

A G E N D A
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
June 3, 2020
6:00 PM

A. CALL TO ORDER

1. This meeting will be held electronically pursuant to the Continuity of Government Ordinance adopted by the Board of Supervisors on April 14, 2020 and will be aired live on the County's government public access channel, JCC TV 48, via Live Stream on the County website: <https://jamescitycountyva.gov/220/Live-Stream>, and via the County's YouTube channel: <https://www.youtube.com/user/jamescitycounty>. Citizen comments may be submitted via US Mail to the Planning Commission Secretary, PO Box 8784, Williamsburg, VA 23187, via electronic mail to community.development@jamescitycountyva.gov, or by leaving a message at 757-253-6750. Citizens may attend and participate in the electronic meeting via Zoom at <https://zoom.us/j/91306170181>, or dial any of the following numbers for listen-only audio of the meeting: 929-205-6099, 312-626-6799, 301-715-8592, 346-248-7799, 669-900-6833, or 253-215-8782 using Webinar ID: 913 0617 0181. Any public comment received through the above means will be shared at the meeting. Citizens using the link above who would like to speak during public comment and any public hearing will also be able to speak during those times.
2. Zoom Meeting Instructions

B. ROLL CALL

1. Virtual Meeting Resolution

C. PUBLIC COMMENT

D. REPORTS OF THE COMMISSION

E. CONSENT AGENDA

1. Minutes of the May 6, 2020 Regular Meeting

F. PUBLIC HEARINGS

1. ORD-19-0005. Consideration of Amendments to the Zoning Ordinance to Address Combat Tactical Training Facilities
2. ORD-20-0008. Proposed Ordinance and Policy Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities

G. PLANNING COMMISSION CONSIDERATIONS

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - June 2020

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

J. ADJOURNMENT

ITEM SUMMARY

DATE: 6/3/2020

TO: The Planning Commission

FROM: Paul D. Holt, III, Secretary

SUBJECT: This meeting will be held electronically pursuant to the Continuity of Government Ordinance adopted by the Board of Supervisors on April 14, 2020 and will be aired live on the County's government public access channel, JCC TV 48, via Live Stream on the County website: <https://jamescitycountyva.gov/220/Live-Stream>, and via the County's YouTube channel: <https://www.youtube.com/user/jamescitycounty>. Citizen comments may be submitted via US Mail to the Planning Commission Secretary, PO Box 8784, Williamsburg, VA 23187, via electronic mail to community.development@jamescitycountyva.gov, or by leaving a message at 757-253-6750. Citizens may attend and participate in the electronic meeting via Zoom at <https://zoom.us/j/91306170181>, or dial any of the following numbers for listen-only audio of the meeting: 929-205-6099, 312-626-6799, 301-715-8592, 346-248-7799, 669-900-6833, or 253-215-8782 using Webinar ID: 913 0617 0181. Any public comment received through the above means will be shared at the meeting. Citizens using the link above who would like to speak during public comment and any public hearing will also be able to speak during those times.

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	5/27/2020 - 9:50 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 9:50 AM
Publication Management	Burcham, Nan	Approved	5/27/2020 - 10:05 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 10:05 AM

ITEM SUMMARY

DATE: 5/6/2020

TO: The Planning Commission

FROM: Paul D. Holt,III, Secretary

SUBJECT: Zoom Meeting Instructions

ATTACHMENTS:

	Description	Type
	Zoom Meeting Instructions	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	ComSecretary, Planning	Approved	5/27/2020 - 1:47 PM

Zoom Instructions for Participants before a Meeting

1. You will need a computer, tablet, or smartphone with speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. You will receive notice for a videoconference or conference call via email. The notification will include a link to “Join via computer” as well as phone numbers for a conference call option. It will also include the 9-digit (usually) Meeting ID.

Join the Videoconference

1. At the start time of your meeting, click on the link in your invitation to join via computer. You may be instructed to download the Zoom application.
2. You have an opportunity to test your computer’s audio and microphone at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without clicking on the invitation link by going to join.zoom.us on any browser and entering the Meeting ID provided by your committee analyst.

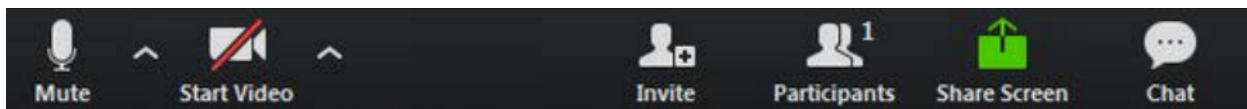
Join Audio via Phone (Recommended for best connection)

If you have sluggish internet connection, your computer or phone lacks a microphone, or for issues with hearing the audio, you can join via telephone while remaining on the video conference:

1. On your phone, dial the teleconferencing number provided in your invitation.
2. Enter the Meeting ID number (also provided in your invitation) when prompted using your touch-tone keypad.
3. If you have already joined the meeting via computer, you will have the option to enter your 2-digit participant ID to be associated with your computer.

During the Meeting

Using the participant controls in the lower left corner of the Zoom screen you can:



- Mute/Unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- Invite other participants
- View Participant list – opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand
- Change your screen name that is seen in the participant list and video window
- Share your screen

On your Zoom screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” shows the active speaker. “Gallery view” tiles all of the meeting participants (like a grid).

ITEM SUMMARY

DATE: 6/3/2020

TO: The Planning Commission

FROM: Paul D. Holt, III, Secretary

SUBJECT: Virtual Meeting Resolution

ATTACHMENTS:

	Description	Type
	Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	5/27/2020 - 12:20 PM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 12:21 PM
Publication Management	Daniel, Martha	Approved	5/27/2020 - 1:29 PM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 1:35 PM

RESOLUTION

PLANNING COMMISSION VIRTUAL MEETING

WHEREAS, on March 24, 2020, the James City County Board of Supervisors (the “Board”) adopted an emergency Ordinance to ensure the continuity of government in response to the coronavirus pandemic negatively affecting the health, safety, and welfare of the citizens of James City County (the “County”); and

WHEREAS, on April 14, 2020, the Board readopted the continuity of government Ordinance (the “Ordinance”), which, under certain circumstances, permits the Board and its subordinate boards, committees, and commissions to conduct regularly scheduled, special, or emergency meetings solely by electronic or telephonic means without a quorum of members physically present (a “Virtual Meeting”); and

WHEREAS, the Planning Commission is a subordinate Commission of the Board and is therefore eligible to conduct a Virtual Meeting; and

WHEREAS, the Planning Commission desires to conduct a Virtual Meeting on June 3, 2020, at which time those items listed on the agenda attached hereto (the “Agenda”) will be considered; and

WHEREAS, each of the members of the Planning Commission have reviewed each the items listed on the Agenda and have determined that consideration of each is necessary to ensure the continuation of the essential functions of the government during the emergency described in the Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of James City County, Virginia, hereby finds and declares that immediate consideration of each of the items set forth in the Agenda is necessary to ensure the continuation of essential functions of the government during the emergency declared by the Board and further described in the Ordinance.

Rich Krapf
Chairman, Planning Commission

ATTEST:

Paul D. Holt III
Secretary to the Planning Commission

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
NULL	_____	_____	_____
ROSE	_____	_____	_____
POLSTER	_____	_____	_____
HALDEMAN	_____	_____	_____
O'CONNOR	_____	_____	_____
LEVERENZ	_____	_____	_____
KRAPF	_____	_____	_____

Adopted by the Planning Commission of James City County, Virginia, this 3rd day of June, 2020.

VMtg-PC-June-res

ITEM SUMMARY

DATE: 6/3/2020

TO: The Planning Commission

FROM: Paul D. Holt, III, Secretary

SUBJECT: Minutes of the May 6, 2020 Regular Meeting

ATTACHMENTS:

	Description	Type
	Minutes of the May 6, 2020 Regular Meeting	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	5/27/2020 - 9:28 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 9:28 AM
Publication Management	Daniel, Martha	Approved	5/27/2020 - 9:40 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 9:43 AM

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
May 6, 2020
6:00 PM

A. CALL TO ORDER

Mr. Rich Krapf called the meeting to order at 6:00 p.m.

1. This meeting will be held electronically pursuant to a Continuity of Government Ordinance adopted by the Board of Supervisors on April 14, 2020. Citizens may attend and participate in the electronic meeting via Zoom at: <https://zoom.us/j/92299519599?pwd=cStlZDgwVmtwT2lnTkNZaDI2K0FHdz09>, or dial any of the following numbers for listen-only audio of the meeting: 929-205-6099, 312-626-6799, 301-715-8592, 346-248-7799, 669-900-6833, or 253-215-8782 using Webinar ID: 922 9951 9599. To attend the meeting via Zoom, please call 757-253-6750 for the meeting password. Citizen comments may be submitted via US Mail to the Planning Commission Secretary, PO Box 8784, Williamsburg, VA 23187, via electronic mail to community.development@jamescitycountyva.gov, or by leaving a message at 757-253-6750. Any public comment received through the above means will be shared at the meeting. Citizens using the link above who would like to speak during public comment and any public hearing will also be able to speak during those times.
2. Zoom Meeting Instructions

B. ROLL CALL

Planning Commissioners Present:

Jack Haldeman
Rich Krapf
Tim O'Connor
Frank Polster
Julia Leverenz
Rob Rose
Barbara Null

Staff Present:

Paul Holt, Director of Community Development and Planning
Max Hlavin, Deputy County Attorney
Christy Parrish, Zoning Administrator
Thomas Wysong, Senior Planner
Thomas Leininger, Planner

1. Virtual Meeting Resolution

A motion to Approve was made by Jack Haldeman, the motion result was Passed.
AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: Haldeman, Krapf, Leverenz, Null, O'Connor, Polster, Rose

Mr. Krapf provided a summary of the resolution allowing the Planning Commission to hold the virtual meeting.

Mr. Jack Haldeman made a motion to approve the resolution.

On a roll call vote the Commission voted to approve the resolution. (7-0)

C. PUBLIC COMMENT

Mr. Krapf opened Public Comment.

As no one wished to speak, Mr. Krapf closed Public Comment.

D. REPORTS OF THE COMMISSION

(Secretary's Note: The Reports of the Commission were given under the Planning Commission Discussion and Requests agenda item.)

E. CONSENT AGENDA

1. Minutes of the April 1, 2020 Regular Meeting
2. S-0046-2015. Colonial Heritage Deer Lake Estates Construction Plan

Ms. Julia Leverenz made a motion to approve the Consent Agenda.

On a voice vote, the Commission voted to approve the Consent Agenda. (7-0)

F. PUBLIC HEARINGS

1. SUP-20-0005. 230 Peach St. Tourist Home

A motion to Approve was made by Jack Haldeman, the motion result was Passed.

AYES: 4 NAYS: 3 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Polster, Rose

Nays: Leverenz, Null, O'Connor

Mr. Tom Leininger, Planner, stated that Mr. Gary Campbell has applied for a Special Use Permit (SUP) to allow for the short-term rental of an entire 4-bedroom home located at 230 Peach Street. Mr. Leininger stated that this use is considered a Tourist Home because the owner will live off-site during the time of rentals. Mr. Leininger stated that the property is zoned A-1, General Agriculture, is designated Economic Opportunity in the Comprehensive Plan, and is located outside the Primary Service Area (PSA).

Mr. Leininger stated that if the SUP is granted, it would allow short-term rentals of three of the four bedrooms throughout the year. Mr. Leininger further stated that the applicant can receive approval to rent the fourth bedroom once approval is granted by the Virginia Department of Health (VDH). Mr. Leininger stated that the home is currently occupied by the applicant and would be rented out when the applicant is not in residence. Mr. Leininger stated that no

changes to the footprint of the home are proposed.

Mr. Leininger stated that staff considered the home's location, parking provisions, and appearance to be favorable factors in the evaluation of this application. Mr. Leininger further stated that staff is recommending conditions intended to mitigate the impacts of the use and preserve the residential character of the home. Mr. Leininger stated that any future expansions of the use would require an SUP amendment.

Mr. Leininger stated that staff finds the proposal to be compatible with the Comprehensive Plan, Zoning Ordinance, and surrounding development, and recommends that the Planning Commission recommend approval of this application subject to the proposed conditions.

Ms. Leverenz inquired about a discrepancy in the number of bedrooms to be rented.

Mr. Leininger stated that the proposal is to rent three bedrooms with the possibility of renting a fourth bedroom if approved by the state.

Mr. Krapf called for disclosures from the Commission.

There were no disclosures.

Mr. Krapf opened the Public Hearing.

Mr. Krapf inquired if any public comments or speaker cards were submitted for this application.

Mr. Holt stated that no speaker cards or public comments had been submitted.

As no one wished to speak, Mr. Krapf closed the Public Hearing.

Mr. Krapf opened the floor for discussion by the Commission.

Ms. Null inquired about management of the property when the owner was away.

Mr. Gary Campbell, 230 Peach Street, Applicant, clarified that the house has only three bedrooms currently and that the possible fourth bedroom is unfinished, but may be considered for use at a future time. Mr. Campbell further stated that the property is owned by his parents. Mr. Campbell stated that he and his wife would be managing the property.

Mr. Haldeman sent a message to Mr. Krapf via the Zoom meeting chat function to let him know that the Reports of the Commission had been omitted.

Mr. Rob Rose inquired about how the SUP conditions would be enforced if the application is approved.

Mr. Holt stated that some of the items are required prior to a business license being issued, and others are enforced on a complaint based system. Mr. Holt further stated that at current staffing levels, it is not feasible to do regular follow-up; however, complaints are investigated and the SUP conditions can be enforced.

Mr. Tim O'Connor stated that he remains steadfast in the opinion that short-term rentals are not in keeping with the goals of the Comprehensive Plan. Mr. O'Connor further stated that the property is adjacent to the railroad tracks and is located on an unimproved road which does not represent the County well for visitors to the area. Mr. O'Connor stated that he cannot continue to support these types of applications.

Mr. Haldeman made a motion to recommend approval of the application with the conditions recommended in the staff report.

On a roll call vote the Commission voted to recommend approval of SUP-20-0005. 230 Peach St. Tourist Home. (4-3)

2. SUP-20-0007. 805 Arlington Island Road Tourist Home

A motion to Approve was made by Frank Polster, the motion result was Passed.

AYES: 4 NAYS: 3 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Polster, Rose

Nays: Leverenz, Null, O'Connor

Mr. Tom Leininger, Planner, stated that Mr. Michael Hipple has applied for an SUP to allow for the short-term rental of an entire four-bedroom home located at 805 Arlington Island Road. Mr. Leininger stated that this use is considered a Tourist Home because the owner will live off-site during the time of rentals. Mr. Leininger stated that the property is zoned A-1, General Agriculture, is designated Rural Lands in the Comprehensive Plan, and is located outside the PSA.

Mr. Leininger stated that if this SUP is granted, it will allow short-term rentals of two of the three bedrooms throughout the year. Mr. Leininger further stated that the applicant can receive approval of the third bedroom once approval from the Virginia Department of Health for the third bedroom is submitted. Mr. Leininger stated that no changes to the footprint of the home are proposed.

Mr. Leininger stated that staff considered the home's location, parking provisions, and appearance to be favorable factors in the evaluation of this application. Mr. Leininger further stated that staff is recommending conditions intended to mitigate the impacts of the use and preserve the residential character of the home. Mr. Leininger stated that any future expansions of the use would require an SUP amendment.

Mr. Leininger stated that staff finds the proposal to be compatible with the Comprehensive Plan, Zoning Ordinance, and surrounding development, and recommends that the Planning Commission recommend approval of this application to the Board of Supervisors subject to the proposed conditions.

Ms. Leverenz inquired who would be responsible for maintaining the property.

Mr. Leininger stated that the applicant would be responsible for the property and resides on the parcel just to the east of the subject property.

Mr. Krapf called for disclosures from the Commission.

There were no disclosures.

Mr. Krapf opened the Public Hearing.

Mr. Michael Hipple, 821 Arlington Island Road, stated that he lives adjacent to the subject property and would be overseeing the rentals. Mr. Hipple stated that the home was purchased with the understanding that it is a three-bedroom dwelling; however, the Virginia Department of Health (VDH) has it designated as only two bedrooms. Mr. Hipple stated that he has

initiated a review of the septic system and once it is confirmed to be satisfactory, the necessary information will be submitted to VDH for their guidance and action. Mr. Hipple stated that the property is in a wooded setting and there is a substantial buffer between the subject property and the adjacent properties. Mr. Hipple stated that his purpose in making the property available to rent is to provide tourists with an opportunity to experience and enjoy the rural character of the County with the natural setting and abundant wildlife.

Mr. Krapf inquired if any public comments or speaker cards were submitted for this application.

Mr. Holt stated that no speaker cards or public comments had been submitted.

As no one wished to speak, Mr. Krapf closed the Public Hearing.

Mr. Krapf opened the floor for discussion by the Commission.

Mr. Polster noted that short-term rentals have been the subject of many discussions over the last two years. Mr. Polster noted that the difficulty with these applications is not having sufficient criteria to guide consideration of the applications. Mr. Polster further stated that he hopes the criteria that is ultimately developed for evaluating short-term rentals will take into account the nature of the area and the opportunity for visitors to experience something different.

Ms. Leverenz stated that there have been a number of these applications recently. Ms. Leverenz stated that it is necessary to consider whether approval would set a precedent and how the use of the property would affect the affordable housing stock. Ms. Leverenz further stated that she believes it is time to take an in-depth look at how these applications should be evaluated. Ms. Leverenz further stated that she concurs with the idea of placing a time limit on the SUP so that it could be re-evaluated periodically. Ms. Leverenz stated that she would reluctantly oppose this application.

Mr. Krapf stated that he relies on the Comprehensive Plan and the existing guidelines to evaluate the applications. Mr. Krapf stated that he finds the application to be in keeping with both the Comprehensive Plan and the existing guidelines. Mr. Krapf stated that he does concur with the need to look at regulations for Tourist Homes and Rental of Rooms as part of the 2040 Comprehensive Plan review. Mr. Krapf stated that he will support this application based on the existing criteria.

Mr. Polster made a motion to recommend approval of the application with the conditions recommended in the staff report.

On a roll call vote the Commission voted to recommend approval of SUP-20-0007. 805 Arlington Island Road Tourist Home. (4-3)

3. ORD-19-0007. Consideration of Warehouse, Storage, and Distribution Centers in the Mixed Use Zoning District

A motion to Approve was made by Julia Leverenz, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Leverenz, Null, O'Connor, Polster, Rose

Mr. Thomas Wysong, Senior Planner, stated that on August 13, 2019, the Board of Supervisors adopted an Initiating Resolution directing staff to explore the impacts of amending

the Zoning Ordinance to either remove warehouses, storage, and distribution centers from the Mixed Use (MU) District or allow this use as a specially permitted use.

Mr. Wysong stated that the Mixed Use Zoning District was added to the Zoning Ordinance in 1992. Mr. Wysong further stated that warehouse, storage, and distribution centers with storage under cover or screened with landscaping from adjacent property” has been consistently listed as a permitted use since the adoption of this district and as a result, there are Mixed Use developments in the County that include this use as a component with self-storage being the most prominent example.

Mr. Wysong stated that staff finds that warehouse, storage, and distribution centers are not a use that most fully fulfills the intent of the Mixed Use District which is to promote multiuse, master planned communities characterized by convenient and harmonious groupings of uses, structures, facilities, open space, and pedestrian walkways and/or bicycle paths. Mr. Wysong stated that it is; however, possible that the County could receive a proposal in which this use is appropriately scaled, designed and fittingly located as one component within a Mixed Use development and could potentially serve as a support use for other uses allowed in the Mixed Use District, such as light industrial or research and development uses. Mr. Wysong stated that if this use were to be removed from the district, such applications could not be submitted. Mr. Wysong further stated that if the County were to reclassify “warehouse, storage, and distribution centers with storage under cover or screened with landscaping from adjacent property” from a permitted use to a specially permitted use, existing facilities that fall under this category would become legally non-conforming. Future expansion of existing facilities could be approved, but only through an SUP. Mr. Wysong stated that new facilities on existing Mixed Use zoned land could also be pursued but only through the SUP process. Mr. Wysong further stated that for existing Mixed Use developments in which warehouse and storage uses are shown on the Master Plan, this would create an additional public review that would allow for the County to consider whether this use is appropriate and put in place the appropriate conditions needed to mitigate negative impacts.

Mr. Wysong stated that staff presented this analysis to the Policy Committee at its November 14 and December 12 meetings in 2019. Mr. Wysong stated that the Policy Committee voted unanimously to forward the draft language to the Planning Commission for review.

Mr. Wysong stated that staff recommends that the Planning Commission recommend approval of the Ordinance Amendment to the Board of Supervisors.

Mr. Krapf opened the Public Hearing.

Mr. Krapf inquired if any public comments or speaker cards were submitted for this application.

Mr. Holt stated that no speaker cards or public comments had been submitted.

As no one wished to speak, Mr. Krapf closed the Public Hearing.

Ms. Leverenz made a motion to recommend approval of the Ordinance Amendment.

On a roll call vote, the Commission voted to recommend approval of ORD-19-0007. Consideration of Warehouse, Storage, and Distribution Centers in the Mixed Use Zoning District. (7-0)

4. ORD-20-0003. Consideration of Amendments to the Zoning Ordinance Regarding Inoperative Motor Vehicles and Oversized Vehicles

A motion to Approve was made by Barbara Null, the motion result was Passed.
AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0
Ayes: Haldeman, Krapf, Leverenz, Null, O'Connor, Polster, Rose

Ms. Christy Parrish, Zoning Administrator, stated that the proposed Zoning Ordinance Amendments are designed to address two issues: the keeping of inoperative motor vehicles on residential, agricultural and commercial properties and the keeping of oversized vehicles in residential areas.

Ms. Parrish stated that to effectively address inoperative motor vehicles, the County requested and received a Charter Amendment from the 2019 General Assembly. Ms. Parrish further stated that this Charter Amendment grants additional authority to the County under Section 15.2-905 of the Code of Virginia to regulate the keeping of inoperative motor vehicles on residential, commercial, and agricultural zoned properties two acres in area or smaller.

Ms. Parrish stated that currently, the Zoning Ordinance regulates inoperable vehicles which are not shielded or screened from view in areas zoned residential or commercial. Ms. Parrish stated that properties zoned A-1, General Agricultural, may have up to five inoperable vehicles. Ms. Parrish stated that properties with more than five inoperable vehicles would constitute a vehicle graveyard.

Ms. Parrish stated that an inoperative vehicle, which is not shielded or screened from view, is defined as any motor vehicle which is not in operating condition or which for a period of 60 days or longer, has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for the operation of the vehicle, or on which there are displayed neither valid license plates nor a valid inspection decal.

Ms. Parrish stated that the recent Charter Amendment permits additional authority which allows James City County to regulate inoperative vehicles for properties zoned agricultural less than two acres and vehicles which do not display a valid license plate or valid inspection. Ms. Parrish stated that this change will allow staff to more effectively address citizen complaints received which will enhance and protect the visual character of the community.

Ms. Parrish stated that the substantive changes propose to incorporate the additional authority to regulate inoperative motor vehicles for properties zoned agricultural and less than two acres and for those vehicles which do not display a valid license plate or valid inspection. Ms. Parrish stated that the changes will: separate the inoperative motor vehicle definition into two subsections and added properties zoned for agricultural less than two acres; redefine language for inoperative motor vehicles to mean any motor vehicle which is not in operating condition or does not display valid license plates or does not display any inspection decal that is valid for more than 60 days for properties less than two acres in size and zoned for agricultural, residential, or commercial purposes; add a definition of "shielded or screened from view" to mirror State Code; and clarify that the civil penalty applies only to inoperative motor vehicles located on properties zoned for residential or commercial purposes. Ms. Parrish further stated that it is important to mention that the County does not regulate the keeping of vehicles that are under active restoration, shielded from view, or vehicles bearing Antique or Farm Use license plates issued by the Department of Motor Vehicles.

Ms. Parrish stated that the second part of this Zoning Ordinance amendment addresses oversized vehicles.

Ms. Parrish stated that over the years, staff has received various concerns and complaints with the parking and keeping of oversized vehicles on properties zoned for residential purposes.

Ms. Parrish noted that complaints include parking large dump trucks and tractor trailer trucks on property in residential neighborhoods when they are not in use. Ms. Parrish stated that at this time the Zoning Ordinance does not address this issue and has limited ability to address the concerns when the oversized vehicle is not associated with a business activity on the property. Ms. Parrish stated that during the review, it was determined that an update to the Zoning Ordinance to address this issue will only apply to private property. Ms. Parrish stated that staff discussed concerns with parking oversized vehicles along the rights-of-way in residential areas with County Administration, the County Attorney's Office, and the Police Department. Ms. Parrish stated that it was determined that Chapter 13, Motor Vehicles and Traffic should also be reviewed.

Ms. Parrish stated that the recommended changes to the Zoning Ordinance to establish regulations for the parking of certain oversized vehicles on private property zoned for residential purposes includes: renaming and incorporating regulations into Section 24-37; identifying the certain oversized vehicle types that are being regulated; and listing exceptions to common and expected parking of oversized vehicles in residential areas.

Ms. Parrish stated that it is important to note that staff is not recommending any regulations when an oversized vehicle(s) is located and used on a farm, parked near the location where it used for work, or parked temporarily for loading or unloading items.

Ms. Parrish stated that the changes to Chapter 13, Motor Vehicles and Traffic include: creating Section 13-36.1 Restricted parking in certain areas; defining oversized vehicle; and listing exceptions to common and expected parking of oversized vehicles along public rights-of-way in residential districts.

Ms. Parrish stated that it is important to note that the proposed amendment will prohibit the parking of certain types of vehicles along residential streets County-wide.

Ms. Parrish stated that at its December 12, 2019 meeting, the Policy Committee reviewed the draft Ordinance language and voted 3-0 to approve the amendments.

Ms. Parrish stated that staff recommends the Planning Commission recommend approval of the attached Ordinance revisions to the Board of Supervisors.

Mr. Krapf opened the Public Hearing.

Mr. Krapf inquired if any public comments or speaker cards were submitted for this application.

Mr. Holt stated that no speaker cards or public comments had been submitted.

As no one wished to speak,

Mr. Krapf closed the Public Hearing.

Ms. Null made a motion to recommend approval of the Ordinance Amendment.

On a roll call vote the Commission voted to recommend approval of ORD-20-0003. Consideration of Amendments to the Zoning Ordinance Regarding Inoperative Motor Vehicles and Oversized Vehicles. (7-0)

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for Planning Commission Consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - May 2020

Mr. Holt stated that he did not have anything in addition to what was provided in the Agenda Packet.

Mr. Holt stated that he wanted to express his appreciation to staff who have provided the support for the electronic meeting.

Mr. Krapf stated that he echoed that appreciation on behalf of the Commission.

Mr. Haldeman inquired if there was a reason that Reports of the Commission had been omitted.

Mr. Krapf thanked Mr. Haldeman for the reminder.

Mr. Krapf stated that the Reports of the Commission would be addressed during the Planning Commission Discussion and Requests.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Krapf called on Mr. Polster for the Policy Committee report.

Mr. Polster stated that the Policy Committee will meet on May 14, 2020.

Mr. Krapf called on Mr. Haldeman for the Development Review Committee (DRC) report.

Mr. Haldeman stated that the DRC met electronically under the County's Continuity of Government Resolution on April 22, 2020.

Mr. Haldeman stated that the Committee considered Case No. C-20-0034. 3889 News Road Ford's Bluff, a proffer and master plan amendment to Z-0008-2007, The Village at Ford's Colony. Mr. Haldeman stated that this area is south of the Firestone Road entrance into Ford's Colony and located on News Road between its intersections with Centerville Road and Monticello Avenue. Mr. Haldeman stated that the property is approximately 180 acres and is currently zoned R-4 and is designated Low Density Residential by the 2035 Comprehensive Plan. Mr. Haldeman stated that the applicant submitted a conceptual master plan, land use narrative, and brochure detailing the plans to use green building techniques and adjust the footprint of the development to allow for more open space. Mr. Haldeman stated that this item was on the DRC agenda in order to discuss the project and seek input and questions from the DRC members. Mr. Haldeman stated that no action by the DRC was required.

Mr. Krapf noted that the Joint Work Session with the Board of Supervisors on May 26, 2020 would most likely be canceled.

Mr. Krapf stated that Mr. Haldeman has Board of Supervisors coverage for May.

J. ADJOURNMENT

Ms. Null made a motion to adjourn.

The meeting was adjourned at approximately 6:40 p.m.

Paul D. Holt, III, Secretary

Rich Krapf, Chair

ITEM SUMMARY

DATE: 6/3/2020

TO: The Planning Commission

FROM: John Risinger, Planner

SUBJECT: ORD-19-0005. Consideration of Amendments to the Zoning Ordinance to Address Combat Tactical Training Facilities

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Attachment 1. Draft Ordinance	Ordinance
☐	Attachment 2. Initiating Resolution	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	5/27/2020 - 1:23 PM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 1:23 PM
Publication Management	Daniel, Martha	Approved	5/27/2020 - 1:30 PM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 1:35 PM

M E M O R A N D U M

DATE: June 3, 2020

TO: The Planning Commission

FROM: John Risinger, Planner

SUBJECT: ORD-19-0005. Consideration of Amendments to the Zoning Ordinance to Address Combat Tactical Training Facilities

Introduction

At its July 9, 2019 meeting, the Board of Supervisors requested the County Attorney to prepare an Initiating Resolution to consider an amendment to the Zoning Ordinance to exclude combat tactical training facilities as a permitted use in Agricultural and Residential Districts and to evaluate its appropriateness as a specially permitted use within the General Industrial (M-2) District. The Board of Supervisors cited concerns which included public safety and noise impacts. On August 13, 2019, the Board of Supervisors adopted the Initiating Resolution.

Combat tactical training facilities are designed for military style simulations which may include shooting ranges, evasive driving courses, and other training activities. This type of facility is commonly located on military bases to train service members for the United States Armed Forces or other federal agencies. In recent years, Virginia localities have received development proposals from private companies for commercially oriented combat tactical training facilities.

Overview

The Initiating Resolution directed staff to prepare Ordinance language which would exclude combat tactical training facilities as a permitted use in Agricultural and Residential Zoning Districts. Staff reviewed development proposals and Ordinance language from other localities in Virginia. Staff determined that a definition could be created for combat tactical training facilities without listing it in any zoning district use list. Since the Zoning Ordinance is exclusionary in nature, combat tactical training facilities would not be allowed in any zoning district where the use is not listed as a permitted or specially permitted use.

The Initiating Resolution also directed staff to evaluate the appropriateness of including combat tactical training facilities as a specially permitted use in the M-2 District. The primary purpose of the M-2 District is to “establish an area where the principal use of land is for industrial operations which are not compatible with residential or commercial service establishments.” Staff determined that combat tactical facilities would not fulfill the intent of the M-2 District since it is not an industrial use.

Staff presented Phase I materials at the January 9, 2020 meeting of the Policy Committee. Staff recommended creating a definition for combat tactical training facilities within Section 24-2, Definitions, and not listing it as a permitted or specially permitted use within Agricultural and Residential Zoning Districts. Staff also recommended not including combat tactical training facilities as a specially permitted use in the M-2 District since the use does not match the intent of the district. At that meeting, the Policy Committee concurred with staff’s recommendations and directed staff to develop a draft definition for review.

Staff presented a draft definition for combat tactical training facilities at the March 12, 2020 meeting of the Policy Committee. The definition specified that it would not apply to facilities operated by government

agencies or certain currently permitted uses. The Policy Committee discussed the definition and directed staff to prepare a draft Ordinance using the draft definition language as presented.

Staff presented the draft Ordinance at the May 14, 2020 meeting of the Policy Committee. The Policy Committee recommended approval of the Ordinance to the Planning Commission.

Recommendation

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

JR/md
ORD19-5CmbtTact-mem

Attachments:

1. Draft Ordinance
2. Initiating Resolution

ORDINANCE NO. _____

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

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:

Collocation. The mounting or installation of transmission equipment on an existing tower or existing base station for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Combat tactical training facility. A commercial use designed to train in mission simulations or any combination of anti-terrorism, counter-terrorism, or force protection operations. Such use generally includes one or more of the following items:

- (1) Use of military or paramilitary weapons, including outdoor firearms ranges utilizing automatic and/or semiautomatic weapons.
- (2) Combat training with real or simulated use of firearms or other military weapons systems.
- (3) Military tactical training area.
- (4) Use of real or simulated explosive devices.
- (5) Use of mock high impact firearms blast or simulated rocket-propelled grenades.
- (6) Unenclosed shoot house.
- (7) Evasive driving courses with or without the use of real or simulated firearms.

This definition shall not apply to hunting preserves or clubs, indoor or outdoor firing and shooting ranges, racetracks for animals or vehicles, indoor or outdoor sports facilities, schools, and facilities operated by local regional, state, or federal government agencies.

Commission, the. The planning commission of James City County, Virginia.

ORD19-5CmbtTact-ord

RESOLUTION

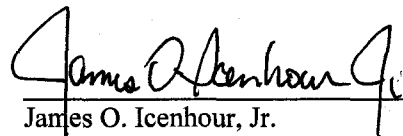
INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE TO

ADDRESS COMBAT TACTICAL TRAINING FACILITIES

WHEREAS, Virginia Code § 15.2-2286(A)(7) and County Code § 24-13 permits the Board of Supervisors of James City County, Virginia (the "Board") to, by resolution, initiate amendments to the regulations of the Zoning Ordinance that the Board finds to be prudent; and

WHEREAS, the Board is of the opinion that the public necessity, general welfare, and good zoning practice warrant the consideration of amendments to the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of James City County Code, Chapter 24, Zoning, to define combat tactical training facilities, to exclude combat tactical training facilities as a permitted use in agricultural and residential districts, and evaluate the appropriateness of including combat tactical training facilities in the M-2, General Industrial District as a specially permitted use. The Planning Commission shall hold at least one public hearing on the consideration of amendment of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.


James O. Icenhour, Jr.
Chairman, Board of Supervisors

ATTEST:


Teresa Fellows
Deputy Clerk to the Board

HIPPLE
LARSON
SADLER
MCGLENNON
ICENHOUR

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
☒	☐	☐
☒	☒	☐
☒	☐	☐
☒	☐	☐
☒	☐	☐

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of August, 2019.

ZO-CombtTacFac-res

ITEM SUMMARY

DATE: 6/3/2020

TO: The Planning Commission

FROM: Tom Leininger, Planner

SUBJECT: ORD-20-0008. Proposed Ordinance and Policy Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Final Draft_CATS Sec. 24-2 Definitions	Ordinance
☐	Final Draft_DIVISION_6._COMMUNICATIONS_FACILITIES	Ordinance
☐	Draft Ordinance Language Use list for each Zoning District	Ordinance
☐	Wireless Communication Facilities Va. Code §§ 15.2-2316.3 to -2316.5	Backup Material
☐	Policy Meeting Minutes_2020_2_13_Meeting	Backup Material
☐	Draft Amendments to Performance Standards for CATS Policy	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	5/27/2020 - 10:58 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 10:58 AM
Publication Management	Burcham, Nan	Approved	5/27/2020 - 11:05 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 11:06 AM

MEMORANDUM

DATE: June 3, 2020

TO: The Planning Commission

FROM: Tom Leininger, Planner

SUBJECT: ORD-20-0008. Proposed Ordinance and Policy Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities

In 2017 and 2018, the General Assembly passed legislation requiring changes to how local Zoning Ordinances may treat applications for wireless communications facilities. Those State Code changes, combined with recent Federal Communications Commission (FCC) decisions regarding facilities intended to support the deployment of 5G technology, continue to effectively erode local zoning authority. As in 2016, James City County will need to once again update its Zoning Ordinance to be consistent with state and federal requirements.

The 2035 Comprehensive Plan lends support to these possible Ordinance amendments through goals, strategies, and actions in the Community Character (CC) Section. CC 7.1 states that the County should “update the Wireless Communications Division of the Zoning Ordinance as necessary to accommodate the use of new and emerging wireless communications services.”

At the December 13, 2018 Policy Committee meeting, staff introduced a brief summary of the new legislation to the Policy Committee.

At the May 9, 2019 Policy Committee meeting, staff summarized the differences between the current Zoning Ordinance and the changes that would need to be made to comply with State Code changes. Staff introduced the different facility types and application types covered in the new regulation. The Policy Committee advised staff to revise the Zoning Ordinance to comply with State Code.

At the November 14, 2019 Policy Committee meeting, staff presented the draft Ordinance for both definitions and Division 6 of the Zoning Ordinance. The Committee had no comments or suggested changes to the draft Ordinance language.

At its December 4, 2019 meeting, the Planning Commission adopted the Initiating Resolution by a vote of 6-0.

At its February 13, 2020 meeting, the Policy Committee reviewed the draft Ordinance language and provided several suggested revisions along with changes to the Performance Standards for Communications Facilities, Antennas, Towers, and Support Structures (CATS) Policy. Following this discussion, the Committee voted 3-0 to recommend approval, with inclusion of language regarding the ability of localities to deny certain applications as specified in House Bill 554, pending the approval of House Bill 554.

As a reminder of the revisions presented at the last meeting, staff has provided draft Ordinance language to Section 24-2 - Definitions to ensure that the Zoning Ordinance complies with State Code. As shown in Attachment No. 1, the draft language has revised the definitions section to incorporate new terms and also redefined terms to better align with State Code.

Staff has also proposed a series of updates to Division 6 - Communication Facilities including changing the title of Section 24-122(a) to “antenna application types” instead of “antenna mounting.” The new text

provides five different applications under which a wireless facility could be reviewed. The Standard Process Projects are the wireless facilities that already exist in the Zoning Ordinance and have limited revisions to their sections. Two additional application types have been added to the Ordinance, small cell facilities, and administrative review-eligible projects (AREP). These projects have specific criteria that set them apart from the Standard Process Projects. Both the small cell and the AREP applications are permitted in all zoning districts, as required by State Code.

These applications consist of the following:

- Small Cell Facilities: A communication facility to be installed on an existing structure that meets a specific size requirement as defined in the definitions section.
- AREP: The installation of a new structure not more than 50 feet above the ground level, provided that the structure with attached communication facilities meets the requirements defined in the definitions section. Additionally, AREPs can be co-located on any existing structure of a communications facility that is not a small cell facility.

As shown in Attachment No. 2, staff also proposed revisions to Sections 24-121 through 24-128.1 in Division 6 to align with the requirements of State Code. The revisions include specific criteria for each of the application types as part of the submittal requirements, public safety considerations to comply with the FCC, fee requirements for small cell and AREP applications, and staff review timelines for specific applications.

To ensure all districts aligned with new requirements of State Code, each Zoning District Use List was amended to ensure that the application types have the correct process according to new State Code and FCC regulations (Attachment No. 3). The Use List descriptions were simplified to affirm Division 6 as the one-stop reference for applicable processes and regulations.

Additionally, staff proposed changes to the policy titled “Performance Standards for Communications Facilities, Antennas, Towers, and Support Structures (CATS) That Require a Special Use Permit,” dated November 8, 2016, and endorsed by the Board of Supervisors (Attachment No. 6). The amendments to the policy include removing text that is covered by the Zoning Ordinance and removing text that is prohibited by State Code.

Prior to the final Policy Committee meeting, the County’s legal consultant reviewed the draft Ordinance and definition changes for consistency with the Virginia State Code and FCC regulations. That review produced additional minor edits clarifying the timelines for application reviews in Section 24-128(c), and added additional definitions. Other than these minor adjustments, which have been incorporated in the attached text, the legal consultant review indicated the proposed Ordinance conformed with state and federal regulations.

RECOMMENDATION

Staff recommends that the Planning Commission recommended approval of the attached draft Ordinance and policy amendments to the Board of Supervisors.

Attachments:

1. Draft Ordinance Language - Section 24-2 (Definitions)
2. Draft Ordinance Language - Division 6 - Communications Facilities Sections 24-121 through 24-128.1
3. Draft Ordinance Language - Use List for each Zoning District
4. Wireless Communication Facilities Va. Code §§ 15.2-2316.3 to -2316.5
5. Minutes from the February 13, 2020 Policy Committee Meeting
6. Draft Amendments to Performance Standards for CATS Policy

Sec. 24-2. - Definitions.

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

A

Administrative review-eligible project (AREP). Solely for the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, either:

(1) *The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached communications facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; and (iii) designed to support small cell facilities (referred to as "AREP-1"); or*

(2) *The co-location on any existing structure of a communications facility that is not a small cell facility (referred to as "AREP-2").*

Antenna. A device of which the surface is used to capture an incoming and/or to transmit an outgoing radio-frequency signal. Antennas shall include the following types:

- (1) Omni directional (or 'whip') antenna. An antenna that receives and transmits signals in a 360-degree pattern.
- (2) Directional (or 'panel') antenna. An antenna that receives and transmits signals in a directional pattern typically encompassing an arc of 120 degrees.
- (3) Dish (or parabolic) antenna. A bowl shaped device, less than two meters in diameter, that receives and transmits signals in a specific directional pattern.

B

Base station. For the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, base station shall be defined as a structure or equipment at a fixed location that enables Federal Communications Commission (FCC)-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein or any equipment associated with a tower. Base stations include, without limitation:

- (1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless service and fixed wireless services such as microwave backhaul.
- (2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration, including distributed antenna systems and small-cell networks.
- (3) Any structure other than a tower that, at the time the relevant application is filed with the county, supports or houses equipment described in paragraphs (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support. The term does not include any structure that, at the time the relevant application is filed with the county, does not support or house equipment described in paragraphs (1) and (2) of this definition.

C

CATS. Acronym for Communications facilities, Antennas, Towers and/or Support structures, each of which is separately defined in this section.

Co-location. The mounting, ~~or installation, maintenance, modification, operation, or replacement of communications facilities on, under, within, or adjacent to a base station, building, existing structure, utility pole, or support structure of transmission equipment on an existing tower or existing base station~~ for the purpose of transmitting and/or receiving radio frequency signals ~~or other wireless data~~ for communications purposes. "Co-locate" has a corresponding meaning.

Communications facility. ~~A facility for the transmission or reception of radio signals licensed or authorized by the FCC, including facilities associated with radio and television broadcasting. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.~~ Communications facilities shall not include facilities used for transmitting or receiving signals by governmental agencies or amateur radio or citizens band radio.

Concealment element. Any condition of approval, including any applicable requirements of article II, special regulations, division 6, communications facilities, antennas, towers and support structures, in effect at the time of approval, established and imposed on a communications facility as a concealment technique designed to render the facility minimally visible to the casual observer or otherwise not having the appearance of an antenna or a tower, including conditions or regulations pertaining to antenna size, color of the structure and all equipment, antenna mounting techniques, maximum tower diameters, limitations on tower height relative to a reference tree, screening by trees, including the restrictions on removing trees that are screening the tower, and the size, location, design and screening for ground based equipment.

E

Eligible facilities request. Any request for modification of an existing tower or existing base station that does not substantially change the physical dimensions of such tower or base station, involving:

- (1) ~~Co-location of new transmission equipment~~ *communications facilities.*
- (2) ~~Removal of transmission equipment~~ *communications facilities.*
- (3) ~~Replacement of transmission equipment~~ *communications facilities.*

Eligible support structure. Any tower or base station, provided that it is existing at the time the relevant application is filed with the county.

Equipment enclosure. A small building, cabinet, or vault used to house and protect the electronic equipment necessary to process wireless communications signals. Associated equipment may include air conditioners and emergency generators.

Existing. Having been reviewed and approved under the applicable zoning process. A tower or base station that has not been reviewed and approved because it was not required to be reviewed when it was built, but was lawfully constructed, shall also be deemed "existing."

Existing structure. (i) Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall mean structures for which the start of construction commenced before the effective date of the FIRM on or before February 6, 1991. (ii) *Solely for the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures only, this term shall mean any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to the locality of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that*

is currently supporting, designed to support, or capable of supporting the attachment of communications facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

H

Historic and scenic resource area. Land managed by Colonial Williamsburg, the Jamestown-Yorktown Foundation, the National Park Service, York River State Park, the Virginia Association for Preservation of Antiquities, the Williamsburg Land Conservancy, or properties listed in the National Register, Virginia Historic Landmarks Register, or locally designated historic structures or districts, or Community Character Areas as defined in the Comprehensive Plan.

Historic structure. Solely for the purposes of Article VI, Overlay District, Division 3, Floodplain Area Regulations, this term shall also mean any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation program which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

M

Micro-wireless facility. A small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

Monopole. A communications facility tower used to deploy antennas defined as self-supporting with a single shaft of wood, steel or concrete.

Multi-antenna system. Communications facilities networked together and connected to a wireless service source so that one or more multiple provisioning (high-powered) antennae which would normally be mounted on a tower to serve a given area are replaced or prevented by a group of lower-power antennas to serve the same geographic area.

Multiple provisioning antenna. Antennas used as part of an overall network such as distributive antenna systems that transmit and/or receive radio signals from multiple points and multiple users in a prescribed geographic area.

N

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

P

Portable cellular transmission facility (PCTF). A portable, self contained transmission tower that can be moved to a location and set up to provide wireless service on a temporary or emergency basis. A PCTF is normally vehicle-mounted and may contain a telescoping boom as the antenna support structure. PCTFs

include, but are not limited to, Cells-on-Wheels (COW), Site-on-Wheels (SOW), Cell in a Box (CIAB) and Cell on Light Trucks (COLT) or other portable devices as determined by the zoning administrator.

R

Radio frequency (RF) report. A statement from a registered engineer demonstrating that electromagnetic radiation emitted from communications facilities, including all facilities that may already be attached, does or does not result in "public" exposure level outside the communications facilities that exceeds relevant FCC standards.

S

Scenic resource corridor. Community Character Corridors as defined in the Comprehensive Plan; Virginia Byways.

Small cell facility. A communications facility installed on an existing structure that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other transmission equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

Slick stick. A monopole where all antenna arrays are concealed within the tower.

Substantial change. For the purposes of article II, special regulations, division 6, communications facilities, antennas, towers and support structures, substantial change shall be defined as modification to an eligible support structure which meets any of the following criteria:

- (1) *Increase in height.* For towers other than towers in the public rights-of-way, the modification increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, the modification increase the height of the structure by more than ten percent or more than ten feet, whichever is greater. Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on building rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.
- (2) *Increase in width.* For towers other than towers in the public rights-of-way, the modification involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, the modification involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet.
- (3) *Excessive equipment cabinets.* For any eligible support structure, the modification involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public-rights-of-way and base stations, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure.

- (4) *Expands tower site.* The modification entails any excavation or deployment outside the current site.
- (5) *Defeats concealment elements.* The modification would defeat the concealment elements of the eligible support structure.
- (6) *Does not comply with conditions of approval.* The modification does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in paragraphs (1) through (4) of this section.

Support structure. The structure to which antenna and other necessary hardware is mounted. Support structures shall include the following:

- (1) *Tower.* A pole or latticed structure designed for the attachment of one or more FFC-licensed or -authorized antenna as the primary use of the structure. This term does not include a base station.
- (2) *Alternative mounting structure.* Light poles, utility transmission structures, water towers, buildings, and other structures other than towers or camouflaged communications facilities which are not primarily designed to support antenna nor are designed taller in order to accommodate antenna.
- (3) *Camouflaged structure.* Any communications facility disguised or hidden by utilizing concealment elements so that all of its components are unnoticeable to the casual observer, or otherwise not having the appearance of an antenna or a tower.
- (4) *Antenna support structures for multi-antenna systems.* Structures whose primary function is to deploy an antenna as part of a multi-antenna system arrangement.

U

Usable satellite signal. A satellite signal which, when viewed on a conventional television set, is at least equal in picture quality to that received from local commercial television stations by use of an outdoor antenna.

V

Variance. In the application of the zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land, or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

W

Wireless infrastructure provider. Any person that builds or installs transmission equipment, communications facilities, or support structures, but that is not a wireless services provider.

Wireless service. Any service that is (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) provided over "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), to personal

mobile communication devices through communications facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using communications facilities.

Wireless services provider. Any person that provides wireless services.

DIVISION 6. - COMMUNICATIONS FACILITIES

Sec. 24-121. Statement of intent.

The purpose of this article is to provide guidance for the deployment and usage of communications facilities, antennas, towers and/or support structures (CATS).

- (a) The goals for the placement of CATS are to:
 - 1. Protect viewsheds and the scenic beauty of James City County.
 - 2. Deploy CATS in a manner that will not adversely impact property values.
- (b) The objectives for the CATS are to:
 - 1. Ensure that the deployment of CATS will accommodate existing and future technologies by providing sufficient height and facility expansion capabilities to accommodate the needs of the current and future residential, commercial, and industrial marketplace.
 - 2. Ensure all antenna deployments provide substantial coverage area.
 - 3. Promote the use of camouflaged, alternatively mounted and low-rise CATS.

Sec. 24-122. Antenna mounting.

- (a) ~~Antenna mounting categories~~ *CATS application types*.

~~There are five categories of antenna mounting:~~

1. Standard Process Projects:

- a. Tower (see "Support Structure" definition) . Requirements for this mounting category are found in section 24-122(b)(1).*
- ~~2.~~ *b. Alternative Mounting CATS (see "Support Structure" definition). Requirements for this mounting category are found in section 24-122(b)(2).*
- ~~3.~~ *c. Camouflaged CATS (see "Support Structure" definition). Requirements for this mounting category are found in section 24-122(b)(3).*
- ~~4.~~ *d. Multi-Antenna Systems (see "Support Structure" definition). Requirements for this mounting category are found in section 24-122(b)(4).*
- ~~5.~~ *Portable Transmission Facility (PTF) (see "Support Structure" definition). Requirements for this mounting category application type are found in section 24-122(b)(5).*
- 3. Small Cell Facilities, as defined. Requirements for this application type are found in section 24-122(b)(6).*
- 4. Administrative Review-Eligible Projects, as defined. Requirements for this application type are found in section 24-122(b)(7).*
- 5. Eligible Facilities Requests, as defined. Modifications to CATS determined by the planning director to be an eligible facilities request shall be processed in accordance with section 24-128.*

- (b) Communications facilities, antennas, towers and/or support structures.

- 1. Tower-mounted communications facility. Tower-mounted communications facilities shall be allowed as shown on Table 1.

Table 1: Tower mounted communications facilities

Zoning District	Maximum By Right Tower Height	SUP Required
General Agricultural, A-1	Not Permitted	All Towers
Rural Residential, R-8	Not Permitted	All Towers
Limited Residential, R-1	Not Permitted	Not Permitted
General Residential, R-2	Not Permitted	Not Permitted
Residential Redevelopment, R-3	Not Permitted	Not Permitted
Residential Planned Community, R-4 with a designation other than residential on a Board adopted master plan	Not Permitted	All Towers
Residential Planned Community, R-4 with a residential designation on a Board adopted master plan	Not Permitted	Not Permitted
Multifamily Residential, R-5	Not Permitted	Not Permitted
Low-Density Residential, R-6	Not Permitted	Not Permitted
Limited Business, LB	Not Permitted	All Towers
General Business, B-1	≤40'	>40'
Limited Business/Industrial, M-1	≤40'	>40'
General Industrial, M-2	≤40'	>40'
Planned Unit Development, PUD	Not Permitted	All Towers
Mixed Use, MU	Not Permitted	All Towers
Economic Opportunity, EO	Not Permitted	All Towers
Public Lands, PL	≤40'	>40'
Research and Technology District, RT	≤40'	>40'

- a. Tower-mounted communications facilities shall meet the requirements in Table 1 above and the requirements in sections 24-123 through 24-128.1.
2. Alternative mounting structure - CATS. CATS determined by the planning director to be utilizing alternative mounting structures as a concealment element as defined by this ordinance shall be permitted in all zoning districts and shall conform to the following criteria:
 - a. The principal use of the structure to be used for the placement of the antenna shall be for a use not associated with the communications facility as determined by the planning director.

- b. The principal structure shall be permitted in accordance with the height limitations of the underlying zoning district. Height limitation waivers for CATS may be issued by the board of supervisors upon finding that the proposal is in accordance with the criteria identified in the height limitation section of the underlying zoning district. CATS utilizing alternative mounting structures shall conform to the following height requirements:
 - (1) On alternative mounting structures without a height limitation waiver. CATS utilizing alternative mounting structures may be erected to a total height of 60 feet from grade. CATS utilizing alternative mounting structures in excess of 60 feet, but not to exceed 100 feet, from grade may be permitted by issuance of a height limitation waiver from the board of supervisors.
 - (2) On alternative mounting structures with height limitation waiver. CATS utilizing alternative mounting structures may be erected to a total height of 60 feet from grade. Antennas may be erected in excess of 60 feet from grade on structures that have received a height limitation waiver from the board of supervisors. Such antennas shall be permitted by-right provided that the antenna does not exceed the maximum approved height of the structure to which it is mounted. An antenna may be permitted to exceed the maximum approved height of the structure upon issuance of a separate height limitation waiver from the board of supervisors, but shall not exceed a total height of 100 feet from grade.
- c. The antennas mounted on alternative mounting structures shall also conform to the following requirements:
 - (1) All panel antenna shall be no more than five feet measured to the outermost point of the panel antenna from any surface of the existing structure at the point of attachment.
 - (2) All whip antenna shall be no more than ten feet measured to the tip of the whip antenna above the mounting surface of the existing structure at the point of attachment.
 - (3) All parabolic or dish antenna shall be no more than five feet measured to the outermost point of the dish from any surface of the existing structure at the point of attachment.
 - (4) Building-mounted antennas shall be mounted in a manner that is architecturally compatible with the structure on which they are located as determined by the planning director. Building-mounted antennas (excluding whip antennas under five feet in height) shall be completely screened or camouflaged from view from residentially zoned areas or adjacent roadways.
 - (5) Equipment enclosures shall be camouflaged or screened from view by landscaping or a wall or fence.
 - (6) CATS shall meet the requirements in sections 24-123 through 24-128.1.
3. Camouflaged communications facility. Camouflaged CATS as defined by this ordinance shall be permitted pursuant to Table 1.1 below.

Table 1.1 Camouflaged CATS Determinations

Zoning District	Planning Director	SUP Required
General Agricultural, A-1	✓	
Rural Residential, R-8		✓

Limited Residential, R-1		✓
General Residential, R-2		✓
Residential Redevelopment, R-3		✓
Residential Planned Community, R-4		✓
Multifamily Residential, R-5		✓
Low-Density Residential, R-6		✓
Limited Business, LB	✓	
General Business, B-1	✓	
Limited Business/Industrial, M-1	✓	
General Industrial, M-2	✓	
Planned Unit Development - Residential, PUD-R*		✓
Planned Unit Development - Commercial, PUD-C* <i>with a designation other than residential on an adopted Master Plan</i>	✓	
Mixed Use, MU	✓	
Economic Opportunity, EO	✓	
Public Lands, PL	✓	
Research and Technology District, RT	✓	
* or similar use designation on a Board adopted master plan zoned PUD		

Upon application for a special use permit for a camouflaged CATS in a residential district, the board of supervisors shall make a determination pursuant to section 24-122(b)(3) whether a proposed tower is camouflaged. Upon application for a by-right camouflaged CATS, the planning director shall make a determination pursuant to section 24-122(b)(3) whether a proposed tower is camouflaged. An appeal of a planning director determination shall be made to the development review committee which shall forward a recommendation to the planning commission. Written notice of the appeal must be received by the planning division within 30 days of the date of the planning director's determination.

- 4- Applicants may apply for any of the three categories of camouflaged CATS as defined below:
 - a. *Architecturally compatible.* The CATS has the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located. When an architecturally compatible CATS is proposed the following requirements shall be met:
 - (1) The CATS shall use materials best suited to camouflage as determined by the planning director to create the appearance, scale and height of other structures that are generally permitted in the district in which it is to be located;

- (2) The architecturally compatible CATS shall be placed in the vicinity of another structure that the proposed CATS intends to replicate and be unnoticeable to the casual observer that the primary use of the structure is for a CATS;
 - (3) The architecturally compatible CATS should be no taller than twice the permitted height of the replicated structure up to 70 feet;
 - (4) Professional design requirements:
 - i. All CATS shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio to proportion of existing tree buffers or structures, and view of the proposed CATS in profile;
 - ii. The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia;
 - (5) Meet the requirements in sections 24-123 through 24-128.1;
 - (6) Reserved.
- b. *Native vegetation.* The structure has the appearance of vegetation native to eastern Virginia. Where a native vegetation CATS is proposed the following requirements shall be met:
- (1) Should the CATS be taller than nearby trees, it shall be buffered with existing mature trees in a manner such that it will not appear out of scale with existing natural vegetation from an off-site view.
 - (2) The CATS shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion to existing tree buffers or structures, and artistic view of the proposed facility in profile.
 - (3) The landscape architect providing the landscape plan shall be professionally licensed in the Commonwealth of Virginia.
 - (4) The CATS shall use materials best suited to camouflage as determined by the planning director to appear as native vegetation and be unnoticeable to the casual observer that the function of structure is for a CATS.
 - (5) Access drives shall be designed and located in a manner that obscures views of the CATS base or related facilities from the road point of ingress.
 - (6) Meet the requirements in sections 24-123 through 24-128.1.
 - (7) Shall not exceed 120 feet in height.
- c. *Buffered.* The structure is well buffered by tall vegetation and/or other structures. Where a buffered CATS is proposed, the following requirements shall be met:
- (1) A minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, buildings, or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure renders the CATS generally unnoticeable to the off-site casual observer as determined by the planning director.
 - (2) Shall be set back from any off-site existing residential structure no less than 400 feet.
 - (3) The buffer shall remain undisturbed except for any access drives and utilities necessary for the CATS and other improvements or timbering activities that do not alter the visual

effect of the buffer as determined by the planning director. The buffer shall be located in an on-site or off-site area that:

- i. The planning director determines is not likely to be altered such that the visual effect of the buffer would be diminished while the CATS would be in existence, such as lands protected by the Chesapeake Bay Ordinance or other environmental regulations or conservation areas or community character corridors or property depicted as conservation area on the Comprehensive Plan; or
- ii. Such areas where the CATS owner has guaranteed the buffer will remain undisturbed while the CATS is in existence by way of lease agreement, recorded easement or other means acceptable to the planning director. Such leases and easements shall be in effect until such time as the CATS is removed.

(4) Professional design requirements:

- i. CATS shall include a detailed landscaping plan with plan and profile views encompassing native tree buffer, native vegetation, correct ratio in proportion of existing tree buffers or structures, and artistic view of the proposed facility in profile.
- ii. The landscape architect preparing the landscape plan shall be professionally licensed in the Commonwealth of Virginia.
- iii. Access drives shall be designed and located in a manner that obscures view of the CATS base or related facilities from the point of ingress.

(5) Meet the requirements in sections 24-123 through 24-128.1.

(6) Shall not exceed 120 feet in height.

4. *Multi-antenna system.* A multi-antenna system such as Distributed Antenna System (DAS) or others as determined by the zoning administrator shall utilize concealment elements and be permitted as shown on Table 2.

Table 2: Multi-antenna system. Antennas shall be mounted no higher than stated below unless approved by the board of supervisors. Multi-antenna systems are permitted in the following zoning districts:

Zoning District	Maximum By-Right Antenna Mounting Height	SUP Required
General Agricultural, A-1	≤35'	>35'
Rural Residential, R-8	≤35'	>35'
Limited Residential, R-1	Not Permitted	All Applications
General Residential, R-2	Not Permitted	All Applications
Residential Redevelopment, R-3	Not Permitted	All Applications
Residential Planned Community, R-4	Not Permitted	All Applications
Multifamily Residential, R-5	Not Permitted	All Applications
Low-Density Residential, R-6	Not Permitted	All Applications
Limited Business, LB	Not Permitted	All Applications
General Business, B-1	≤60'	>60'

Limited Business/Industrial, M-1	≤60'	>60'
General Industrial, M-2	≤60'	>60'
Planned Unit Development, PUD	Not Permitted	All Applications
Mixed Use, MU	Not Permitted	All Applications
Public Lands, PL	≤60'	>60'
Economic Opportunity, EO	≤60'	>60'
Research and Technology District, RT	≤60'	>60'

Concealment requirements for antenna mounting of multi-antenna systems:

- a. To the greatest extent possible, antennas should be mounted on structures not originally associated with the communications facility as determined by the zoning administrator.
 - b. Antennas shall be generally unnoticeable to the casual observer and/or screened from view as determined by the planning director.
 - c. Equipment enclosures shall be camouflaged or screened from view by landscaping, walls or fencing.
 - d. Antenna support structures for multi-antenna systems shall be designed to appear as native vegetation or other typical features of the zoning district (such as a light/telephone pole).
 - e. Meet the requirements in sections 24-123 through 24-128.1.
5. *Portable Transmission Facility (PTF).*
- a. A PTF shall be permitted for a maximum of 90 days in any 365-day period or longer during an emergency as determined by the county administrator or his designee.
 - (1) Any applicant who is aggrieved by the time limitations for a PTF may petition the board of supervisors for an extension. If additional time is determined to be in the interest of the public, the board of supervisors may grant an extension.
 - b. The PTF shall be set back at least two times the height of the PTF from any residential or public structure.
 - c. The maximum height of the PTF shall be 120 feet.
 - d. The applicant shall submit a conceptual plan of the structure pursuant to section 24-144, an RF report and a noninterference/intermodulation study no fewer than seven business days prior to deployment stating how long the PTF will be in use and demonstrate a public health or safety need. Upon review of the application, the zoning administrator may request additional information, deny the application because of an ordinance violation, or approve the use of the PTF at the location and time duration indicated on the conceptual plan.
6. *Small Cell Facilities. CATS determined by the planning director to be small cell facilities shall be permitted in all zoning districts and shall conform to the following criteria:*
- a. *applications for small cell facilities as permitted under this subsection shall be processed in accordance with section 24-128.*

- b. Any application for a small cell facility that also meets the criteria for an eligible facility request shall be processed as an eligible facility request.*
- c. The installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from permitting requirements and fees. Evidence of qualification for this exemption shall be provided through a conceptual plan, site plan, building permit plans, or otherwise.*

7. Administrative Review-Eligible Projects (AREPs). CATS determined by the planning director to be AREPs shall be permitted in all zoning districts and shall be processed in accordance with section 24-128.1. Any application for an AREP-2 that qualifies as an eligible facilities request shall be processed as an eligible facilities request under section 24-128.

Sec. 24-123. General requirements.

The following requirements shall apply to all CATS, except for eligible facilities requests *and small cell facility applications*, to the extent noted in section 24-128.1:

- ~~(a) *Setbacks.* In addition to meeting the requirements of the underlying zoning district, tower mounted communications facilities (including camouflaged CATS) shall conform to the following setback requirements:~~
 - ~~(1) All towers shall be set back from any off site existing residential structure by no less than 400 feet. All towers shall be located no closer than 400 feet from an occupied school or building used primarily for daycare.~~
 - ~~(2) All towers shall meet the structural requirements set forth in standard of the “Structural Standards for Steel Antenna Towers and Antenna Supporting Structures,” or its successors as determined by the building official.~~
 - ~~(3) All towers shall comply with the Virginia Uniform Statewide Building Code.~~
 - ~~(4) All towers shall be set back from all property lines a minimum of 110 percent of the documented collapse radius.~~
 - ~~(5) All setbacks from a public right of way shall take into account any planned public right of way designated on the Six Year Primary and Secondary Road Plans or the Comprehensive Plan.~~
- (b)** *Appearance.* Towers, all CATS equipment enclosures, and security fences shall conform to the following requirements:
 - (1) Lighting installed at all CATS, other than low-intensity lighting installed for the purpose of site security, shall be only that required to meet the minimum requirements set forth in the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors. If lighting is required, the planning director shall review the available lighting alternatives and approve the lighting design. Such lighting shall minimize impacts on adjacent property and be located and designed to minimize visibility of the light source from the ground.
 - (2) Towers shall be gray in color unless otherwise approved by the planning director and in compliance with the Federal Aviation Administration Advisory Circular AC 70/7460-1J, or its successors.
 - (3) No signage of any kind shall be displayed at or on a tower that advertises a product, service or business activity or institution.

- (4) All equipment enclosures shall be screened from public view with fencing and landscaping unless the enclosure is of a similar design and material to that used for a single-family residence and approved by the planning director.
- (e**b**) *Security.* Except where otherwise noted, the following security requirements shall apply to all CATS:
 - (1) All CATS using alternative mounting structures, and camouflaged CATS shall be equipped with an anti-climbing device, or be designed in a manner that precludes climbing without the use of additional equipment.
 - (2) Security fencing, if used, shall conform to the following:
 - a) Security fencing shall be screened from view with landscaping.
 - b) Chain-link fences shall be of a black or green color.
 - c) No fence shall exceed six feet in height and it shall contain no barb wire or similar barrier.
- (e**c**) *Satellite earth station antenna.* In addition to the requirements of this section, satellite earth station antennas and other types of incidental antenna shall be provided in accordance with Section 23-34, Special requirements for antennas.
- (e**d**) *Special requirements for certain antenna.* Installation or replacement of any antenna on a tower shall require a special use permit if all of the following conditions apply:
 - (1) The tower on which it is to be placed was constructed after the effective date of this ordinance, May 26, 1998;
 - (2) The tower on which it is to be placed is higher than the thresholds for towers requiring a special use permit identified on Table 1; and
 - (3) A special use permit does not already exist which would permit the construction of that tower or the installation of additional antenna on that tower.

Sec. 24-124. Performance standards.

In considering an application for a special use permit for a CATS, the planning director shall prepare a composite report identifying the extent to which the application is in compliance with the "Performance Standards for Communications Facilities, Antennas, Towers and Support Structures (CATS) That Require a Special Use Permit," *revised as of July 14 2020*~~dated November 8, 2016~~, and endorsed by the board of supervisors. Such report shall be submitted to the planning commission and board of supervisors prior to the date of the public hearing on the special use permit application. In general, it is expected that all facilities shall substantially meet the provisions of the above performance standards.

Sec. 24-125. Radio frequency standards.

- (a) *Federal Communications Commission emissions standards.* The CATS shall comply with Federal Communications Commission (FCC) standards for all electromagnetic emissions.
- (b) *Noninterference/intermodulation with local broadcasts.* The applicant shall ensure that the CATS will not cause localized interference/intermodulation with the transmittance or reception of area television or radio authorized FCC broadcasts. Prior to preliminary site plan approval of the CATS, a noninterference/intermodulation study shall be submitted to and approved by the planning director indicating that no interference with any communications equipment will take place. If such interference/intermodulation is detected at any time, and is not corrected within 60 days, the special use permit or any other permits may be modified or revoked.

Sec. 24-126. Public safety considerations.

- (a) *Noninterference with public safety communications.* The applicant shall ensure that the CATS will not interfere with public safety communications. If such interference is detected, and not corrected or ceased within 24 hours, operation of the CATS shall be terminated and the special use permit or any other permits may be modified or revoked.
- (b) ~~*Antenna mountings for public safety communications.* Applicants shall be required to negotiate in good faith with public safety agencies regarding vacant antenna locations on CATS prior to making these locations available to other providers. The applicant shall provide evidence of these negotiations acceptable to the planning director prior to preliminary site plan approval. In instances where a potential need for the antenna location is identified by a public safety agency, said agency shall have the right of first refusal for said antenna location for a period of 90 days after the date of final site plan approval.~~
- (e**b**) All CATS providing voice service shall be reported to the county dispatch center to ensure that all wireless E-911 calls placed within the boundaries of the county are routed to the county dispatch center.

Sec. 24-127. Permit limitations.

- (a) ~~*Guarantee of Abandonment and removal.* Prior to final site plan approval, the owner of the property on which a CATS is located shall post a performance bond, cash surety, or letter of credit in an amount sufficient to fund removal of an abandoned or unused CATS or any disused portion thereof, and site restoration. This bond or other financial mechanism shall remain in effect throughout the life of the CATS. A CATS shall be considered abandoned or unused if it is not being utilized for the purpose of providing communications services for a period of six months. At such time the CATS shall be removed, except where the CATS is used by the county or deemed necessary by the county for placement of its communications equipment.~~
- (b) *Right of access.* The county shall be granted access to the CATS for the life of the facility for the purposes of inspection and, in the event a CATS is abandoned or unused, removal.
- (c) *Site restoration.* The site of a removed CATS shall be restored to its original state, except that any installed landscaping shall remain in place.

Sec. 24-128. Processing and submittal requirements for eligible facilities requests *and small cell facility applications.*

- (a) The following shall apply to eligible facilities requests, as that term is defined in section 24-2:
 - (a) (1) *Conceptual plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of additional towers or replacement communications facilities or support structures on the site, and fences, access, and ownership and use of adjacent properties. This plan should also include elevation or profile views.
 - a) *Any eligible facilities request that consists solely of the replacement of communications facilities or support structures within a six-foot perimeter with communications facilities or support structures that are substantially similar or the same size or smaller shall only be required to submit a conceptual plan as required by this subsection to demonstrate that zoning approval is not required, and a noninterference/intermodulation study indicating no potential interference with public safety communications for review by the Fire Department. The further requirements of this section shall not apply to such eligible facilities requests.*

- ~~(b)~~ (2) *Evidence of eligible support structure.* The applicant shall provide evidence of prior approval letters or actions from the county authorizing the initial construction of the support structure. If no approvals were granted by the county for the structure, the applicant shall provide copies of site plan and building permit approvals as evidence that the structure was constructed lawfully.
- ~~(e)~~ (3) *Evidence of eligible request.* The applicant shall provide certification by a Virginia-registered professional engineer specifying the following information in order to verify that the proposal will not result in a substantial change to the existing eligible support structure:
- ~~(1)~~ *a*) Location and dimensions of all existing and proposed improvements to the structure, including appurtenances, ground equipment and enclosures, landscaped/vegetative buffer areas, fences and access ways. This plan should include elevation or profile views.
 - ~~(2)~~ *b*) Identification of the color of the existing structure and any new appurtenances or fencing.
 - ~~(3)~~ *c*) Depiction of the facility illustrating the maximum height above ground and maximum width of the structure permitted without triggering a substantial change to the facility.

(b) The following shall apply to small cell facility applications:

- (1) The applicant shall submit a site plan, drawn to scale, that depicts the location of the existing structure(s) serving as support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the location of communications facilities on the existing structures, and fences. This plan should also include elevation or profile views.*
- (2) The applicant shall provide certification by a Virginia-registered professional engineer specifying the location and dimensions of all existing and proposed communications facilities and support structures, including appurtenances, ground equipment and enclosures, in order to verify that the proposed communications facilities are small cell facilities.*
- (3) The applicant shall provide evidence of permission from the owner of the existing structure to locate the small cell facilities on that existing structure.*
- (4) An applicant may voluntarily submit any conditions that address potential visual or aesthetic effects resulting from the placement of small cell facilities.*
- (5) Each application may include up to 35 small cell facilities.*

(c) The following shall apply to eligible facilities requests and small cell facility applications:

- ~~(4)~~ *Public safety.* The applicant shall provide certification by a Virginia-registered professional engineer specifying the following information in order to verify that the proposal will not adversely impact public safety:
- ~~(1a)~~ Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards adopted by the Electronics Industry Association, and all amendments thereto, and the National Electrical Code.
 - ~~(2b)~~ A radio frequency (RF) report indicating compliance with FCC standards for electromagnetic emissions.
 - ~~(3c)~~ A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.

(e2) *Timing.* The county will act on eligible facilities requests *and small cell facility applications* within 60 days, adjusted for any tolling ~~due to requests for additional information or mutually agreed upon~~ or extensions of time.

~~(1a)~~ The timeframe for review ~~of an eligible facilities request~~ shall begin to run when the application is submitted, but shall be tolled if the county finds the application is incomplete and requests that the applicant submit additional information to complete the application. Such requests shall be made *by electronic mail to a valid address provided in the application* within ~~30~~ *ten* days of submission of the application *and specify any missing information*. After submission of additional information *by the applicant*, the county will notify the applicant within ten days of this submission if the additional information failed to complete the application.

~~(b)~~ *For review of a small cell facility application that is not a colocation, the 60-day period may be extended by the county in writing for a period not to exceed an additional 30 days. For review of a small cell facility application that is a colocation, the 60-day period may be extended by the written mutual agreement of the county and the applicant for a period not to exceed an additional 30 days.*

~~(2c)~~ If the county determines that an application ~~for modification of an existing eligible support structure~~ does not qualify as an eligible facilities *request or a small cell facility*, the county will notify the applicant of that determination in writing and will process the application in accordance with section 24-128.1.

~~(3d)~~ To the extent federal law and regulations provide a “deemed granted” remedy for eligible facilities requests not acted on within 60 days, *or state law provides a “deemed approved” remedy for small cell facilities not acted upon within the appropriate timeframe*, no such application shall be deemed granted *or deemed approved* until the applicant provides notice to the county, in writing.

~~(4e)~~ Any request that is deemed granted *or deemed approved* by operation of federal law shall be subject to the *applicant’s compliance with the applicable* requirements of sections 24-122, 24-125, and 24-127.

~~(d)~~ *The county may disapprove of the proposed location or installation of a small cell facility for:*

- ~~(1)~~ *Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;*
- ~~(2)~~ *Public safety or other critical public service needs;*
- ~~(3)~~ *In the case of an installation on or in publicly owned or publicly controlled property, an aesthetic impact or lack of any required approvals from all departments, authorities, and agencies with jurisdiction over such property;*
- ~~(4)~~ *Conflict with an applicable local ordinance adopted pursuant to Virginia Code § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306.108.*

Sec. 24-128.1. Processing and submittal requirements for all other new ~~cats~~ *CATS* and modifications.

(a) The following shall apply to applications for new CATS and/or for modifications to eligible support structures that are not eligible facilities requests *or small cell facility applications*:

- (1) *Conceptual plan.* A site plan, drawn to scale, shall be submitted that depicts the location of support structure(s), equipment enclosures, landscaped/vegetative buffer areas, the potential location of

additional towers on the site, fences, access, and ownership and use of adjacent properties. This plan should also include elevation or profile views.

- (2) *Preapplication meeting.* Prior to formal application for a camouflaged CATS, multi-antenna system, or a tower submittal, the prospective permittee or its representative shall attend a pre-application meeting with the planning director or his representative. The purpose of this meeting will be to discuss future service plans of the provider, the proposed CATS location, the configuration of the proposed CATS, the feasibility of co-location, the feasibility of alternative tower locations, and the feasibility of a building-mounted CATS, utilizing an alternative mounting structure or a camouflaged CATS. The planning director may request a tower simulation (balloon test) for a camouflaged determination.
 - (3) *Professional certification.* The applicant shall provide certification by a Virginia-registered engineer specifying the following information prior to preliminary site plan approval:
 - a. Antenna height, design, structure and capacity, including the number, type, and mounting elevations of antenna that could be accommodated. Applications for new CATS shall include a scaled depiction of the maximum permitted increase in the physical dimensions of the proposed project that would be permitted according to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and FCC implementing regulations, using the proposed project as a baseline.
 - b. Compliance with all structural and safety requirements of the Virginia Uniform Statewide Building Code, including the BOCA Basic Building Code and section 222(F) of the standards adopted by the Electronics Industry Association, and all amendments thereto and the National Electrical Code.
 - c. A RF report indicating compliance with FCC standards for electromagnetic emissions.
 - d. A noninterference/intermodulation study indicating no potential interference with public safety communications shall be provided in a manner acceptable to the planning director.
 - (4) *Aesthetics. The applicant may voluntarily submit any conditions that address potential visual or aesthetic effects resulting from the placement of new CATS.*
 - (5) *Disapproval. The county may disapprove any application that proposes to locate a new structure, or to co-locate a communications facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning proceeding as set forth in objectives contained in a comprehensive plan. The county may disapprove any application, other than an AREP, on the basis of the availability of existing support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant. The county may disapprove any new structure AREP-1 or a standard process project if the applicant has not given written notice to adjacent landowners at least 15 days before applying to locate a new structure in the area.*
- (b) In addition to meeting all other processing and submittal requirements for site plans, any application for a special use permit for the installation of CATS shall comply with the following, and the application shall not be deemed complete until accompanied by these materials, which shall be submitted six weeks prior to the planning commission meeting:
- (1) *Federal approval. The applicant shall provide a copy of any approval granted by a federal agency, including conditions imposed by that agency. ~~Search and service area mapping. The applicant shall provide mapping, deemed suitable by the planning director, depicting the following:~~*

- a. ~~The search area for the proposed CATS along with underlying property lines and divisions. The map shall be of a clearly indicated scale and municipal boundaries and all primary and secondary highways within the search area shall be delineated.~~
 - b. ~~The intended service area of the proposed CATS with a radio signal propagation map to include information such as building, car, and ambient coverage or other suitable graphic, depicting the level of signal coverage with and without the proposed CATS. At least one other graphic shall also be provided that shows the relationship of this coverage to that of existing and proposed CATS operated by the same provider and future service plans, within the county and within five miles of the border thereof.~~
- (2) *Evidence of attempts at co-location and using alternative locations, designs, and operating procedures.* ~~The applicant shall allow other users to locate on the tower and site and shall provide the county, upon request, verifiable evidence of having made good faith efforts to allow such locations. To this end, the applicant shall execute a letter of intent prior to final site plan approval stating that the applicant will make every reasonable effort to accommodate all future requests to share space and that the applicant will negotiate in good faith with any party requesting space on the tower or site, and copies of said letters shall be sent to all communications facilities service providers licensed to serve the county and a copy of their response, if any, shall be provided to the planning director. The planning director may waive this requirement for camouflaged CATS where co-location would preclude the CATS from meeting ordinance requirements for such facilities, and for communications facilities that utilize alternative mounting structures, or are building-mounted. The applicant shall provide a copy of its co-location policy and the following evidence of attempts to co-locate and attempts to utilize alternative locations, designs, and operating procedures in a manner acceptable to the planning director:~~
- a. ~~The applicant shall indicate on a map provided by the planning department all existing tower and building mounted CATS, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the proposed new location. The planning director may reduce the radius of this study area where the intended coverage of the proposed CATS is less than three miles.~~
 - b. ~~Applicants shall provide evidence acceptable to the planning director, including radio signal propagation plottings, that all existing towers, and alternative mounting structures and buildings more than 60 feet tall within a three-mile radius of the site of a proposed CATS have been evaluated with respect to their ability to provide adequate service coverage and antenna-mounting opportunity, and evidence acceptable to the planning director that adequate service coverage cannot be provided through an increase in transmission power, or through the use of camouflaged CATS, alternative mounting structures, building-mounted CATS, or a system that uses lower antenna heights than proposed. The planning director may waive these requirements where documented evidence, satisfactory to the planning director is available that indicates alternative locations and designs are not feasible, and where the intended coverage of the proposed CATS is less than three miles.~~
 - c. ~~The applicant shall provide evidence deemed suitable by the planning director that good faith negotiations have taken place to use existing CATS, and existing alternative mounting structures and buildings, including copies of letters sent to other service providers and their response, if any, on a request to co-locate on their facility.~~
 - d. ~~The applicant shall provide verifiable written evidence, deemed suitable by the planning director, of the feasibility of replacing all existing CATS within a three-mile radius of the site of the proposed CATS in order to accommodate the proposed CATS.~~

- (3) ~~Public safety communications antenna requirements. The applicant shall provide written evidence, deemed suitable by the planning director, of consultation with the relevant public safety agencies regarding their need for antenna space at any newly proposed communications facility support structure.~~
- (43) *Balloon test.* At least three weeks prior to the planning commission meeting, the applicant shall conduct a balloon test that simulates both the height of the proposed CATS, and the maximum increase in the physical dimensions of the proposed project permitted according to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and FCC implementing regulations. The balloon test shall be scheduled within the first week following application submittal. The planning director may also require the balloon to be flown at other altitudes to determine impacts. The planning director shall give notice of the balloon test at least seven days prior to the day of the test in a newspaper having a general circulation in the county. The results of the balloon test providing representative photographic evidence of the views of a proposed CATS from residential areas, public rights-of-way, and other sensitive areas identified by the planning director or his representative shall be provided to the planning director at least two weeks prior to the planning commission meeting. Other scaled graphical simulations of potential views encompassing a proposed CATS may be substituted for the balloon test results or required in addition to the balloon test results at the discretion of the planning director.
- (c) *Timing.* The county will act on *applications for an AREP-2 and* proposed modifications to CATS that are not eligible facilities requests within 90 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time. The county will act on *any applications for an AREP-1 or* new CATS within 150 days, adjusted for any tolling due to requests for additional information or mutually agreed upon extensions of time. *Any period specified in this subsection for the county to approve or disapprove an application may be extended by mutual agreement between the applicant and the county.*
- (1) The timeframe for review shall begin to run when the application is submitted, but shall be tolled if the county finds the application is incomplete and requests that the applicant submit additional information to complete the application. *The county shall make* ~~Such requests shall be made by~~ *electronic mail to a valid address provided in the application* within ~~30~~ *ten* days of submission of the application *and specify any missing information.* After submission of additional information, the county will notify the applicant within ten days of this submission if the additional information failed to complete the application.
- (2) If the county denies an application submitted pursuant to this section, the county will notify the applicant of the denial in writing of the reasons for the denial. *If the county is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the county shall identify them in the written statement of denial. The county's action on disapproval shall be supported by substantial record evidence contained in a written record publicly released within thirty days of the disapproval.*
- (3) *To the extent federal law and regulations provide a "deemed granted" remedy, or state law provides a "deemed approved" remedy for applications not acted upon within the appropriate timeframe, no such application shall be deemed granted or deemed approved until the applicant provides notice to the county, in writing.*

DIVISION 2. - GENERAL AGRICULTURAL DISTRICT, A-1

Sec. 24-212. - Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures; or multi-antenna systems greater than a height of 35 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures that utilize alternative mounting structures; are camouflaged; or multi-antenna systems up to a height of 35 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	

DIVISION 3. - LIMITED RESIDENTIAL DISTRICT, R-1

Sec. 24-232. - Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

DIVISION 4. - GENERAL RESIDENTIAL DISTRICT, R-2

Sec. 24-252. - Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

DIVISION 4.1. - RESIDENTIAL REDEVELOPMENT DISTRICT, R-3

Sec. 24-273.2. - Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

DIVISION 5. - RESIDENTIAL PLANNED COMMUNITY DISTRICT, R-4

Sec. 24-281. - Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and in compliance comply with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that comply with article II, division 6 of this chapter, only in areas with a designation other than residential on a board adopted master plan		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

DIVISION 6. - MULTIFAMILY RESIDENTIAL DISTRICT, R-5

Sec. 24-305. - Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged; or multi-antenna systems All facilities shall in compliance with article II, division 6 of this chapter.		SUP

DIVISION 7. - LOW-DENSITY RESIDENTIAL DISTRICT, R-6

Sec. 24-328. - Permitted uses.

In the Low-Density Residential, R-6, structures to be erected or land to be used shall be for the following uses:

Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures All facilities shall in compliance with article II, division 6 of this chapter.

Sec. 24-329. - Uses permitted by special use permit only.

Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that are camouflaged; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.

DIVISION 8. - RURAL RESIDENTIAL DISTRICT, R-8

Sec. 24-348. - Use list.

Utility Uses	Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities. <i>Communications facilities (public or private) in compliance with article II, division 6 of this chapter.</i>		SUP
	Communication towers and tower mounted wireless communication facilities, up to a height of 35 feet. <i>Communications facilities (public or private) in compliance with article II, division 6 of this chapter.</i>	P	
	Communication towers over 35 feet in height.		SUP

DIVISION 9. - LIMITED BUSINESS DISTRICT, LB

Sec. 24-368. - Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

DIVISION 10. - GENERAL BUSINESS DISTRICT, B-1

Sec. 24-390. - Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.	P	

DIVISION 11. - LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1

Sec. 24-411. - Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.	P	

DIVISION 12. - GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-436. - Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.	P	

DIVISION 13. - RESEARCH AND TECHNOLOGY DISTRICT, RT

Sec. 24-461. - Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall comply with article II, division 6 of this chapter.	P	

	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
--	---	--	-----

DIVISION 14. - PLANNED UNIT DEVELOPMENT DISTRICTS, PUD

Sec. 24-493. - Use list.

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged. All facilities shall comply with article II, division 6 of this chapter.		SUP
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures. All facilities shall in compliance with article II, division 6 of this chapter.	P	

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

	Utility uses as listed in (a) above.		
Utility Uses	Communication facilities, antennas, towers and support structures that are camouflaged, for a non-residential use and part of a Board approved master plan. Communications facilities (public or private) All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communication facilities, antennas, towers and support structures, including multi-antenna systems. Communications facilities (public or private) All facilities shall in compliance with article II, division 6 of this chapter.		SUP

DIVISION 15. - MIXED USE, MU

Sec. 24-518. - Use list.

Utility Uses	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems. All facilities shall in compliance with article II, division 6 of this chapter.		SUP
--------------	--	--	-----

	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged, and in compliance with article II, division 6 of this chapter.	P	
--	--	---	--

DIVISION 16. - PUBLIC LAND DISTRICT, PL

Sec. 24-535.1. - Permitted uses.

Communications facilities (public or private), including, but not limited to, antennas, towers and support structures up to a height of 40 feet; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.

Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged. All facilities shall comply with article II, division 6 of this chapter.

Communication towers and tower mounted wireless communication facilities, up to a height of 35 feet.

Sec. 24-535.2. - Uses permitted by special use permit only.

Communications facilities (public or private), including, but not limited to, antennas, towers, and support structures greater than a height of 40 feet; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.

Communication towers over 35 feet in height.

DIVISION 17. - ECONOMIC OPPORTUNITY, EO

Sec. 24-536.4. - Use list.

Utility	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures and/or are camouflaged; or multi-antenna systems up to a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.	P	
	Communications facilities (public or private), including, but not limited to, antennas, towers and support structures; or multi-antenna systems greater than a height of 60 feet. All facilities shall in compliance with article II, division 6 of this chapter.		SUP

Article 7.2. Zoning for Wireless Communications Infrastructure

§ 15.2-2316.3. Definitions.

As used in this article, unless the context requires a different meaning:

"Administrative review-eligible project" means a project that provides for:

1. The installation or construction of a new structure that is not more than 50 feet above ground level, provided that the structure with attached wireless facilities is (i) not more than 10 feet above the tallest existing utility pole located within 500 feet of the new structure within the same public right-of-way or within the existing line of utility poles; (ii) not located within the boundaries of a local, state, or federal historic district; (iii) not located inside the jurisdictional boundaries of a locality having expended a total amount equal to or greater than 35 percent of its general fund operating revenue, as shown in the most recent comprehensive annual financial report, on undergrounding projects since 1980; and (iv) designed to support small cell facilities; or

2. The co-location on any existing structure of a wireless facility that is not a small cell facility.

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"New structure" means a wireless support structure that has not been installed or constructed, or approved for installation or construction, at the time a wireless services provider or wireless infrastructure provider applies to a locality for any required zoning approval.

"Project" means (i) the installation or construction by a wireless services provider or wireless

infrastructure provider of a new structure or (ii) the co-location on any existing structure of a wireless facility that is not a small cell facility. "Project" does not include the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure to which the provisions of § 15.2-2316.4 apply.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Standard process project" means any project other than an administrative review-eligible project.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

§ 15.2-2316.4. Zoning; small cell facilities.

A. A locality shall not require that a special exception, special use permit, or variance be obtained for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) notifies the locality in which the permitting process occurs.

B. Localities may require administrative review for the issuance of any required zoning permits for the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure. Localities shall permit an applicant to submit up to 35 permit requests on a single application. In addition:

1. A locality shall approve or disapprove the application within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period.

2. A locality may prescribe and charge a reasonable fee for processing the application not to exceed:

- a. \$100 each for up to five small cell facilities on a permit application; and
- b. \$50 for each additional small cell facility on a permit application.

3. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.

4. The locality may disapprove a proposed location or installation of a small cell facility only for the following reasons:

- a. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;
- b. The public safety or other critical public service needs;
- c. Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or
- d. Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

5. Nothing shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

6. Nothing in this section shall preclude a locality from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities.

C. Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from locality-imposed permitting requirements and fees.

2017, c. 835.

§ 15.2-2316.4:1. Zoning; other wireless facilities and wireless support structures.

A. A locality shall not require that a special exception, special use permit, or variance be obtained for the installation or construction of an administrative review-eligible project but may require administrative review for the issuance of any zoning permit, or an acknowledgement that zoning approval is not required, for such a project.

B. A locality may charge a reasonable fee for each application submitted under subsection A or for any zoning approval required for a standard process project. The fee shall not include direct payment or reimbursement of third-party fees charged on a contingency basis or a result-based arrangement. Upon request, a locality shall provide the applicant with the cost basis for the fee. A locality shall not charge market-based or value-based fees for the processing of an application. If the application is for:

1. An administrative review-eligible project, the fee shall not exceed \$500; and
2. A standard process project, the fee shall not exceed the actual direct costs to process the application, including permits and inspection.

C. The processing of any application submitted under subsection A or for any zoning approval required for a standard process project shall be subject to the following:

1. Within 10 business days after receiving an incomplete application, the locality shall notify the applicant that the application is incomplete. The notice shall specify any additional information required to complete the application. The notice shall be sent by electronic mail to the applicant's email address provided in the application. If the locality fails to provide such notice within such 10-day period, the application shall be deemed complete.

2. Except as provided in subdivision 3, a locality shall approve or disapprove a complete application:

- a. For a new structure within the lesser of 150 days of receipt of the completed application or the period required by federal law for such approval or disapproval; or
- b. For the co-location of any wireless facility that is not a small cell facility within the lesser of 90 days of receipt of the completed application or the period required by federal law for such approval or disapproval, unless the application constitutes an eligible facilities request as defined in 47 U.S.C. § 1455(a).

3. Any period specified in subdivision 2 for a locality to approve or disapprove an application may be extended by mutual agreement between the applicant and the locality.

D. A complete application for a project shall be deemed approved if the locality fails to approve or disapprove the application within the applicable period specified in subdivision C 2 or any

agreed extension thereof pursuant to subdivision C 3.

E. If a locality disapproves an application submitted under subsection A or for any zoning approval required for a standard process project:

1. The locality shall provide the applicant with a written statement of the reasons for such disapproval; and
2. If the locality is aware of any modifications to the project as described in the application that if made would permit the locality to approve the proposed project, the locality shall identify them in the written statement provided under subdivision 1. The locality's subsequent disapproval of an application for a project that incorporates the modifications identified in such a statement may be used by the applicant as evidence that the locality's subsequent disapproval was arbitrary or capricious in any appeal of the locality's action.

F. A locality's action on disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project shall:

1. Not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; and
2. Be supported by substantial record evidence contained in a written record publicly released within 30 days following the disapproval.

G. An applicant adversely affected by the disapproval of an application submitted under subsection A or for any zoning approval required for a standard process project may file an appeal pursuant to subsection F of § 15.2-2285, or to § 15.2-2314 if the requested zoning approval involves a variance, within 30 days following delivery to the applicant or notice to the applicant of the record described in subdivision F 2.

2018, cc. 835, 844.

§ 15.2-2316.4:2. Application reviews.

A. In its receiving, consideration, and processing of a complete application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project, a locality shall not:

1. Disapprove an application on the basis of:
 - a. The applicant's business decision with respect to its designed service, customer demand for service, or quality of its service to or from a particular site;
 - b. The applicant's specific need for the project, including the applicant's desire to provide additional wireless coverage or capacity; or
 - c. The wireless facility technology selected by the applicant for use at the project;
2. Require an applicant to provide proprietary, confidential, or other business information to justify the need for the project, including propagation maps and telecommunications traffic studies, or information reviewed by a federal agency as part of the approval process for the same structure and wireless facility, provided that a locality may require an applicant to provide a copy of any approval granted by a federal agency, including conditions imposed by that agency;

3. Require the removal of existing wireless support structures or wireless facilities, wherever located, as a condition for approval of an application. A locality may adopt reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities;
4. Impose surety requirements, including bonds, escrow deposits, letters of credit, or any other types of financial surety, to ensure that abandoned or unused wireless facilities can be removed, unless the locality imposes similar requirements on other permits for other types of similar commercial development. Any such instrument shall not exceed a reasonable estimate of the direct cost of the removal of the wireless facilities;
5. Discriminate or create a preference on the basis of the ownership, including ownership by the locality, of any property, structure, base station, or wireless support structure, when promulgating rules or procedures for siting wireless facilities or for evaluating applications;
6. Impose any unreasonable requirements or obligations regarding the presentation or appearance of a project, including unreasonable requirements relating to (i) the kinds of materials used or (ii) the arranging, screening, or landscaping of wireless facilities or wireless structures;
7. Impose any requirement that an applicant purchase, subscribe to, use, or employ facilities, networks, or services owned, provided, or operated by a locality, in whole or in part, or by any entity in which a locality has a competitive, economic, financial, governance, or other interest;
8. Condition or require the approval of an application solely on the basis of the applicant's agreement to allow any wireless facilities provided or operated, in whole or in part, by a locality or by any other entity, to be placed at or co-located with the applicant's project;
9. Impose a setback or fall zone requirement for a project that is larger than a setback or fall zone area that is imposed on other types of similar structures of a similar size, including utility poles;
10. Limit the duration of the approval of an application, except a locality may require that construction of the approved project shall commence within two years of final approval and be diligently pursued to completion; or
11. Require an applicant to perform services unrelated to the project described in the application, including restoration work on any surface not disturbed by the applicant's project.

B. Nothing in this article shall prohibit a locality from disapproving an application submitted under subsection A of § 15.2-2316.4:1 or for any zoning approval required for a standard process project:

1. On the basis of the fact that the proposed height of any wireless support structure, wireless facility, or wireless support structure with attached wireless facilities exceeds 50 feet above ground level, provided that the locality follows a local ordinance or regulation that does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services; or
2. That proposes to locate a new structure, or to co-locate a wireless facility, in an area where all cable and public utility facilities are required to be placed underground by a date certain or encouraged to be undergrounded as part of a transportation improvement project or rezoning

proceeding as set forth in objectives contained in a comprehensive plan, if:

- a. The undergrounding requirement or comprehensive plan objective existed at least three months prior to the submission of the application;
 - b. The locality allows the co-location of wireless facilities on existing utility poles, government-owned structures with the government's consent, existing wireless support structures, or a building within that area;
 - c. The locality allows the replacement of existing utility poles and wireless support structures with poles or support structures of the same size or smaller within that area; and
 - d. The disapproval of the application does not unreasonably discriminate between the applicant and other wireless services providers, wireless infrastructure providers, providers of telecommunications services, and other providers of functionally equivalent services.
- C. Nothing in this article shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of a new structure or facility.
- D. Nothing in this article shall prohibit a locality from disapproving an application submitted under a standard process project on the basis of the availability of existing wireless support structures within a reasonable distance that could be used for co-location at reasonable terms and conditions without imposing technical limitations on the applicant.

2018, cc. [835](#), [844](#).

§ 15.2-2316.4:3. Additional provisions.

A. A locality shall not require zoning approval for (i) routine maintenance or (ii) the replacement of wireless facilities or wireless support structures within a six-foot perimeter with wireless facilities or wireless support structures that are substantially similar or the same size or smaller. However, a locality may require a permit to work within the right-of-way for the activities described in clause (i) or (ii), if applicable.

B. Nothing in this article shall prohibit a locality from limiting the number of new structures or the number of wireless facilities that can be installed in a specific location.

2018, cc. [835](#), [844](#).

§ 15.2-2316.5. Moratorium prohibited.

A locality shall not adopt a moratorium on considering zoning applications submitted by wireless services providers or wireless infrastructure providers.

2017, c. [835](#).

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
February 13, 2020
4:00 PM

A. CALL TO ORDER

Ms. Julia Leverenz called the meeting to order at approximately 4:00 p.m.

B. ROLL CALL

Present:

Julia Leverenz, Chair

Jack Haldeman

Tim O'Connor

Absent:

Rich Krapf

Staff:

Paul Holt, Director of Community Development

Tammy Rosario, Principal Planner

Ellen Cook, Principal Planner

Terry Costello, Deputy Zoning Administrator

Tori Haynes, Planner

Tom Leininger, Planner

John Risinger, Community Development Assistant

Max Hlavin, Deputy County Attorney

Jeff Wiggins, Senior Budget and Accounting Analyst

Margo Zechman, Senior Budget and Accounting Analyst

C. MINUTES

There were no minutes.

D. OLD BUSINESS

1. ZO-0011-2016. Proposed Ordinance Amendments to Address Code of Virginia Changes Regarding Wireless Communication Facilities, Stage III

Mr. Tom Leininger stated that in 2017 and 2018, the General Assembly passed legislation requiring changes to how local Zoning Ordinances may treat applications for wireless communications facilities. He stated that staff drafted Ordinance language for Section 24-2, Division 6, and the use lists within Zoning Districts. He stated that the Ordinance amendments included two new application types, small cell facilities, and Administrative review eligible projects (AREPs), for wireless communication facilities. He stated that the use lists of the Zoning Districts would indicate if an application type was permitted or specially permitted in that Zoning District. He stated that staff recommends that the Policy Committee recommend approval of the proposed Ordinance amendments to the Planning Commission. He asked if there were any questions or comments from the Policy Committee.

Ms. Leverenz asked if AREPs should be defined in Section 24-2.

Mr. Leininger stated that a definition for AREPs was included in the proposed Ordinance amendments. He stated that staff received questions and suggestions from the Policy Committee. He stated that staff received a question about having a definition for Communication Facilities, Antennas, Towers, and Support Structures (CATS). He stated that each item covered within CATS was defined individually. He asked if the Policy Committee would like to have a definition for CATS that explicitly listed the included items.

Ms. Leverenz confirmed.

Mr. Leininger stated that staff received a question about the language of the definition for micro-wireless facilities. He stated that the definition was consistent with the Code of Virginia and that staff did not recommend making any edits. He stated that staff received a suggestion to change the word “person” to “entity” in the definitions of wireless infrastructure providers and wireless service providers. He stated that Section 1-2 of the County Code defined person to include entities. He stated that staff received a suggestion to the proposed amendments for Section 24-122 where the language says, “as defined”.

Ms. Leverenz stated that the language should state “as defined in Support Structure”. She stated that this would provide additional clarity.

Mr. Max Hlavin stated that, if a definition was created for CATS, the language could reference CATS which would then reference Support Structures.

Ms. Leverenz stated that the definitions should be consistent between Section 24-2 and Division 6.

Mr. Leininger stated that staff received a suggestion to edit the proposed language for Section 24-128 (a) (1) a) to state “within a six-foot perimeter of communication facilities” instead of “within a six-foot perimeter with communication facilities”.

Mr. Hlavin stated that the language was intentionally crafted to qualify the distance and the type of facilities.

Mr. Leininger stated that staff agreed with many of the suggested minor edits.

Ms. Leverenz asked if there was a motion to approve the draft amendments.

Mr. Hlavin stated that House Bill (HB) 554 was passed in the Virginia House of Delegates which allows localities to deny applications AREPs if the applicant did not notify adjacent property owners within 15 days. He stated that the bill would have to be passed by the Senate of Virginia before it could be incorporated into the County Code. He stated that the Policy Committee could choose to make a motion that would allow staff to make the necessary changes if the Senate passes the bill. He stated that, if passed, the bill would not go into effect until July 1, 2020, or later.

Ms. Ellen Cook stated that the proposed Ordinance amendments would likely be presented during a Planning Commission meeting before July 1, 2020. She stated that proposed Ordinance amendments would then be presented during a Board of Supervisors (BOS) meeting which could possibly be after July 1, 2020.

Mr. Tim O'Connor made a motion to Approve the proposed Ordinance amendments pending the approval of HB554.

The motion passed 3-0.

E. NEW BUSINESS

1. FY 2021-2025 Capital Improvements Program Review

Ms. Tammy Rosario asked if the Policy Committee would allow Ms. Tori Haynes to participate in the meeting remotely.

Ms. Leverenz confirmed.

Ms. Haynes joined the meeting remotely.

Ms. Terry Costello stated that it was the first meeting for the Policy Committee's review of the Fiscal Year (FY) 2021-2025 Capital Improvements Program (CIP) requests. She stated that the Policy Committee would each request in accordance with the Comprehensive Plan and provide a list of its priorities to the BOS. She stated that 22 requests were received from County departments and agencies and six requests were received from the Williamsburg-James City County Public Schools (WJCC Schools). She stated that the Policy Committee could ask broad questions and identify questions for departments regarding their CIP requests. She stated that departments would be invited to the February 20, 2020, and the February 27, 2020, meetings of the Policy Committee to answer questions. She stated that an additional meeting could be held on March 5, 2020 for the Policy Committee to finalize its ranking of CIP requests. She stated that staff would compile the finalized ranking to present at the March 16, 2020, meeting of the Planning Commission.

Ms. Leverenz invited members of the public to address the Policy Committee.

Mr. Jay Everson, 103 Branscome Boulevard, stated that the Future Think Enrollment Projections for WJCC Schools do not show a large increase in enrollment. He stated that WJCC Schools should invest in facilities for the Bright Beginnings program instead of adding classrooms at existing schools.

Ms. Leverenz stated that WJCC Schools should be invited to attend one of the next meetings to discuss its requests.

Ms. Costello stated that members of the Policy Committee had submitted questions for Community Development, Economic Development, General Services, Parks and Recreation, and the Williamsburg Regional Library. She stated that WJCC Schools would be invited to attend the February 27, 2020, meeting of the Policy Committee.

Ms. Leverenz asked if questions were received regarding the requests for the James City County Marina and the Amblers House.

Ms. Costello confirmed.

Mr. Haldeman stated that nine requests were received for restroom facilities. He stated that the requests had a wide range of projected costs. He asked to have the difference in projected costs explained at one of the next Policy Committee meetings. He stated that multiple requests were received for projects at the James City County Marina. He stated that it might be more efficient to construct the projects at the same time. He stated that the Transportation Match request included widening Croaker Road, widening Pocahontas Trail, and constructing the Skiffes Creek Connector. He asked if widening Croaker Road addressed a goal of the Strategic Plan. He asked how much of the projected costs for the Transportation Match request would go to the Pocahontas Trail widening and the Skiffes Creek Connector.

Mr. Tim O'Connor stated that many projects have been divided into smaller scale requests

that are submitted over time. He stated that having more small-scale requests might result in increased overall costs when the project is completed. He stated that he would like to understand the overall timeline for completion for requests. He stated that departments should consider completing multiple projects in the same CIP requests when possible. He asked if General Services would be attending a meeting in the future.

Ms. Costello confirmed.

Ms. Rosario asked if any departments had not been identified to attend one of the coming meetings.

Ms. Costello stated that staff did not receive any questions for the Fire Department or the Police Department.

Mr. Haldeman suggested that the Police Department consider installing solar panels on the roof of the proposed covered parking structure.

Ms. Rosario stated that staff would forward the suggestion to the Police Department.

Ms. Leverenz asked if Mr. Rich Krapf had submitted any questions.

Ms. Costello confirmed.

Ms. Leverenz asked if there were any further questions.

There were none.

F. ADJOURNMENT

Mr. O'Connor made a motion to Adjourn. The motion passed 3-0.

Ms. Leverenz adjourned the meeting at approximately 4:30 p.m.

Ms. Julia Leverenz, Chair

Mr. Paul Holt, Secretary

**PERFORMANCE STANDARDS FOR COMMUNICATIONS FACILITIES, ANTENNAS,
TOWERS AND SUPPORT STRUCTURES (CATS) THAT REQUIRE A SPECIAL USE PERMIT**

~~November 8, 2016~~ July 14, 2020

In order to maintain the integrity of the James City County's significant historic, natural, rural and scenic resources, to preserve its existing aesthetic quality and its landscape, to maintain its quality of life and to protect its health, safety, general welfare, and property values, communications, antennas, towers and support structures (CATS) should be located and designed in a manner that minimizes their impacts to the maximum extent possible and minimizes their presence in areas where they would depart from existing and future patterns of development. To implement these goals, the Planning Commission and the Board of Supervisors have adopted these performance standards for use in evaluating special use permit applications for CATS. While all of the standards support these goals, some may be more critical to the County's ability to achieve these goals on a case by case basis. Therefore, some standards may be weighed more heavily in any recommendation or decision on a special use permit, and cases that meet a majority of the standards may or may not be approved. The terms used in these standards shall have the same definition as those same terms in the Zoning Ordinance. In considering an application for a special use permit, the Planning Commission and the Board of Supervisors will consider the extent to which an application meets the following performance standards. When considering these applications, the Planning Commission and the Board of Supervisors will evaluate the proposal based on both the initial height of the proposed CATS and the maximum increase in the physical dimension of the proposed project permitted by Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 and the FCC's implementing regulations.

~~A. Collocation and Alternatives Analysis~~

- ~~1. Applicants should provide verifiable evidence that they have cooperated with others in co-locating additional antenna on both existing and proposed structures and replacing existing towers with ones with greater co-location capabilities. It should be demonstrated by verifiable evidence that such co-locations or existing tower replacements are not feasible and that proposed new sites contribute to the goal of minimizing new tower sites.~~
- ~~2. Applicants should demonstrate the following:~~
 - ~~a. That all existing CATS and potential alternative mounting structures more than 60 feet tall within a three mile radius of the proposed site for a new CATS cannot provide adequate service coverage or an antenna mounting opportunity.~~
 - ~~b. That adequate service coverage cannot be provided through an increase in transmission power, replacement of an existing CATS within a three mile radius of the site of the proposed CATS, or through the use of a camouflaged CATS, alternative mounting structure, multi antenna system or a system that uses lower antenna heights than proposed.~~
 - ~~c. The radii of these study areas may be reduced where the intended coverage of the proposed WCF CATS is less than three miles.~~
- ~~3. Towers should be sited in a manner that allows placement of additional CATS facilities. A minimum of two tower locations, each meeting all of the requirements of the Zoning Ordinance and these standards, should be provided at all newly approved tower sites.~~

4. ~~All newly permitted towers should be capable of accommodating enough antennas for at least three service providers or two service providers and one government agency. Exceptions may be made where shorter heights are used to achieve minimal intrusion of the tower as described in Section B.2. below.~~

B.4. Location and Design

1. CATS should be consistent with existing and future surrounding development and the Comprehensive Plan. While the Comprehensive Plan should be consulted to determine all applicable land use principles, goals, objectives, strategies, development standards, and other policies, certain policies in the Plan will frequently apply. Some of these include the following: (1) CATS should be compatible with the use, scale, height, size, design and character of surrounding existing and future uses, and such uses that are generally located in the land use designation in which the CATS would be located; and (2) CATS should be located and designed in a manner that protects the character of the County's Community Character Corridors and historic and scenic resource areas and their view sheds.
2. CATS should be located and designed consistent with the following criteria:

<i>Proposed Location of CATS</i>	<i>Impact Criteria</i>
<i>a. Within a residential zone or residential designation in the Comprehensive Plan</i>	<i>Use a camouflage design, a well buffered slickstick, Multi-Antenna system, or have a minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas, or community character corridors.</i>
<i>b. Near a historic or scenic resource area or on a Community Character Corridor</i>	<i>Use a camouflaged design or slicksticks that have minimal intrusion on to residential areas, historic and scenic resources areas or on community character corridors.</i>
<i>c. Within a rural lands designation in the Comprehensive Plan</i>	<i>For areas designated rural lands in the Comprehensive Plan that are within 1,500 feet from the tower, use a well buffered monopole, a camouflaged design, or other design that has minimal intrusion on to residential areas or community character corridors. For rural lands more than 1,500 feet from the tower, no more than the upper 25% of the tower should be visible.</i>
<i>d. Within a commercial or in an industrial designation in the Comprehensive Plan</i>	<i>Use a camouflage design, well buffered monopole, or other design that has minimal intrusion on to residential areas, historic and scenic resources areas or roads in such areas or community character corridors.</i>

Notes for the above table:

1. Exceptions to these criteria may be made on a case by case basis where the impact of the proposed CATS is only on the following areas: (1) An area designated residential on the Comprehensive Plan or zoning map which is not a logical extension of a residential subdivision or which is a transitional area between residential and nonresidential uses, (2) a golf course or a

golf course and some combination of commercial areas, industrial areas or utility easements, provided the tower is located on the golf course property, or (3) a scenic easement.

2. A CATS will meet the minimal intrusion criteria if it is not visible off site above the tree line. Such CATS should only be visible off-site when viewed through surrounding trees that have shed their leaves.
3. Camouflaged towers having the design of a tree should be compatible in scale and species with surrounding natural trees or trees native to Eastern Virginia.
4. WCFs CATS should be less than 200 feet in height in order to avoid the need for lighting. Taller heights may be acceptable where views of the CATS from residential areas and public roads are very limited. At a minimum, CATS 200 feet or more in height should exceed the location standards listed above.
5. Towers should be freestanding and not supported with guy wires.
6. Any modification to CATS should adopt the same camouflaging and screening measures as the original structure.

~~CB.~~ Buffering ~~Screening~~

1. CATS should be placed on a site in a manner that takes maximum advantage of existing trees, vegetation and structures so as to screen as much of the entire CATS as possible from view from adjacent properties and public roads. Access drives should be designed in a manner that provides no view of the CATS base or related facilities.



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

2. Towers should be screened from adjacent land uses and public roads as much as possible. Following buffer widths and standards should be met:

- a. In or adjacent to residential or agricultural zoning districts, areas designated residential or rural lands on the Comprehensive Plan, historic or scenic resource areas or community character corridors, an undisturbed, completely wooded buffer consisting of existing mature trees at least 100-feet-wide should be provided around the tower.
- b. In or adjacent to all other areas, at least a 50-foot-wide vegetative buffer consisting of a mix of deciduous and evergreen trees native to Eastern Virginia should be provided.

PerformanceStand-ord

ITEM SUMMARY

DATE: 6/3/2020

TO: The Planning Commission

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Planning Director's Report - June 2020

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Spreadsheet Listing New Cases Received	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Planning Commission	Holt, Paul	Approved	5/27/2020 - 10:51 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 10:52 AM
Publication Management	Burcham, Nan	Approved	5/27/2020 - 11:06 AM
Planning Commission	Holt, Paul	Approved	5/27/2020 - 11:06 AM

PLANNING DIRECTOR'S REPORT

June 2020

This report summarizes the status of selected Department of Community Development activities during the past month.

- **Planning**

- **Monthly Case Reports:** For a list of all cases received in the last month, please see the attached document.

- **Board Action Results:**

May 12, 2020

- Z-20-0001. Norge Center Proffer Amendment (Approved 5-0)
- Z-19-0003. Fords Colony Proffer Amendment (Approved 5-0)

- **Comprehensive Plan Update**

On May 4, 2020, the Community Participation Team (CPT) held a Listening Forum to gather input for the County's Comprehensive Plan update. The Listening Forum was held electronically due to the COVID-19 pandemic and in accordance with the Continuity of Government Ordinance adopted by the Board of Supervisors on April 14. Eleven local community organizations participated with live, recorded or online-submitted presentations. CPT members had opportunities to ask questions of presenters after each presentation. Links to the recorded Listening Forum and presentation materials are available on the Engage 2045 website.

Participants who submitted recorded presentations or presented materials live during the Listening Forum included Colonial Soil & Water Conservation District, Grove Christian Outreach Center, Historic Virginia Land Conservancy, Housing Partnerships, Inc., Toano Historical Society, Inc., and Williamsburg Health Foundation. Additional information and presentations were submitted online by: Friends of Forge Road and Toano, League of Women Voters - Williamsburg, Virginia Capital Trail Foundation, and Tidewater Trails Alliance.

On May 6, 2020, the Planning Commission Working Group (PCWG) held its fourth work session electronically, as James City County progresses through Phase 2 of the Engage 2045 Comprehensive Plan update process, Scenario and Model Building, and prepares for Phases 3 and 4, Alternative Futures and Affirming the Direction, respectively. During the meeting PCWG members and staff discussed key issues to be explored in the development of the plan as well as questions that might be asked of the public to help assess possible policy directions.

On May 18, 2020 the CPT met electronically to reflect on the CPT Listening Forum

and provide feedback. The Planning Team reviewed the May 6 PCWG meeting with the CPT and provided an update on the Public Engagement and Communications Plan. The CPT reviewed preliminary video scripts and discussed possible approaches to Round 2 of Public Engagement: Exploring and Testing. They discussed implications of the COVID-19 pandemic on the public engagement efforts. The Planning Team and CPT began formulating questions to ask the community during the Exploring Future Alternatives Assembly related to comparing alternative futures scenarios and exploring support for currently adopted Comprehensive Plan goals.

On May 26, 2020 the Planning Team briefed the Board of Supervisors on the County's progress through Phase 2 of the Engage 2045 Comprehensive Plan update process, Scenario and Model Building. The Board provided feedback on the draft Scenario Narratives as well as various topics of interest.

New Cases for June 2020						
Case Type	Plan Number	Case Title	Address	Description	Assigned To	District
Conceptual Plan	C-20-0052	Advancing Community Excellence Facility	110 NINA LN	Conceptual plan to construct a "Civic Design" building to house central offices, preschool program, youth programs, community outreach, civic engagement and neighborhood connections. Rental space for small-medium gatherings.	Thomas Wysong	Stonehouse
	C-20-0053	204 & 208 William Spencer BLE	204 WILLIAM SPENCER	Conceptual plan for a boundary line extinguishment at 204 & 208 William Spencer.	Brett Meadows	Roberts
	C-20-0054	164 & 168 Bush Springs Rd - Overhead Utility Waiver	164 BUSH SPRINGS RD	Overhead utility waiver request for 164 & 168 Bush Springs Road.	Thomas Wysong	Stonehouse
Subdivision	S-20-0021	9970 Fire Tower Rd. Niceland Farms	9970 FIRE TOWER RD	Subdivision application to create 2 lots at 9970 Fire Tower Road.	Thomas Leininger	Stonehouse
	S-20-0022	Forest Glen Sec. 5, Ph. 1 Plat of Correction	309 WALKER DR	Subdivision application to correctly label Walker Drive as Public Right-of-way for Forest Glen Section 5, Phase 1.	Thomas Leininger	Powhatan
Site Plan	SP-20-0029	HRSD Lighting Amend.	300 RON SPRINGS DR	Site plan amendment for exterior lighting at the HRSD Williamsburg Treatment Plant.	Tori Haynes	Roberts
	SP-20-0031	7214 Merrimac Trail Fiber Optic Shelter	7214 MERRIMAC TRL	Site plan to construct a shelter for fiber optic equipment at 7214 Merrimac Trail.	Tori Haynes	Roberts
	SP-20-0032	1576 Manufacture Dr. Storage Yard SP Amend.	1576 MANUFACTURE DR	Site plan amendment to expand an existing storage yard at 1576 Manufacture Drive.	Brett Meadows	Roberts
	SP-20-0033	Carter's Grove Plantation Farm Complex SP Amend.	8797 POCAHONTAS TRL	Site plan amendment to expand gravel surfaces at Carter's Grove Plantation.	John Risinger	Roberts
	SP-20-0034	Carter's Grove Plantation Secondary Roads SP Amend.	8797 POCAHONTAS TRL	Site plan amendment to extend a gravel road at Carter's Grove Plantation.	John Risinger	Roberts
	SP-20-0035	Billsburg Brewery Canopy SP Amend.	2054 JAMESTOWN RD	Site plan amendment to add a canopy over an existing deck at Billsburg Brewery.	Tori Haynes	Berkeley
	SP-20-0036	Rochambeau Solar Electric Power Plant	4951 ROCHAMBEAU DR	Site plan for the Rochambeau Solar Electric Power Plant at 4951 Rochambeau Drive.	Thomas Leininger	Stonehouse
	SP-20-0039	7185 Merrimac Trl. Prime Produce Source	7185 MERRIMAC TRL	Site plan for outdoor sales of produce at 7185 Merrimac Trail.	Thomas Leininger	Roberts
Special Use Permit	SUP-20-0009	3303 Rochambeau Dr. Tourist Home	3303 ROCHAMBEAU DR	Special use permit application for a tourist home use at 3303 Rochambeau Drive.	Brett Meadows	Stonehouse