Family subdivisions as allowed by section 19-17 shall not count toward this five parcel total.* A preliminary or final plan shall include only those submittal requirements of this chapter and requirements for design and minimum requirements required by article III deemed necessary by the agent.

(b) *Major subdivision.* A major subdivision shall be ~~any~~ division of a ~~tract of land~~ *parent parcel* into six or more ~~lots~~ *parcels* or any division which creates a new street or extends any existing street. However, where additional lots are being created for the sole purpose of permanent open space or for the purpose of being dedicated to a conservation organization, as evidenced by documentation acceptable to the ~~director of planning~~ *director*, the subdivision may be reviewed as, and meet the requirements of, a minor subdivision.

(c) ~~Townhouse or condominium~~ *Multifamily* subdivision. A ~~townhouse or condominium~~ *multifamily* subdivision shall be a division of a tract of land into lots for ~~townhouses or condominiums~~ *multifamily units* as shown on an approved site plan pursuant to the zoning ordinance. A preliminary or final plan shall include only those requirements for design and minimum improvements required by article III of this chapter deemed necessary by the agent.

Sec. 19-22. Procedure for review of minor subdivisions, ~~townhouse or condominium~~ or multifamily subdivisions.

(a) The subdivider shall submit to the agent one reproducible copy plus eight prints of a final plan for a minor, ~~townhouse or condominium~~ *or multifamily* subdivision. If a preliminary plan is submitted, the number of copies of the preliminary plans required shall be determined by the agent. Upon submittal, the subdivider shall pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall transmit county staff review comments to the subdivider within 45 days. Eight copies of a revised plan shall be submitted to the agent who shall within 30 days review the second submittal of plans for compliance with applicable county regulations, the requirements for final approval and any conditions of the preliminary approval. The agent shall review each subsequent submittal of revised plans within 21 days. The agent shall within 90 days approve or deny the subdivision plan and notify the subdivider of the action in writing. If a final plan is approved, such approval shall be in accordance with section 19-30. The agent shall certify such approval by signing the record plat. If a preliminary plan is approved, the agent shall include in the notification of preliminary approval all conditions

required for final approval. If disapproved, the agent shall state in the notification to the subdivider the specific reasons for denial. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

Sec. 19-23. Procedure for preliminary plan review for major subdivisions.

(a) The subdivider shall submit to the agent twelve copies of the preliminary subdivision plan for a major subdivision and pay the appropriate subdivision plan review fee.

(b) Upon meeting all submittal requirements, the plan shall be reviewed by the agent and other agencies of the county and state as deemed necessary by the agent. The agent shall prepare a composite report on the proposed subdivision to determine if it meets the requirements of this chapter and the zoning ordinance. The report shall include review requirements by other agencies. The preliminary plan and the agent's composite report shall be reviewed by the development review committee (DRC) when it meets to make its recommendation to the commission. In order for subdivision plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(c) The commission shall consider the plan and either grant preliminary approval or disapprove it within 90 days of submittal. The plan may be granted preliminary approval with conditions. The agent shall notify the applicant of the commission's findings in writing within seven days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan.

(d) The subdivider may, at their discretion, submit an enhanced conceptual plan for review by the agent, other agencies of the county and state deemed necessary by the agent and the DRC in advance of preparation of fully engineered plans. The agent shall prepare a composite report on the proposed subdivision to determine its consistency with the requirements of this chapter and the zoning ordinance. The report shall include review *comments and* requirements by other agencies. The enhanced conceptual plan and the agent's composite report shall be ~~reviewed~~ *considered* by the DRC ~~when it meets~~ *at one of its scheduled meetings* to make its recommendation to the commission. The commission shall consider the recommendation of the DRC and either grant preliminary approval, defer or disapprove the plan. The plan may be granted preliminary approval with conditions. The agent shall notify the subdivider of the commission's findings within seven working days of the commission meeting. Such notice shall state any actions, changes, conditions or additional information that shall be required to secure final approval of the subdivision. If disapproved, the notice shall state the specific reasons for disapproval. The reasons for denial shall identify deficiencies in the plan which cause the disapproval by reference to specific duly adopted ordinances, regulations or policies, and shall generally identify such modifications or corrections as will permit approval of the plan. Plans granted preliminary approval by the commission at the conceptual stage can move forward into full design for further review administratively by the agent *and other agencies as deemed necessary by the agent*. In order for enhanced conceptual plans to be considered by the DRC at one of its regularly scheduled monthly meetings, such plans shall be received by the planning division at least five weeks in advance of the respective DRC meeting.

(e) The enhanced conceptual plan shall at a minimum contain:

- (1) Project title, title block, legends, north arrows and ~~plan~~ *graphic* scale labeled;

- (2) Vicinity and location maps and site address;
- (3) Site owner and developer information;
- (4) County tax parcel number, site boundary and parcel size information;
- (5) Setbacks (~~B~~building, ~~L~~andscape) and ~~B~~uffers (RPA, Community Character);
- (6) Adjacent property information;
- (7) Existing site features such as property lines, roads, buildings, roads, driveways, and utilities;
- (8) Existing topography using county base mapping (~~5~~five foot contours) or other mapping sources or surveys. Spot elevations shall be shown at topographical low or high points;
- (9) Existing and proposed rights-of-way and easements;
- (10) Layout of proposed improvements showing design placement, circulation, parking spaces, handicapped parking spaces, loading spaces, parking islands, recreation areas, and streetlights;
- (11) Landscape plan identifying general location of plantings and buffer/perimeter screening plantings;
- (12) Narrative indicating the purpose of the project and compliance with any proffer and master plan requirements;
- (13) Location and size of existing water mains and proposed connection point(s);
- (14) Proposed location of water meters, waterlines, and fire hydrants;
- (15) Proposed building usage and number of floors;
- (16) Preliminary water demands based on proposed use and required fire flow;
- (17) Fire flow test performed to determine adequate capacity;
- (18) Location of all existing or proposed private wells;
- (19) Location and size of existing sanitary sewer lines and manholes and proposed connection point(s);
- (20) Proposed sanitary sewer, pump or lift stations, and grinder pump(s);
- (21) Verification of sewer flow acceptance;
- (22) Location of primary and secondary onsite disposal system;
- (23) Narrative description of project, including usage and size to determine appropriate ITE code(s) and compliance with Chapter 527 Traffic Impact Analysis Regulations and Access Management Regulations;
- (24) Proposed entrance location(s) and distance to nearest existing intersections, crossovers, and/or adjacent intersections;
- (25) Proposed build out year and phasing information;
- (26) Typical road sections including street widths, curb type, shoulders, sidewalks, bike lanes, planting strips, right-of-way lines, proposed utility locations, centerline curve data;
- (27) Traffic Impact Study for projects that propose 100 or more lots, uses that generate in excess of 100 peak hour trips;
- (28) Proposed design features or elements for which waivers will be sought;
- (29) Project site area, disturbed area, impervious cover and percent impervious estimates;
- (30) Applicable FEMA FIRM panel information and zone designations;
- (31) County watershed, subwatershed and catchment;
- (32) Identification if the site is subject to the ~~C~~county's Special Stormwater Criteria (SSC);
- (33) Overall soils map for the site along with general soil descriptions for each soil mapping unit present on the site, including preliminary locations of highly erodible, hydric, permeable and Hydrologic Soil Group A and B soils;
- (34) Full ~~E~~environmental ~~I~~inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance containing a perennial stream assessment, delineated wetlands confirmed by applicable federal and/or state agencies, limits of work, a table listing all inventory components, whether they are present on the site and quantified impacts, and offsite work areas, if proposed;
- (35) Demonstration that the project complies with section 23-9(b)(1), (2) and (3) of the county's Chesapeake Bay Preservation ordinance to limit land disturbing, preserve existing vegetation

- and minimize impervious cover consistent with the proposed land use or permitted development;
- (36) Locations of existing and proposed stormwater management/BMP facilities, with county BMP ID Code numbers and labels to show intended BMP type in accordance with designations in the county BMP manual;
- (37) ~~Identify~~ Location of areas intended to be dedicated in conservation easement for natural open space, BMP worksheet or stormwater compliance purposes;
- (38) Demonstration that the project complies with the county's 10-point system for water quality and stream channel protection, and Minimum Standard #19 of the Virginia Erosion and Sediment Control regulations by provision of a worksheet for BMP Point System;
- (39) Demonstration that storm drainage systems and BMP outfalls must outlet into adequate, defined natural or man-made receiving channels;
- (40) ~~Identify~~ Preliminary location of primary proposed stormwater drainage system conveyances such as inlets, storm drainage piping, culverts and stormwater conveyance channels for primary systems;
- (41) List of all known federal, state and local permits that are required for the project as well as any exceptions, variances or waivers that must be obtained or pursued.

Sec. 19-24. Procedure for preliminary plan review for major subdivisions of fewer than fifty lots.

Major subdivisions of fewer than 50 lots, including such major subdivisions that are part of a multiphased subdivision of 50 lots or more, may, at the agent's discretion, be reviewed under the procedures set forth in section 19-22, ~~provided however, if the submitted preliminary plan does not have an approved conceptual plan, as set forth in section 19-19, then the preliminary plan shall be reviewed by the commission under the requirements of section 19-23.~~

Sec. 19-25. Effect of approval of preliminary plan.

Approval by the commission or the agent of the preliminary plan shall not constitute a guarantee of approval by the agent of the final plat.

Sec. 19-26. Term of validity for the preliminary plan and extension.

(a) Once a preliminary subdivision plan is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plan approval, and upon 90 days written notice by certified mail to the subdivider, the commission or agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.

(b) If a subdivider records a final plat, which may be a section of a subdivision as shown on an approved preliminary plan, and furnishes to the county a certified check, cash escrow, bond, or letter of credit in an amount and form acceptable to the county for the estimated cost of construction of the facilities to be dedicated within said section for public use and maintained by the locality, the commonwealth or other public agency, the developer shall have the right to record the remaining sections shown on the preliminary plan for a period of five years from the date of the latest recorded plat of subdivision for the property. The five-year period of validity shall extend from the date of the latest recorded plat. Such right shall be subject to the terms and

conditions of the Code of Virginia and subject to engineering and construction standards and the zoning ordinance requirements in effect at the time that each remaining section is recorded.

Sec. 19-27. Preliminary plan-Submittal requirements.

The preliminary plan for a minor or major subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch *for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch,* except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan for a minor or major subdivision shall include the following information:

- (a) The name of the subdivision, owner, subdivider, and surveyor or engineer, the date of drawing, number of sheets, north arrow, *tax parcel identification number, zoning and graphic* scale. ~~If true north is used, the method of determination shall be shown.~~ The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) The location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings *and improvements*, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.
- (d) All existing, platted and proposed streets, both private and public, including their names, *route* numbers and widths; existing and proposed utility or other easements, existing and proposed sidewalks, public areas, parking spaces, culverts, drains, watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) A drainage plan showing the proposed drainage system including all open ditches, closed storm drain pipes and stormwater management facilities proposed to convey the subdivision drainage to an adequate *receiving* channel. The plan shall include sizes of all pipes and ditches, types of pipes and ditch linings, drainage easements and construction details of any stormwater management facilities. Drainage calculations shall be submitted with a *design report with computations and* drainage ~~area~~ map to verify the design of the drainage system including the adequacy of the channel receiving drainage from the proposed subdivision.

For multiphased subdivisions, a drainage ~~area~~ map shall be provided with drainage calculations for all phases of the subdivision to determine the adequacy of receiving channels. If receiving channels are not adequate, the map shall include the location of proposed stormwater management facilities.

The drainage plan shall include the topographic plan and a soil map of the site. The topographic plan ~~submittal requirements vary depending on the location of the proposed development. Outlined below are the topographic plan submittal requirements for each specific area of the county.~~ *shall be based on recent field run or aerial two-foot contour intervals. Five-foot contour intervals may be used with the approval of the agent. Spot elevations shall be shown at topographic low and high points.*

~~Areas generally south of the boundary line—Reference the county tax map for the boundary line location. For all subdivisions planned in this area, the subdivision mapping and design shall be based on topographic surveys which are either derived from on-site field surveys or aerial photography. James City County topographic maps shall not be used for this purpose unless the county engineer permits the use of field-verified James City County Topographic Maps. Subdivision plans shall show at least one contour line for each 100 feet of horizontal distance and shall show existing and proposed contours at intervals of no more than five feet. The contour interval shall be in whole feet.~~

~~Areas generally north of the boundary line—Reference the county tax map for the boundary line location. The topographic plan submittal requirements are the same as those required for areas generally south of the boundary line except that James City County topographic plans may be used. The applicant shall assume all risk associated with the accuracy and the precision of these maps.~~

- (f) A stormwater management plan showing proposed stormwater management facilities including best management practices (BMPs) in accordance with chapters 8, 18A and 23 of the county code, and associated checklists. Such plan shall include construction details for all parts of the stormwater and drainage system, including pipe bedding and backfill.
- (g) An erosion and sediment narrative and control plan showing the location, type and details of proposed erosion and sediment control devices to be used during and after construction. The plan shall meet all requirements of the erosion and sediment control ordinance and associated checklists and shall be provided at a scale of 100 50 feet to the inch except in cases where the environmental engineering and resource protection director approves an alternate scale. The plan shall show existing and proposed contours at intervals of no more than five two feet except in cases where the engineering and resource protection director approves an alternative interval.
- (gh) Cross-sections showing the proposed street construction, depth and type of base, type of surface, compaction, shoulders, curbs and gutters, sidewalks, bikeways, utilities, side ditches and other features of the proposed streets.
- (hi) Street profiles showing the proposed grades for the streets and drainage facilities, including elevations of existing and proposed ground surface at all street intersections and at points of major grade change along the centerline of streets, together with proposed connecting grade lines therewith and vertical curve information.
- (i) Size and location of existing sanitary sewer and water facilities; location and method of proposed connections to existing sewer and water facilities; size and location of proposed sewer and water facilities showing location of proposed water meters, gate valves, fire hydrants, fittings, manholes, sewer laterals and cleanouts; grinder pump locations; profile views of water and sewer mains with manhole rim and invert elevations and percent of slope; sewage pump station location, design and details; and water well facility location, design and details. A capacity study of the existing system, in accordance with service authority regulations, may be required. All improvements shall be in accordance with the latest service authority Water and Sanitary Sewer Design and Acceptance Criteria Standards and Specifications.
- ~~(j) The preliminary plan for a major subdivision shall contain a copy of conceptual plan reviewed under the requirements of section 19-19.~~
- (k) As provided for in Code of Va., §§ 10.1-606.2 et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be set forth on the plan of the proposed subdivision.

- (l) *As provided for in the Code of Va., § 15.2-2242, the agent may request submittal of a phase I environmental site assessment, where the proposed subdivision is located on a brownfield site, or where initial assessments indicate dumping or other contaminating activities have occurred on the property.*
- (m) *A phased clearing plan in accordance with section 24-89 of the zoning ordinance.*
- (n) *An outdoor lighting plan in accordance with section 24-130 of the zoning ordinance (these requirements do not apply to lighting on single family lots).*
- (o) *The following environmental information about the site proposed for development including:*
 - (1) *All existing easements, disturbed area, impervious cover, and percent impervious estimate;*
 - (2) *Flood zone designation, Resource Protection Areas (RPAs), soils (highly erodible, hydric, permeable, hydrologic soils group A and B);*
 - (3) *Full environmental inventory consistent with section 23-10(2) of the county's Chesapeake Bay Preservation ordinance (perennial stream assessment, delineated wetlands, limits of work);*
 - (4) *Demonstration that the project complies with section 23-9(b)(1), (2), and (3) of the county's Chesapeake Bay Preservation ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized);*
 - (5) *County watershed, steep slopes (grade 25 percent or more), sites known for populations of rare or threatened species, locations of existing conservation easements, wooded areas and wildlife habitat; and*
 - (6) *Description of better site design or low impact development techniques if such is being used.*
- (p) *For proposed minor subdivisions, a copy of the plat showing the parent parcel to assist in verifying the requirements listed in section 19-21.*

Sec. 19-28. Preliminary plan-Townhouse and condominium Multifamily subdivisions.

The preliminary plan for a ~~townhouse or condominium~~ multifamily subdivision shall be on a blue-line or black-line print. The scale shall be 100 feet to the inch *for the overall view, and the scale of the detailed drawings shall be appropriate to the level of detail but not less than 60 feet to the inch*, except in cases where the agent approves an alternate scale. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. The preliminary plan shall include the following information:

- (a) The name of the subdivision, owner, subdivider and surveyor or engineer, the date of drawing, number of sheets, north arrow, *tax parcel identification number, zoning, and graphic* scale. ~~If true north is used, the method of determination must be shown.~~ The plan shall also list any proffers or special use permit conditions that affect the property.
- (b) Location of the proposed subdivision on an inset map at a scale of not less than one inch equals 2,000 feet, showing adjoining roads, their names and numbers, subdivisions and other landmarks.
- (c) A closed boundary survey, or existing survey of record, total acreage, acreage of subdivided area, existing buildings, existing graves, objects or structures marking a place of burial, names of owners and existing property lines within the boundaries of the tract and for adjacent properties thereto, proposed monuments, lots, lot numbers, lot areas, blocks, building setback and yard lines. If any exceptions have been granted by the planning commission in accordance with section 19-18, the plan shall include a note detailing any exception so granted.

- (d) All existing, platted and proposed streets, including their names, numbers and widths; existing and proposed utility, drainage or other easements, public areas and parking spaces; culverts, drains and watercourses, lakes, their names and other pertinent data. If the streets are to be private, the plan shall include a private streets declaration in accordance with section 19-14.
- (e) All parcels of land to be dedicated for public use and conditions of such dedication.

Sec. 19-29. Final plan-Submittal requirements.

The final plan for a subdivision shall be on blue-line or black-line print. The scale shall be 100 feet to the inch except in cases where the agent approves an alternate scale. The size of the record plat portion of the final plan shall not be smaller than 8 1/2" x 11" or larger than 18" x 24" inches. If more than one sheet is used, sheets shall be numbered in sequence and an index shall be provided. In addition to the requirements of the preliminary plan, the final plan for a subdivision *shall meet the requirements of 17VAC15-60 et seq.* and shall include the following:

- (a) The accurate location and dimensions by bearings and distances, including all curve data, for all lots, and street lines and centerlines of streets. Distances and bearings shall balance and close with an accuracy of not less than one in 10,000 units.
- (b) The data of all curves along the street frontage shall be shown in detail at the curve or in a curve data table containing the following: delta, radius, arc, tangent, chord and chord bearings.
- (c) When the subdivision consists of land acquired from more than one source of title, the outlines of these tracts shall be indicated by dashed lines, and the identification of the respective tracts shall be shown on the plat.
- (d) A certification of each owner's consent duly acknowledged before a licensed notary public in the following format:

Owner's Certificate

The subdivision of land shown on this plat and known as (name of subdivision) is with the free consent and in accordance with the desire of the undersigned owners, proprietors and/or trustees.

Date

Signature

Name printed

Certificate of Notarization

Commonwealth of Virginia

City/County of _____

I, _____ (Print Name), a Notary Public in and for the City/County and State aforesaid, do hereby certify that the persons whose names are signed to the foregoing writing have acknowledged the same before me in the City/County aforesaid.

Given under my hand this _____ day of _____, (Year) _____.

(Signature)

My commission expires: _____.

Notary registration number: _____.

- (e) Certificates signed by the surveyor or engineer setting forth the source of title of the owners of the land subdivided, the place of record of the last instrument in the chain of title, and that the subdivision conforms to all requirements of the board of supervisors and ordinances of the County of James City, Virginia, in the following format:

Certificate of Source of Title

The property shown on this plat was conveyed by (previous owner) to (current owner) by (type of instrument), dated (date) and recorded in the Office of the Clerk of the Circuit Court of the County of James City in Deed Book (number), Page (number) or Instrument (number).

Engineer or Surveyor's Certificate

I hereby certify that, to the best of my knowledge or belief, this plat complies with all of the requirements of the Board of Supervisors and Ordinances of the County of James City, Virginia, regarding the platting of subdivisions within the county.

Date

Name

Name printed

- (f) Certificate of approval as follows:

Certificate of Approval

This subdivision is approved by the undersigned in accordance with existing subdivision regulations and may be admitted to record.

Date

Virginia Department of Transportation

Date

Virginia Department of Health

Date

Subdivision Agent of James City County

- (g) If the subdivided property contains wetlands and/or resource protection areas, there shall be a note on the plat which states the following:

“Wetlands and land within resource protection areas shall remain in a natural undisturbed state except for those activities permitted by section 23-7 of the James City County Code.”

- (h) If the subdivided property contains a natural open space easement, there shall be a note on the plat which states the following:

“Natural open space easements shall remain in a natural undisturbed state except for those activities referenced on the deed of easement.”

- (i) The plat shall include the following note:

“Unless otherwise noted, all drainage easements designated on this plat shall remain private.”

- (j) If the streets are to be private, the plat shall include a private streets declaration in accordance with section 19-14.

- (k) If any exceptions have been granted by the planning commission in accordance with section 19-18, the plat shall include a note detailing any exception so granted.

- ~~(l) Prior to final approval, data for major subdivisions shall be submitted in accordance with the “GIS Data Submittal Requirements for Major Subdivisions” policy, as approved by the governing body. This requirement may be waived provided a note is placed on the final plat stating that the engineer or surveyor of record did not draft the subdivision plans with a computer.~~

- ~~(m)~~ If the subdivided property contains drainfield locations for a septic tank requires onsite sewage disposal systems, the plat shall include the following note: “Septic tank Onsite sewage disposal system information and soils information should be verified and reevaluated by the Health Department prior to any new construction.”

- ~~(m)~~ If the subdivided property contains an on-site sewage treatment disposal system, the plat shall include the following note:

“On-site sewage treatment disposal systems shall be pumped out at least once every five years per section 23-9(b)(6) of the James City County Code.”

- ~~(n)~~ The plat shall include the following note:

“Monuments shall be set in accordance with sections 19-34 through 19-36 of the county code. Subsequent to completion of all improvements, but prior to final release of surety for a subdivision or any part thereof, the subdivider shall provide to the agent a surveyor’s certificate that the monuments as shown on the record plat have been installed, were properly set, are properly aligned, and are undamaged. The provision of the certification shall be within six months of plat approval, unless otherwise arranged in advance, in writing, with the agent.”

- ~~(o)~~ As provided for in Code of Va., § 10.1-606.2, et seq., when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be stated on the plat of the proposed subdivision.

Sec. 19-30. Procedure for approval of final plan.

The subdivider shall submit for review and approval eight copies of the final plan for a major subdivision or as many copies of the final plat for minor subdivisions, ~~townhouse or condominium~~ or multifamily subdivisions, as deemed necessary by the agent. Upon approval of the final plan by the agent, the subdivider shall submit one reproducible copy plus eight prints of the record plat portion of the final plat to the agent for review and approval. The record plat shall not be approved until the applicant:

- (1) Has complied with the requirements and minimum standards of design set forth in this chapter;

- (2) Has incorporated such changes or complied with such conditions on the final plan as may have been stipulated in the letter of notification following action by the commission or agent on the preliminary plan;

- (3) Has made satisfactory arrangements for performance assurances as specified in article IV of this chapter; ~~and~~
- (4) *Has submitted data for major subdivisions in accordance with the "GIS Data Submittal Requirements for Major Subdivisions" policy, as approved by the governing body; and*
- (45) Has executed all certificates required in section 19-29.

Sec. 19-31. Term of validity for the final plan.

The subdivider shall record the approved record plat in the clerk's office of the circuit court of the county within 180 days after approval thereof; otherwise, such approval shall become null and void.

ARTICLE III. REQUIREMENTS FOR DESIGN AND MINIMUM IMPROVEMENTS

Sec. 19-32. Land must be suitable.

(a) The agent shall not approve the subdivision of land if ~~he~~ *it is* determines~~d~~, after adequate investigations conducted by the transportation department, the health department or the ~~director of~~ engineering and resource protection *director*, that the site is not suitable for platting because of possible flooding, improper drainage, steep slopes, utility easements or other features harmful to the safety, health and general welfare of the public.

(b) In determining the suitability of lots, the minimum criteria shall be for each lot to have an accessible building site *that is in compliance with the requirements of the zoning ordinance, and with suitable access from an approved street as specified in sections 19-39 and 19-40.*

(c) Land not suitable within a proposed subdivision shall be platted for uses not endangered by periodic or occasional inundation and which otherwise shall not produce conditions contrary to public welfare or such land shall be combined with other suitable lots.

Sec. 19-33. Location of utilities.

(a) All utilities, including, but not limited to, wires, cables, pipes, conduits and appurtenant equipment for electricity, ~~telephone,~~ *voice, video and data,* gas, cable television or similar service, shall be placed underground; provided, that the following utilities shall be permitted above ground:

- (1) Electric transmission lines and facilities in excess of 50 kilovolts;
- (2) Equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antenna and associated equipment, which is, under accepted utility practices, normally installed above ground;
- (3) Meters, service connections and similar equipment normally attached to the outside wall of the customer's premises.

(b) Whenever existing utilities are located aboveground in proposed subdivisions, they shall be removed and placed underground except where they are within ten feet of existing public street rights-of-way.

(c) Where approved by the transportation department, with the exception of sewer laterals and water service lines, all utilities shall be placed within easements or street rights-of-way, unless otherwise required by the service authority, in accordance with "Typical Utility Details" (see Appendix A) as published by the service authority or as may be otherwise approved by the agent.

Sec. 19-34. Locations and specifications for monuments.

(a) Monuments shall be set at all street corners, at all points where the street line intersects the exterior boundaries of the subdivision, and at right-angle points and at the beginning and end points of curve along each street. Minimum requirements for monument material and installation shall be the same requirements contained in section 19-35 below. Alternate types of monuments may be used if approved by the ~~county engineer~~ **agent** prior to installation.

(b) At least two new or existing monuments at exterior subdivision boundaries shall be referenced to the county geodetic control network. Control monuments other than those installed by James City County may be used, ~~provided that the other monuments were installed by York County or the City of Newport News Waterworks~~ **with the approval of the agent** and also provided that the precision of other monuments used is at least equal to that of James City County control monuments. Subdivision plats must show the coordinate values in U.S. survey feet of two or more monuments so referenced. Additionally, the geodetic control monument from which the coordinate values are derived shall be referenced including its published coordinate values.

(c) This requirement shall apply to all subdivisions provided a county geodetic control monument exists within one mile of any exterior subdivision boundary. Surveys connecting to the James City County control monument network shall be conducted with a precision of 1:10,000. Surveyors may be required to submit coordinate value computations and supporting data to the ~~county engineer~~ **agent**.

Sec. 19-35. Lot corner monuments.

All lot corners shall be marked with an iron pipe monument not less than three-fourths inch in diameter and 24 inches long or a five-eighths inch in diameter reinforcing bar monument 24 inches long. The top of such monuments shall be driven three inches to nine inches below the surface of the ground. When rock is encountered, a hole shall be drilled four inches deep in the rock into which shall be cemented a steel rod one-half inch in diameter. The top of the rod shall be flush with the finished adjacent ground grade. Alternate types of monuments may be used if approved by the ~~county engineer~~ **agent** prior to installation.

Sec. 19-36. Monuments-General requirements.

The subdivider shall be responsible for replacing any monument which is damaged, disturbed or destroyed during construction. All monuments disturbed or destroyed shall be reset by a surveyor licensed in the Commonwealth of Virginia. ~~Prior to final release of the surety required for a subdivision, the subdivider shall provide certification from a licensed surveyor that monuments required by this chapter have been properly placed. Subsequent to completion of all improvements, but prior to final release of surety for a subdivision or any part thereof, the subdivider shall provide to the agent a surveyor's certification that the monuments as shown on the record plat have been installed, were properly set, are properly aligned, and are undamaged. The provision of the certification shall be within six months of plat approval, unless otherwise arranged in advance, in writing, with the agent.~~

Sec. 19-37. Easements.

Appropriate easements shall be provided by the subdivider. The easements shall be of sufficient width for the specified use, *shall meet any applicable agency easement standards*, and shall include the right of ingress and egress for installation and maintenance of such use. Wherever possible, easements should be adjacent and parallel to property lines. The agent may require that easements through adjoining property be provided.

Sec. 19-38. Lot size.

The minimum lot size shall be in accordance with the zoning ordinance provided, however:

- (1) That where public water or public sewer systems or both such systems are not available, such minimum lot size may be increased by the agent in accordance with the recommendation of the health department; and
- (2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension, or construction of any street or highway, the commission may require additional setbacks and yards for any new construction or for any structures altered or remodeled adjacent to the future planned right-of-way in order to preserve and protect the planned future right-of-way for such proposed street or highway.

Sec. 19-39. Lot arrangements, design and shape.

The lot arrangement, design and shape shall be related to the topography such that each lot has:

- (1) An acceptable building site in compliance with the requirements of the zoning ordinance and applicable health regulations; ~~and~~
- (2) Suitable access to the building site from an approved street. *In the case of flag lots, it must be possible to gain access to the building site through the portion of the flag that abuts the street in a manner that meets all applicable regulations. However, if the flag lot is located in a minor subdivision subject to the shared driveway provisions in section 19-71, the requirement of being able to gain access through the flag may be waived by the agent; and*
- (3) Unusually shaped or elongated lots, as determined by the agent, established primarily for the purpose of providing minimum square footage, *or meeting minimum lot width, setback or yard requirements*, shall not be permitted.
- (4) *Sidelines of lots shall be approximately at right angles or radial to the street line.*

Sec. 19-40. ~~Lot location~~ Lot access and frontage.

Each lot shall abut and have access to a proposed public street to be dedicated by the subdivision plat or to an existing publicly dedicated street, ~~unless otherwise specifically provided for in this chapter.~~ *The minimum lot frontage abutting such public street right-of-way shall be 25 feet. In zoning districts which permit private streets and where such streets have been approved via the process specified in section 24-62 of the zoning ordinance, the access and minimum lot frontage requirements can be met through frontage on a private street.* If the existing streets do not meet the minimum transportation department width requirement, including

adequate right-of-way to accommodate the appropriate pavement width, drainage, sidewalks and bikeways, the subdivider shall dedicate adequate right-of-way necessary for the street to meet such minimum requirement.

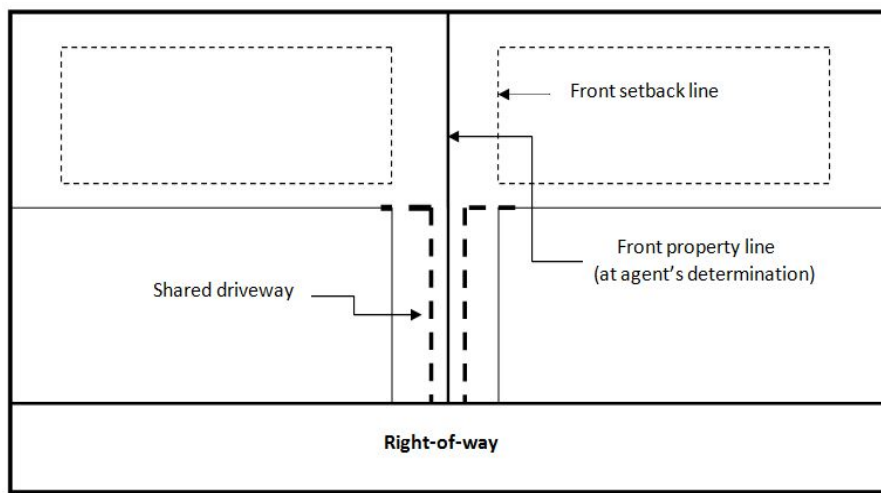
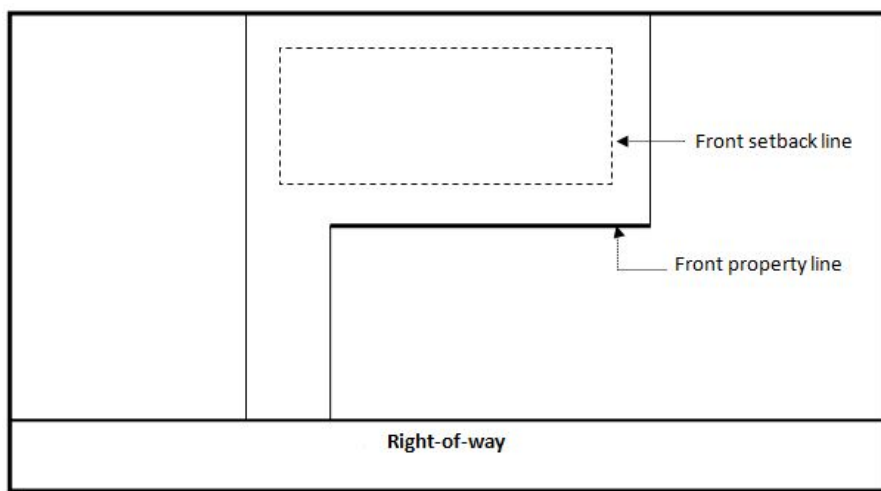
~~Sec. 19-41. Side lot lines.~~

~~Sidelines of lots shall be approximately at right angles or radial to the street line.~~

Sec. 19-41. Building setbacks and yards.

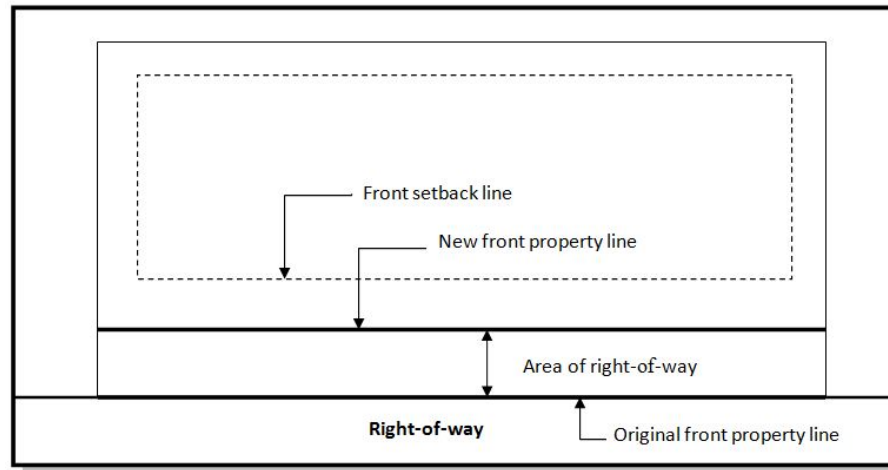
(a) Front setback. The front setback line shall be a line parallel with the front property line at the minimum distance specified in the zoning district regulations and determined as follows:

- (1) For a flag lot, the front setback shall be measured from the front lot line, which is the lot line nearest and parallel or approximately parallel to the street to which the lot has access (see graphic). However, for lots within minor subdivisions that front on a shared driveway, the agent may determine that the front lot line is the lot line running parallel, or approximately parallel, to the shared driveway. In those instances the front setback line shall be measured accordingly (see graphic).*

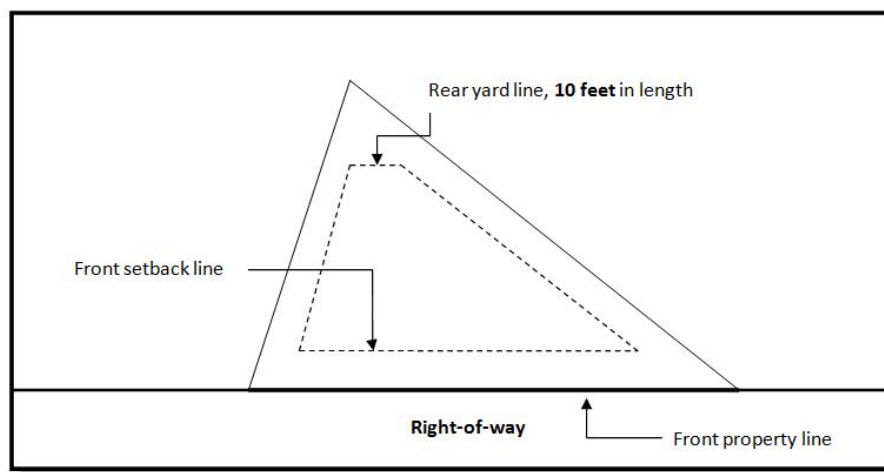


(2) For a corner lot, the front property line of the lot shall be the shorter of the two sides fronting on streets, and the front setback line shall be measured accordingly.

(3) In instances where right-of-way has been dedicated in accordance with section 19-42 of this chapter, the front setback line shall be measured from the new property line (i.e., the internal line of the dedicated area) (see graphic).



(b) Side and rear yard setbacks. The front property line shall be used to determine the side and rear property lines. The minimum side and rear yard setback as specified in the zoning ordinance shall then be measured from these property lines. For rear yards where the lot is triangular or otherwise irregularly shaped, the yard setback shall be a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line (see graphic).



Sec. 19-42. Street right-of-way dedication.

(a) The subdivider of any major subdivision shall construct and dedicate a new public street to provide access to the lots. In zoning districts which permit private streets and where such streets have been approved by the process specified in section 24-62 of the zoning ordinance, the new street may be private.

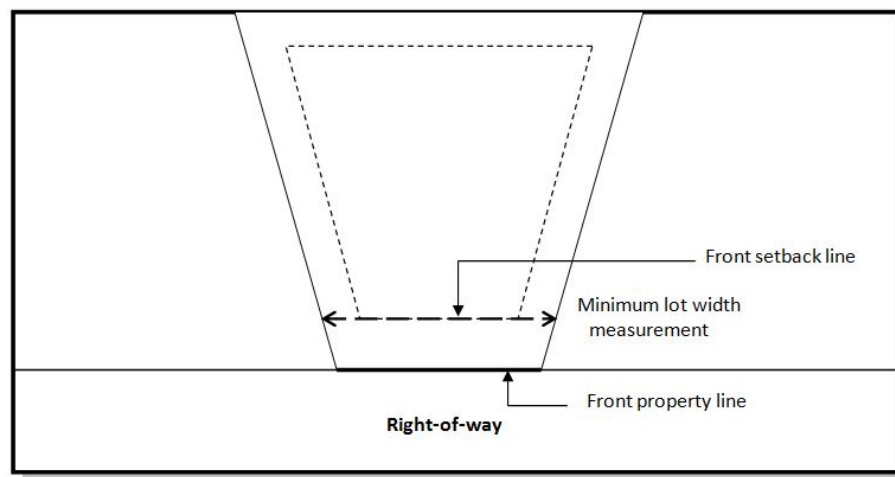
(b) In the case of lots fronting on an existing street right-of-way, if the existing street right-of-way is less than 50 feet in width, the subdivider shall dedicate half of the width necessary to result in a 50 foot right-of-way. In instances where the right-of-way is a prescriptive easement and the land is owned by the property owner to the street's centerline, the full area must be dedicated. In all other instances, the width dedicated shall be one half of the numerical difference between the existing width and 50 feet. Such area on the plat shall be indicated as dedicated to public use. This requirement may be waived or modified if an alternative minimum right-of-way width has been deemed appropriate by the agent.

(c) In addition, whenever there are plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the agent may require dedication of right-of-way sufficient to preserve and protect the planned future right-of-way for such proposed street or highway.

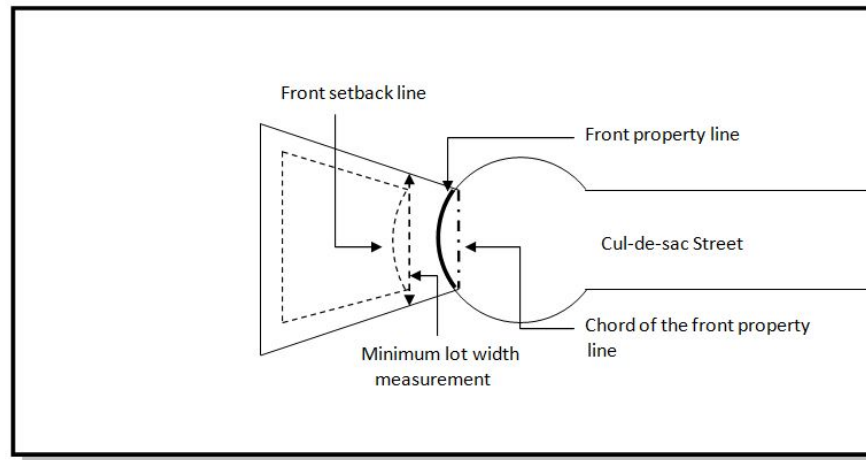
(d) The area of the property dedicated as right-of-way shall not be counted toward meeting the minimum area requirements specified in the zoning districts.

Sec. 19-43. Lot width.

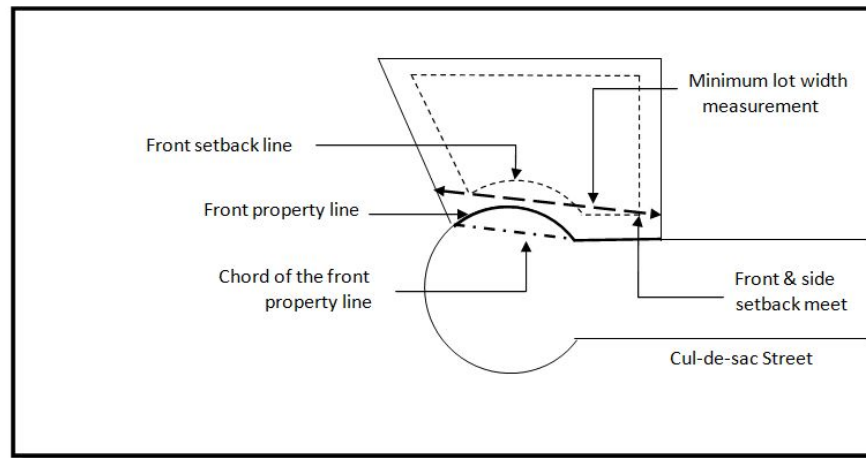
(a) Where the front property line is straight, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the front property line (see graphic).



(b) Where the front property line is an arc, the lot width shall be measured as the distance between the side lot lines measured at the front setback line along a straight line parallel to the chord of the front property line. For the purposes of meeting this requirement, “at the front setback line” shall mean that the line used to measure the width passes through at least one of the points formed by the meeting of the front setback line and the side setback line (see graphic).



(c) In the case of irregular lots (front lot lines that contain arcs of opposing directions or both an arc and a straight segment), the lot width measurement method ((a) or (b) above) shall be based on the arc or straight segment that is of greatest length (see graphic).



(d) Unusually shaped or elongated lots, as determined by the agent, that render reasonable measurement of the setbacks and minimum lot widths impossible, shall not be permitted.

(e) Should the proposed lot fail to meet minimum lot width at the minimum front setback distance specified in the zoning district regulations, the overall front setback distance may be increased to the point where the minimum lot width is met, if that is possible, provided that the resulting lot continues to meet all other setback and yard requirements and retains a suitable buildable area.

Sec. 19-424. Lot remnants.

Remnants of lots not meeting minimum lot requirements shall not generally be created by the subdividing of a tract. All such remnants shall be added to adjacent lots or, as approved by the agent, identified as common open space or natural open space.

Sec. 19-435. Double frontage lots.

Double frontage lots shall not be permitted except where it is necessary that they abut ~~arterial~~ *existing* streets *with a functional classification other than local*. Any access to *such* an ~~arterial~~ *existing* street shall be prohibited by easement. This section shall apply to corner lots only if ~~such the~~ lots abut *such* an ~~arterial~~ *existing* street.

Sec. 19-446. Separate ownership of lots to be subdivided.

Where the land covered by a subdivision includes two or more parcels in separate ownership, and lot arrangement is such that a property line is extinguished in the subdivision, each lot so divided shall be transferred by deed to single ownership simultaneously with the recording of the final plat. Such a deed shall be recorded with the final plat.

Sec. 19-457. Lot frontage.

Lots within major subdivisions shall not front on ~~arterial~~ *existing* streets *other than streets which are part of a recorded subdivision or an extension thereof*.

Sec. 19-468. Block length.

The length of blocks shall be determined by public safety, traffic flow and existing topographic conditions. Where streets are approximately parallel, connecting streets shall be provided. In addition, a minimum 50-foot right-of-way shall be platted to the property line at suitable intervals, as determined by the agent, where appropriate to afford access to undeveloped land. *Such rights-of-way shall meet all applicable transportation department regulations.*

Sec. 19-479. Block width.

Blocks shall be designed to consist of two tiers of lots. If such block design is prevented by topographical conditions, open space, buffers, size of the property, adjoining major streets, railroads or waterways, the agent may approve a single tier of lots.

Sec. 19-4850. Street alignment and layout.

(a) Streets in new subdivisions shall be designed to coordinate with other existing or planned streets contiguous to or within the general area of the subdivision as to location, width, grades and drainage. All street intersections shall be in accordance with transportation department standards. Street intersection jogs, with centerline offsets of less than ~~150~~ 200 feet, shall be prohibited.

(b) Where streets are planned in multi-phased subdivisions, and when those streets are planned to be constructed in different phases, the following requirements shall apply:

- (1) These rights-of-way shall be clearly marked on the plats and labeled “Future Public Street” or “Future Public Street Extension” as appropriate.
- (2) The following notation shall be incorporated into any plat showing a stub or future street:
“This right-of-way is platted with the intent of being extended and continued in order to provide ingress and egress to and from future subdivisions or adjacent property.”

Sec. 19-4951. Street construction standards.

(a) Subdivision streets, unless otherwise specifically provided for in this chapter, shall be paved and dedicated for public use in the state system of primary or secondary highways. Streets shall have a right-of-way width in accordance with transportation department standards. Street construction plans shall be submitted to the transportation department for approval as part of the subdivision review process required by this chapter. Construction of subdivision streets, unless otherwise permitted by this chapter, shall be in conformance with transportation department standards and accepted into the state system of primary or secondary highways prior to release of the construction surety bond. Streets of the entire subdivision as depicted on the master plan shall be designed to fit into a street hierarchy separating streets into categories based on traffic levels in accordance with transportation department standards.

(b) Any private street permitted shall be certified to the satisfaction of the ~~county engineer~~ *development manager*, or his designee, as having been constructed in accordance with all ordinance requirements and approved plans. Until such time as the ~~county engineer~~ *development manager* has accepted and approved such certification, surety required to guarantee the proper construction of such private streets shall not be released. Construction certification shall be in accordance with administrative guidelines ~~prepared by the county engineer~~ *for certification of private street construction*.

Sec. 19-502. Street drainage.

(a) *All drainage conveyance systems and associated components shall comply with the James City County drainage design guidelines.*

(~~b~~) Streets with a longitudinal slope of less than 0.75 percent as shown on the profile sheet of the preliminary and final plan shall be constructed as curb and gutter streets or as open ditch streets with a concrete paved ditch. The minimum longitudinal slope for any street to be constructed with a paved ditch shall be 0.5 percent.

(~~b~~) The minimum longitudinal slope for curb and gutter sections shall be 0.3 percent. If curb and gutter is proposed for any portion of a subdivision, it shall be required for all subsequent sections which extend a curb and gutter improved street.

(~~c~~) Drainage from street rights-of-way must be contained in either a pipe system constructed of materials approved by the transportation department, when within a street right-of-way, or a concrete paved ditch to the point where it outfalls ~~into natural drainage or enters a common area~~ *into a drainage system that is adequate to*

convey the anticipated stormwater flows. Adequacy shall be provided consistent with state minimum standards. The paved ditch must have a minimum longitudinal slope of 0.3 percent. The upstream invert of any outlet pipe shall be 0.5 feet higher than the downstream invert and have a minimum slope of 0.2 percent. The downstream invert of the pipes or ditches must be at or above natural, existing ground. Side slopes of ditches not located within a public street right-of-way shall not exceed a slope of 3:1. These requirements may be waived or modified by the ~~director~~ of engineering and resource protection *director* upon written request and justification by the owner or developer.

Sec. 19-513. Sidewalks *Pedestrian accommodations*.

Sidewalks Pedestrian accommodations shall be required for all major subdivisions in accordance with section 24-35 of the zoning ordinance.

Sec. 19-524. Cul-de-sac streets.

Cul-de-sac streets shall not exceed 1,000 feet in length. *A cul-de-sac's length is measured from the center point of its turnaround, along the centerline of its right-of-way, to the centerline of the right-of-way of the nearest diverging or intersecting road.* Each cul-de-sac shall be terminated by a turnaround meeting minimum transportation department *and fire department* standards.

Sec. 19-535. Private streets.

There shall be no private streets permitted in any subdivision except where permitted by the zoning ordinance ~~or by section 19-17 of this chapter; provided, however, private streets may be allowed in townhouse and condominium subdivisions if the private streets are approved by the commission and meet, unless specifically exempted, all other street requirements in this chapter.~~

Sec. 19-546. Street and subdivision names.

(a) Proposed streets which align with existing streets shall bear the names of the existing streets. Names of proposed streets or subdivisions shall not duplicate, irrespective of suffixes, or be similar in sound or spelling to existing street or subdivision names in James City County, the City of Williamsburg, or the northern portions of York County, and the southern portions of New Kent County which may be served by the Williamsburg or James City County Post Office, by common zip code or by interjurisdictional emergency services.

(b) Street names shall be indicated on the preliminary and final plat and shall be approved by the agent. Names of existing streets or subdivisions shall not be changed except by approval of the governing body.

Sec. 19-557. Street signs.

Permanent street identification signs shall be installed at all intersections. The signs shall be of a design approved by the agent, but at a minimum, ~~either the street sign or the alphanumeric lettering shall be of a reflective material~~ *the sign face shall meet all the design requirements of the transportation department.*

Sec. 19-568. Public water.

If public water is available, it shall be extended to all lots within a subdivision including recreation lots. Availability of public water shall be determined in accordance with the service authority regulations *governing utility service*.

Sec. 19-579. Water facilities.

(a) Major subdivisions inside the primary service area must connect to the service authority or Newport News Waterworks water system and the public sewer system.

(ab) If public water is not available, the subdivider of any major subdivision *outside the primary service area* shall construct a central water system including distribution lines, storage, *treatment* and supply facilities within the subdivision. Central water service shall be extended to all lots within a subdivision, including recreation lots. Upon completion and acceptance of the improvements, the water system, together with all necessary easements and rights-of-way, including the well lot, shall be dedicated to the service authority by deed and an accompanying plat.

(bc) The central water system requirement may be waived by the service authority manager. Such a waiver shall be requested in writing by the subdivider and approved prior to submission of preliminary plans. Any waiver may be subject to reasonable conditions which shall be communicated in writing to the agent and subdivider.

Sec. 19-5860. Individual wells.

If public water is not available, each lot in a minor subdivision shall be served by an individual well. All individual wells shall be approved by the health department or the service authority prior to approval of the subdivision plat.

Sec. 19-5961. Public sewer.

If public sewer is available, it shall be extended to all lots within the subdivision, including recreation lots. Availability shall be determined in accordance with the service authority regulations *governing utility service*.

Sec. 19-602. Individual sewer.

If public sewer is not available, *each* subdivision lots shall be served by individual ~~septic tank~~ *onsite sewage disposal* systems in accordance with the following:

(1) Individual ~~septic tank~~ *onsite sewage disposal* systems for each lot must be approved by the health department and shall be a soil absorption system of conventional or alternative design.

(2) The plans for such subdivisions shall include specific ~~septic tank~~ *onsite sewage disposal system* locations, including primary and reserve drainfields and soils information ~~as required by health department regulations~~, as well as appropriate notation as required in section 19-29 (l) and (m). *The immediate area in and around each proposed system must be shown using a contour interval not greater than two feet; the contour area shown outside the system should be sufficient to establish the relationship of the area to relevant*

topographic features such as, but not limited to, drainage ways, sink holes, road cuts, and steep slopes. The record plat shall clearly designate each lot which has been approved by a soil absorption system of alternate design and shall contain a note which clearly discloses that such alternate systems may entail additional expenses.

(3) For the purpose of subdivision of new lots, the on-site sewage disposal system must meet health department regulations that enable the health department to approve the system in perpetuity through a certification letter. For these new proposed lots, the applicant shall obtain subdivision approval from the county prior to health department issuance of any construction permits.

Any proposed lots not suitable for the installation of ~~septic tank~~ onsite sewage disposal systems shall be combined with lots that are suitable.

Sec. 19-613. Regulations governing utility service.

All subdividers shall comply with the service authority regulations governing utility service.

Sec. 19-624. Inspection of public water, sewer, and stormwater system.

(a) Inspection of public water or sewer system installations shall be the responsibility of the service authority. Any subdivider of a subdivision shall obtain a certificate to construct sewer or water lines and facilities from the ~~James City Service Authority (JCSA)~~ prior to either extending existing facilities or building new facilities. Certificates to construct shall not be issued until the subdivider has paid the ~~JCSA service authority~~ inspection fees in accordance with section 19-15 of this chapter. ~~A certificate to construct shall be required prior to final approval of the subdivision plat.~~

(b) Inspection of public stormwater system installations shall be the responsibility of the ~~stormwater division~~ county. *Any subdivider of a subdivision shall obtain a certificate to construct stormwater system installations prior to either altering existing installations or building new installations.* Surety provided in accordance with section 19-72 shall not be released until approved by the ~~stormwater division~~ in accordance with section 19-72(b).

Sec. 19-635. Fire protection.

Fire hydrants shall be installed in subdivisions at locations designated by the fire chief and the service authority at the time of an extension or construction of a public water system.

Sec. 19-646. Streetlights.

(a) The subdivider shall install streetlights as determined by the ~~director of engineering and resource protection~~ director and in accordance with ~~article II, division 7 of the zoning ordinance~~ and the ~~streetlight standards~~ policy, as approved by the governing body, in those subdivisions which require the construction of streets. The subdivider shall deposit with the agent one year's rent for the streetlight system prior to approval of the final plan. If the streets within the subdivision are not accepted by the transportation department prior to the end of the one-year billing period covered by the deposit, the subdivider shall compensate the county for any additional rental charges incurred prior to release of the subdivision surety.

(b) Streetlights, in subdivisions with private streets, shall be installed by the subdivider as determined by the ~~director of engineering and resource protection~~ director and in accordance with ~~article II, division 7 of the~~

~~zoning ordinance and~~ the ~~Streetlight standards~~ Policy, as approved by the governing body. Such streetlights shall be maintained and all operating expenses paid by the homeowners' association or other legal entity responsible for such expenses. The establishment of a homeowners' association or other legal entity shall be demonstrated to the satisfaction of the county attorney.

Sec. 19-657. Off-site sewer, water, and drainage costs.

The subdivider shall be required to pay a pro rata share of the cost of providing reasonable and necessary sewer, water or drainage improvements located outside of the property limits of the land owned or controlled by him whenever the following conditions exist:

- (1) The county determines that such off-site improvements to sewer, water or drainage are necessitated at least in part by the construction or improvement of the subdivision.
- (2) The county or other appropriate authority has established a general sewer, water or drainage improvement program for an area having related and common water, sewer and drainage conditions.
- (3) The subdivider's property is located within said designated area covered by such program.
- (4) The estimated cost of the total water, sewer or drainage improvement program has been determined.
- (5) The estimated water flow, sewage flow or stormwater runoff has been established for the designated area served by such program.

(b) The subdivider's share of the above-estimated cost of improvements shall be limited to the proportion of such estimated cost which the increased water and sewage flow or increased volume and velocity of stormwater runoff to be actually caused by his subdivision bears to the total estimated volume and velocity of such water, sewage or runoff from such area in its fully developed state.

(c) Such payment received by the county shall be expended only for construction of those facilities for which the payment was required, and until so expended shall be held in an interest-bearing account for the benefit of the subdivider; provided, however, that, in lieu of such payment, the county may permit the subdivider to post a bond with surety satisfactory to the county conditioned on payment at commencement of such construction.

Sec. 19-668. Off-site road improvements.

A subdivider may voluntarily contribute and the county may accept funds for off-site road improvements substantially generated and reasonably required by the construction or improvement of the subdivision.

Sec. 19-679. Dedication and reservation of land for public purposes.

- (a) A subdivider may be required to dedicate or reserve land in the following ways:

(1) Up to a maximum of five percent of the land subdivided for public purposes including, but not limited to, parks, playgrounds, well lots, schools, libraries, municipal buildings and similar public or semipublic uses;

(2) Whenever there shall be plans in existence, approved by either the transportation department or by the governing body, for the widening, extension or construction of any street or highway, the commission may require the dedication or reservation of necessary right-of-way, including right-of-way for turn lanes, drainage, sidewalks and bikeways, in order to preserve and protect the planned future right-of-way for such proposed street or highway.

The governing body shall not be required to compensate any owner for such land if the need for the land is substantially generated by the subdivision. No land shall be reserved in such manner that would render it unusable to the subdivider if not used for the intended public purpose. The subdivider may petition the governing body to release the reservation of any land so reserved if not used for a proper purpose within a reasonable time.

(b) A subdivider that provides for the transfer of adequate and suitable land for parks and playgrounds to a subdivision homeowners' or a subdivision recreation association shall not be required to dedicate additional land for parks and playgrounds.

Sec. 19-6870. Establishment of homeowners association.

Within any major subdivision approved under this article in which an area is intended to be used in common for recreation and/or conservation, or other public or semipublic purposes, or where other improvements have been made in which operation and/or maintenance is the responsibility of the homeowners, no lot shall be approved, recorded, sold, or used within the development until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:

- a. The nature of the permanent organization under which common ownership is to be established, including its purpose, and provisions establishing requirements for mandatory membership;
- b. How it shall be governed and administered;
- c. The provisions made for permanent care and maintenance of the common property or improvements, including bonds when required by the county;
- d. The method of assessing the individual property for its share of the cost of adequately administering and maintaining and replacing such common property; and
- e. The extent of common interest held by the owner of each individual parcel in the tract held in common with others.

Sec. 19-6971. Entrance feature review.

The developer shall submit plans for all residential subdivision identification signs, supporting structures, and entrance features to be reviewed with the preliminary subdivision plans under the requirements of article II, division 3 of the zoning ordinance.

Sec. 19-7072. Stormwater management feature review.

Stormwater management features shall be screened in accordance with article II, division 4 of the zoning ordinance.

Sec. 19-7143. Shared driveway requirements for minor subdivisions.

(a) For all minor subdivisions of three or more lots, ~~unless exempted below~~, direct access from all lots to ~~an~~ the existing arterial road shall be limited to one shared driveway. ~~Such driveway shall be approved by the county engineer, however, at a minimum, in addition to the requirements found in section 19-32(c), said driveway shall be constructed of a paved surface at least ten feet wide and three inches deep. No such subdivision shall be recorded until appropriate documents in a form approved by the county attorney have been executed. Such documents shall set forth the following:~~

~~(1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including bonds when required by the county; and~~

~~(2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.~~

This requirement shall not apply to developed lots within a proposed minor subdivision. However, as long as there are three or more other lots that are undeveloped, this requirement shall apply to those lots. Upon the request of the subdivider, and after finding that such waiver would not adversely affect public health, safety or welfare, the agent may waive this requirement for subdivisions inside the primary service area which are along local roads, as defined.

~~(b) The requirements in (a) above shall apply only to undeveloped lots with a proposed minor subdivision and shall not apply to any proposed lot that is greater than five acres in size.~~

(b) Such driveway shall have a paved surface at least ten feet wide consisting of two inches of pavement over four to six inches of stone aggregate. In addition, the shared driveway must meet all applicable transportation department requirements for the portion of the driveway that ties into the public road. A detail depicting the driveway specifications shall be included on the subdivision plat. An erosion and sediment control plan and land disturbance permit may be required for the shared driveway, as determined by the engineering and resource protection director.

(c) Such driveway shall be located within a shared access easement that is depicted on the subdivision plat.

(d) No such subdivision shall be recorded until appropriate shared care and maintenance documents in a form approved by the county attorney have been executed. Such documents shall be recorded concurrently with the subdivision plat and shall set forth the following:

(1) The provisions made for permanent care and maintenance of the shared driveway and any associated easement, including bonds when required by the county; and

(2) The method of assessing the individual property for its share of the cost of adequately administering, maintaining and replacing such shared driveway.

ARTICLE IV. PERFORMANCE ASSURANCES

Sec. 19-724. Installation of improvements and bonding.

(a) Prior to approval of the final plat, all publicly or privately maintained and operated improvements which are required by this chapter shall be completed at the expense of the subdivider. Pending such actual completion, the subdivider may obtain final plat approval by providing for completion of the required

improvements by entering into an agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover the cost of all the improvements required to be installed by the subdivider as estimated by the ~~director of engineering and resource protection~~ *director*. Such documents shall be submitted to the ~~director of engineering and resource protection~~ *director*. The form of the agreement and type of surety shall be to the satisfaction of and approved by the county attorney. The length of time in which the improvements are to be completed shall be determined by the ~~director of engineering and resource protection~~ *director*. If the improvements are not completed in a timely manner, the ~~director of engineering and resource protection~~ *director* shall proceed to complete the improvements by calling on the surety.

(b) Upon written request by the subdivider, the ~~director of engineering and resource protection~~ *director* shall make periodic partial releases of surety in a cumulative amount equal to no less than 80 percent of the original amount of the surety based upon the percentage of facilities completed and approved by the county, service authority or state agency having jurisdiction. Periodic partial releases shall not occur before the completion of at least 30 percent of the facilities covered by any surety or after completion of more than 80 percent of said facilities. The ~~director of engineering and resource protection~~ *director* shall not be required to execute more than three periodic partial releases in any twelve-month period.

(c) Within 30 days after receipt of written notice by the subdivider of completion of part or all of the facilities required to be constructed, the ~~director of engineering and resource protection~~ *director* shall notify the subdivider of any nonreceipt of approval by an applicable state agency, or of any specified defects or deficiencies in construction and suggested corrective measures. "Written notice" shall consist of a letter from the subdivider to the ~~director of engineering and resource protection~~ *director* requesting reduction or release of the surety along with a set of as-built plans, if required, and a certificate of completion by a duly licensed engineer.

(d) If no action is taken by the ~~director of engineering and resource protection~~ *director* within the thirty-day period, the request shall be deemed approved and a partial release granted to the subdivider. No final release shall be granted until after expiration of such thirty-day period and there is an additional request in writing sent by certified mail to the county administrator. The ~~director of engineering and resource protection~~ *director* shall act within ten working days of receipt of this request. If no action is taken, the request shall be deemed approved and final release granted to the subdivider.

~~(e) Upon final completion and acceptance of said facilities, the director of engineering and resource protection or his designee shall release any remaining surety to the subdivider. For the purpose of final release, the term "acceptance" is deemed to mean when said public facility is accepted by and taken over for operation and maintenance by the state agency, county government department or agency, or other public authority which is responsible for maintaining and operating such facility upon acceptance. Upon final completion of said facilities, the engineering and resource protection director shall release any remaining surety to the subdivider. For the purposes of final release, completion shall be deemed to mean either:~~

- ~~(1) Acceptance of the public facility for operation and maintenance by the state agency, county government department or agency or other public authority which is responsible for maintaining and operating such facility upon acceptance. This process only applies to those agencies that operate and maintain the applicable systems.~~
- ~~(2) Review and approval of the facility's as-builts and construction certifications as required, and acceptable resolution of any field-related deficiencies as determined by the engineering and resource protection director.~~

(f) In instances of multifamily or apartment development that will not involve subdivision of land, required public improvements shall be guaranteed in accordance with section 24-8 and 24-42 of the zoning ordinance. In addition, in instances of conditions attached to a rezoning or amendment to a zoning map, improvements required by the conditions shall be guaranteed in a public improvement bond in accordance with section 24-17 of the zoning ordinance.

John J. McGlennon
Chairman, Board of Supervisors

ATTEST:

Robert C. Middaugh
Clerk to the Board

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