A SPECIAL MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE TWENTY FOURTH DAY OF AUGUST, TWO-THOUSAND AND TEN, AT 6:30 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

<u>Planning Commissioners</u> <u>Staff Present:</u>

Present:Allen Murphy, Director of Planning/Reese PeckAssistant Development ManagerJack FraleyTammy Rosario, Principal PlannerAl WoodsChristopher Johnson, Principal PlannerRich KrapfJennifer VanDyke, Administrator Services

Tim O'Connor Coordinator

Mike Maddocks Jason Purse, Senior Planner

Scott Whyte, Senior Landscape Planner

Jose Ribiero, Senior Planner

Absent: Joe Poole

Mr. Reese Peck called the meeting to order at 6:30 p.m.

Mr. Peck welcomed everyone in the audience and explained that this evening's meeting is one of the first for the Zoning and Subdivision Ordinance update. In this meeting the public will have the opportunity to speak on Commercial and Mixed Use districts, development standards (including Wireless Communication Facilities [WCF's]), and procedural descriptions, submittal requirements and administrative items.

COMMERCIAL AND MIXED USE DISTRICTS

Mr. Tom Tingle, representing the Economic Development Authority (EDA), spoke regarding his submitted comments on greater predictability for businesses, industrial park design standards, the Economic Opportunity designation, and incentives for green commercial design. (See attachment #1)

Mr. Jack Fraley asked Mr. Tingle if he had identified specific uses that currently require a Special Use Permit (SUP) that should become by-right.

Mr. Tingle stated that he has identified such uses, and that he would provide a listing.

Mr. Rich Costello, representing AES, spoke regarding his submitted comments. He recommended more by-right uses within Commercial and Mixed Use districts. (See attachment #2)

Mr. Mark Rinaldi, 4029 Ironbound Road, spoke regarding his submitted comments and

recommendations, including the creation of a new technology district, strategies to encourage redevelopment and the creation of sending and receiving zones. (See attachment #3)

- Mr. Craig Metcalfe, representing the James City County Citizens Coalition (J4C), spoke regarding his submitted comments on the creation of the Economic Opportunity district and recommended changes to the Mixed Use district. (See attachment #4)
- Mr. Dick Schreiber, President of the Greater Williamsburg Chamber and Tourism Alliance, spoke regarding his submitted comments on the Economic Opportunity designation, and the need for a collaborative effort on those properties adjoining other jurisdictions. (See attachment #5)
- Ms. Susan Gaston, representing the Williamsburg Area Association of Realtors, spoke regarding her submitted comments on workforce housing, infill development and redevelopment. (See attachment #6)
- Mr. Fraley asked Ms. Gaston if she could provide specific language that the Planning Commission should consider for the ordinance.
 - Ms. Gaston stated she would.

DEVELOPMENT STANDARDS (INCLUDING WCF'S)

- Mr. Rinaldi, 4029 Ironbound Road, spoke regarding his submitted comments in support of the recommendations made by Builders of the Bay. (See attachment #7)
- Mr. David Neiman, representing the J4C, spoke regarding his submitted comments on recommended improvements to the ordinance pertaining to WCF's. (See attachment #8)
- Mr. William Halteman, 109 Randolph's Green, spoke regarding his submitted comments on recommended improvements to the ordinance pertaining to WCF's. (See attachment #9)
- Mr. Robert Duckett, representing the Peninsula Housing and Builders Association (PHBA), spoke regarding his submitted comments in support of the recommendations made by Builders of the Bay and the Better Site Design project. (See attachment #10)
- Mr. Stephen Romine, representing Verizon Wireless, spoke regarding his submitted comments. Verizon Wireless recognizes the need for a robust communications network and would like to be an active participant during the Zoning and Subdivision Ordinance Update process. (See attachment #11)
- Mr. Gerald Johnson, representing the J4C, spoke regarding his submitted comments on tree preservation. (See attachment #12)

PROCEDURAL DESCRIPTIONS, SUBMITTAL REQUIREMENTS AND ADMINISTRATIVE ITEMS

Ms. Jacqueline Griffin-Allmond, 1704 Treasure Island Road, spoke on the historical significance of the site found at 1704 Treasure Island Road.

Mr. Rinaldi, 4029 Ironbound Road, spoke regarding his submitted comments on the importance of cumulative impact analysis. (See attachment #13)

Ms. Suzy Cheely, representing Busch Gardens, spoke regarding her submitted comments on site plan submittal requirements. (See attachment #14)

Mr. Peck asked Mr. Romine to provide his presentation.

Mr. Romine declined.

OPEN COMMENT PERIOD

Mr. Peck opened the comment period.

Mr. Bob Spencer, representing the J4C, spoke regarding his submitted comments and recommendations for early submission of environmental inventories and the Autumn West development. He also spoke in favor of the proposed cumulative impact model. (See attachment #15)

Mr. Duckett, representing PHBA, spoke on cumulative impact analysis. The impact analysis should be comprehensive and include positive impacts. Property taxes, sales taxes, and jobs created are three examples of positive impacts.

Mr. Peck asked if there was anyone else wishing to speak.

There being no comments, Mr. Peck closed the comment period.

Mr. Peck stated that one additional public input meeting had been scheduled for Monday, September 27, 2010 at 6:30 p.m.

ADJOURNMENT

Mr. Peck recessed the meeting at 8:10 p.m. until September 1, 2010 at 4:30 p.m.

Reese Peck, Chairman

Remarks of the James City County Economic Development Authority

To the James City County 2010 Zoning and Subdivision Ordinance Update Forum

In the Matter of: Commercial and Mixed Use Districts – Special Use Permit Requirements

& Economic

Opportunity Designation Thomas G. Tingle, Chair August 24, 2010

The Economic Development Authority supports your efforts to update the Zoning and Subdivision Ordinances to reflect the adopted Comprehensive Plan. There are some excellent strategies recommended by the Comp Plan, and we urge you to "do the heavy lifting" that it takes to incorporate these recommendations into the ordinances.

There are several areas that we ask you to focus on as you move through the update process.

1. Special Use Permits

The EDA is pleased to learn that staff has already begun the process of reviewing the criteria for Special Use Permits. It is our hope that this threshold review and analysis will include discussions regarding the types of performance standards that will be needed to ensure community compatibility and acceptance, while improving predictability by allowing more by-right business and industrial uses.

The types of businesses we want in James City County are also very much sought after by other localities. When faced with a choice between two jurisdictions of equal merit, businesses look at the predictability of getting their business open and operating in a reasonable time, at a reasonable cost and with the least unexpected interference and risk. As it stands presently, many desirable business uses require a Special Use Permit, which runs contrary to the business concept of moving nimbly and quickly to seize an opportunity.

The success of this initiative will not be measured by the number of business uses that will no longer require SUPs; rather, the ultimate success of this initiative will be judged by the quality of performance standards established for each use type so that prospective businesses can know the rules of engagement prior to pursuing an opportunity. And affected stakeholders can enjoy the certainty of knowing what can and cannot be constructed on a particular property, under what circumstances and under what conditions.

2. Development Standards

It is imperative that the County not compromise its economic development efforts by placing unreasonable expectations on businesses and on properties designated for office and industrial use. Specifically, the ordinance changes should recognize the uniqueness of industrial parks within Community Character Corridors. Additionally, environmental concerns must be carefully balanced with economic development concerns, so as to not unreasonably hinder the efforts of the County to diversify its economic base.

3. Economic Opportunity Areas

One of the primary recommendations from the County's Business Climate Task Force was to identify, preserve and "land bank" key sites for future economic development opportunities. The Comprehensive Plan Steering Committee acted on this recommendation by designating a large area of land in the Lightfoot area as Economic Opportunity (EO). Originally proposed as a Mixed Use area, the Steering Committee set the bar higher for this land by defining its use primarily for economic development, increased non-residential tax base and the creation of jobs. This land is at a strategic location within the county, relative to transportation, utilities infrastructure and adjacent uses. The EO concept needs to move forward, with a process that encourages public/private area master planning and the extension of Mooretown Road.

August 24, 2010 Planning Commission Public Input Forum Attachments

4. Green Building Initiatives

The EDA commends the efforts of the County's Green Building Design Roundtable, and supports the use of incentives, education and County leadership in Green building design, in order to stimulate the private sector to invest in green and sustainable development. However, requiring Green design standards such as LEED and EarthCraft for buildings of a certain size will discourage economic development, and put James City County at a competitive disadvantage with other jurisdictions. We will not end up with more green buildings through mandates; we will chase away desirable businesses. As the Roundtable Committee's summary states, "the best approach for a ... Green Building Program is to

encourage, rather than mandate."

In summary, we believe that, through a collaborative effort, there is an opportunity for successfully modifying the present ordinances in a manner that will afford existing and prospective businesses predictability without compromising the character of James City County, while enhancing opportunities for much needed economic development. The EDA and its directors stand ready to help you throughout the process

6:45

I would like to thank the Planning Commission for this opportunity to speak. My name is Rich Costello and I live at 10020 Sycamore Landing Road in the Stonehouse District of JCC. I am also President of AES Consulting Engineers, a firm that principally practices Land Development in Central and Eastern Virginia with its largest office located in JCC.

I will speak this evening to the Commercial and Mixed use Districts. Commercial properties pay for themselves, which means they pay more in taxes to the local government than services they receive, compared to almost all Residential development which costs local government more money than they take imprincipally due to the education of school children. Due to this fact Commercial Development is usually desired by local government.

Commercial Development is not a static process, it is all about change with major innovations in how it Markets itself every live to ten years. You all have seen it, strip shopping centers evolving to enclosed shopping malls, then power centers, and now Lifestyle Centers and the latest being Town Centers which usually combine both retail and residential development.

The County Commercial and Mixed Use Districts Ordinances are not in sync with current development trends. Our ordinances are generally out-of-date and unable to manage development without resorting to proffers and SUP's for almost all cases. And that is bad because it more often that not locks down the use and the architectural look of the building or buildings in a development. Many people would argue that's good, however I would argue that it is not. We are currently are seeing a lot of free standing drugstores, with the 2010 look, Most of these sites have proffers or SUP's that specifically tie the site to that use and look. What if these drugstores end up like video stores and are all gone in 10 or 15 years.

What do you do then - the short answer is come back to the Board of Supervisors and spend \$30k to 50k to get another SUP that's good for another 5 or 10 years or do nothing and leave the site sit vacant or put any user in the building to maintain some cash flow. What if you want to just update the look of your building? Well, once they know the answer is go to the Board of Supervisors, what happens many times is no update occurs. The long term result of this process is neither good for the developer or the Community.

The last Zoning District created was the Research and Technology District in 1998. To my knowledge it hasn't been used yet. Then looking it District that is misused or overused we have the Light Industrial District M-lwhich was generally intended for manufacturing currently being used for numerous shopping centers and many other commercial projects.

My point is if the County wants to encourage more Commercial Development it needs to update and realign its Districts allowing more development by right. This means:

- Revisit each Zoning District's uses and do not try to make each districts work for the entire County, but supplement them with Overlay Districts for portions of the County where more restrictive development controls are wanted. A good example of this is the Limited Business District that have stricter uses for areas that are designated Neighborhood Commercial.
- On traffic tie SUP's not solely to traffic generation but also to the existing capacity and level of service
 of the roads that the site traffic flows unto.
- Also if there needs to be architectural controls handle them by SUP with a 5 year expiration for most of
 the controls so architectural updates can occur without difficulty.

Thanks for listening.

M-RWALDI B(24100

Commercial and Mixed Use District

Thank you Mr. Chairman, members of the Planning Commission, good evening. I am Mark Rinaldi and I can be found most days of the week at 4029 Ironbound Road.

I am confident that most of you understand the important role economic development plays in our community's well-being. Indeed, it intersects with nearly every other aspect of community life. To be sure, there are citizens in this County who would be content to see no new or expanded business and industry within our borders. But I suspect these well-intentioned people have not fully considered the implications of such a future. For a glimpse of that future, one need only look at the current fiscal stress the County is experiencing. There are ways to manage growth and maintain a sustainable community. Perhaps some of the following observations will be helpful as you begin to envision useful changes to our zoning and other regulatory ordinances to that end.

Redeployment of vacant or underutilized facilities and redevelopment of distressed or obsolete properties should be important emphases in our overall community development strategy. It is my hope that as a community we can quickly begin to view distressed properties not as temporary blights upon the landscape, but as unique opportunities to reset these properties and benefit from gains in energy efficiency, aesthetic improvements and contemporary functional relationships. In order to meaningfully capitalize on the opportunities that such sites offer, however, our ordinances, policies and programs will need to offer flexibility, reward creativity and encourage the use of offsets to achieve and maximize area-wide benefit where constrained site specific solutions may not be possible or practical.

With specific reference to commercial uses, I first want to applaud the County's efforts to date in moving a variety of business uses from Special Use Permit to by-right. Some of you were involved in several important modifications that occurred prior to the Comp Plan process, but there is more work to be done, and it is my hope that this ordinance update process will complete the task. As I recall, the pre-Comp Plan changes were described by Staff as relatively minor, low hanging fruit if you will. I stand here before you this evening to encourage you to now do the hard work necessary to move forward with this important, increasingly important, initiative. Businesses now, more than ever, need certainty as they plan for major capital investments. They will work with communities that establish clear expectations and avoid communities where its let's make a deal. Establishing appropriate performance standards for by-right uses cannot be done in a vacuum. Genuine and sincere collaboration between the regulated and the regulators and with other vital community stakeholders is the only way to achieve the desired results of increased predictability, for both businesses and interested citizens. Working teams including all the various stakeholders is the best way to success.

While a member of the County's Economic Development Authority, I participated in a number of discussions among and between EDA Directors and OED Staff about various issues related to the County's existing Enterprise Zone and the benefits to be derived from the creation of one or more Technology Zones. It is my understanding that there may be additional acreage available to add to the existing Enterprise Zone, and some acreage could reasonably be removed from the zone, all in an effort to better match suitable land inventory in the revamped zone with desirable economic development uses.

With respect to technology zones, the EDA recognized over 18 months ago that certain classes of technology business activities can have

special economic significance to the county due to the nature of the technology developed or employed, their interrelationships with other Hampton Roads based federal, institutional and private organizations/ businesses and their potential for high growth in employment and capital investment. The EDA felt that an appropriate method of offering effective incentives to certain classes of technology businesses is to create one or more technology zones in the county. The establishment of technology zones in other communities has been found to hasten redevelopment, serve as a retention mechanism for existing businesses and incubator clients and provide significant hi-wage and benefits employment and tax generation. To take charge of our economic future, the County must move forward in this update process to geographically designate one or more technology zones, identify the industry classes and clusters we wish to encourage therein and determine the types and magnitude of incentives the zones will represent.

Finally, the creation of an Economic Opportunity district in the recent Comp Plan is the first step towards creating a sustainable economic future in JCC. Building up, not out, and with multiple modes of transportation access to and away from significant employment centers will help to insulate JCC from the increasingly grim future of the singleoccupancy private vehicle. Establishing the EO district as a receiving zone for the transfer of development rights will provide the ying to the rural land preservation yang. Conversion of residential development rights from the sending zone into commercial and office development rights in the receiving zone can lessen the pressures rural landowners face when they need or desire to monetize their land assets for retirement, health expenses and other necessities of daily living. Other mixed use, higher intensity districts can also be designated as receiving zones. In time, this market based approach to growth management could even replace the antiquated and ineffective PSA tool that the County has struggled to explain, implement and revise for decades.

6:55

AUGUST 22, 2010

MEMORANDUM TO POLICY COMMITTEE - PUBLIC HEARING (AUGUST 24TH)

FROM: JAMES CITY COUNTY CITIZENS COALITION (14C)

SUBJECT: MIXED USE ZONING

In 2007, the Board of Supervisors approved an amendment to Section 24-527 of the Mixed Use District (MUD) Ordinance, specific to reducing setbacks. At that time, the J4C opposed the amendments for a number of reasons that apply equally today:

- A few recent applications are insufficient reason for amending an established ordinance that has worked well overall.
- Developers are using the MUD to avoid restrictions and to increase density. This places additional stress on water resources, schools, traffic, etc.
- 3. The proposed amendment is confusing. It appears to remove the Board's authority to determine setbacks in specific cases. We believe the Board has ultimate responsibility to define and protect the character of the district by prescribing required setbacks. This authority must be retained by the Board.
- The Comprehensive Plan should be followed. We should not be using the MUD
 ordinance outside of its designated mixed use areas.
- We favor making an exception for affordable housing if the area meets all the requirements for mixed use.
- School and other proffers need to be required of mixed use, as well as other types. In
 many instances, these could be expected to be higher due to the uncertainty of what the
 mixed use might be in the long term.
- One of the important purposes of any Mixed Use project is to make more efficient use of the land. Buildings should be tightly packed to accommodate walking and biking. Any Mixed Use design should therefore produce a significant amount of open space, either on site or off (TDR).

As reflected in a number of our positions, we believe Mixed Use zoning should only be used when specifically defined in the Comp Plan. The J4C supports a removal of, or at least a major revision of the Mixed Use Ordinance that will make it more consistent with the current Comp Plan. We specifically believe the ordinance needs to be tightened and cover only particular development types not currently covered by the business and commercial zoning ordinances (M1, M2 and LB, etc.). We, and it seems, the majority of residents, believe it is essential to maintain the rural character of much of James City County and thus would oppose the rezoning of any A-1 land to Mixed Use (MU).

Likewise, the J4C is opposed to the addition of an Economic Opportunity (EO) zoning designation until such time as a thorough examination of its impacts has been completed. Governmental processes, like its services must be sustainable over time. We believe that defining a zoning category for a one time case is wrong and the ordinance should prohibit it. In general, we believe that there are already far too many ordinances governing the development process—for the benefit of developers, development staff and citizens.

We also believe that mixed use should not be applied to an application that does not bring with it a fully designed site plan. Local government officials still carry the responsibility for approving land uses only when they have been specifically defined and it is clear what the "mixed uses" will be and how they will look.

A comprehensive review of MU could determine that there is no need for this specific ordinance. The current business and commercial, and residential zoning ordinances appear to cover current requirements for MU. The review needs to examine carefully the permitted uses, the setbacks, and the use of this designation for areas proposed for development and/or requiring rehabilitation.

The J4C has reviewed the Comprehensive Plan text and its GSAs, as well as independent and local government "mixed use" documents, and find nothing that would not support our recommendations. Our review of the GSAs resulted in Figure 1 below, a summary of the 2009 Comp Plan's GSA's relative to mixed use (MUD). (SHOW FIGURE 1) AND READ THIS:

A large number of these uses would apply primarily in agricultural and forested areas of the County. If agricultural ones are determined to be of value and cannot be incorporated in the A-1 ordinance, they should then be separated into rural applications as opposed to urban or suburban development, within the MUD's several sections. Another example of misplacement of uses would appear to be in the rental of rooms to a maximum of three. Isn't this a factor in residential zoning districts? These questions lead to our suggestion that if an MU zoning is retained, it should be tied to the other residential and commercial districts where specific design standards can be retained.

As has been mentioned earlier, we believe the following Land Use GSA should be removed, consistent with citizens' desires relative to growth and until the MU ordinance has been reviewed and determined to be relevant to lands not developed within the PSA.

"LAND USE GSA 1.4.6, pg. 248 – Encourage developments which provide mixed use development, as further defined in the Mixed Use Land Use Designation and Development Standards, within the Primary Service Area. Support design flexibility to promote mixing of various types of residential and non-residential uses and structures."

During the last few months, we have examined a number of ordinances and program descriptions from other jurisdictions. Attached to our paper submissions is a power point description of the

City of Chesapeake's program that we believe would meet James City County's needs, should the need for such an ordinance be identified. It describes the benefits of the designation as well as specific aspects of how it works.

We have not had the time to review specific problems we have with the current ordinance other than those mentioned earlier in this statement. We hope to be able to factor these into our review of the revisions that will be made over the coming months. We would ask that specific attention be paid to citizens' concerns and that their wishes be incorporated into the final text. Where these apply to a very limited number of lots/developments, they should be considered for elimination. We believe that MU is one that fits this category. No attempt from developers to use this designation for dubious reasons should be approved. If it is to be retained, then it needs to be more specific and completely revised.

Specifically we offer the following recommendations:

- Consider removing the "mixed use" ordinance from Code; relying on related ordinances
- 2. Reduce the number of permitted uses, if the ordinance is retained.
- 3. Remove Land Use GSA 1.4.6, page 248 from the Comp Plan.
- Require binding and specific site plans to show approving officials the exact layout and configuration for any mixed use application.
- Remove potential for variances and exceptions from applications; require specific setbacks and buffers, particularly on Community Character Corridors.
- "If an MU ordinance is retained, it should be divided into "residential", commercial", "business", etc.
- Mixed Use must not result in an increase in population over that expected from byright.
- Mixed Use data from the Kimley-Horn "James City County 200 Development Potential Analysis" should be updated and factored into decisions on the ordinance.

We will be pleased to be part of any working group considering the "Mixed Use" rewrite.

FIGURE 1. Goals, Strategies and Actions (GSAs) from the 2009 Comprehensive Plan that impact on Mixed Use District ordinance.

Environment. 1.1.5 continues regional efforts to ...identifies lands best suited for development. This should include type of development.

Economic Development. 1.1 would indicate expansion of the Enterprise Zones rather than creating a new category (EO). 1.4 places more emphasis on infill development, much of this may end up in a request for mixed use zoning.

Community Character. 1.1.1 focuses on development along Community Character Corridors protecting the natural and historic views of the area; development along the CCCs often includes MUD zoning.

- 1.1.3 encourages initiatives to ensure the development of quality industrial and office parks for potential economic development prospects.
- 1.2.1 relates primarily to development along CCCs in New Town Toano and Five Forks; possibly mixed us zoning.
- 1.3.9 focuses on consistency with the Development Standards in the Comp Plan.
- 1.5 relates to the preservation of existing vegetation during development.

Land Use, 1.2.1 provides for connecting neighborhoods with retail employment centers, parks, etc.

- 1.4 directs growth into designated growth areas. within PSA.
- 1.4.5 focuses on infill development, redevelopment within the PSA, providing strategies. Within 1.4.6 and 1.4.7 developments using MUD are encouraged (not supported by J4C).

FIGURE 2. PERMITTED USES (all structures to be erected or land to be used) THAT MIGHT BE CONSIDERED FOR DELETION

Residential Uses:

Accessory structures, as defined in section 24-2. (If this remains, it must have more specific descriptions

Non-Residential Uses:

Automobile repair and service

Automobile service stations

Funeral homes, cemeteries and memorial gardens

Group quarters for agricultural workers

Heavy equipment sales and service

Home occupations as defined. (NOTE: Aren't these covered in Residential ordinances?)

Convention centers

Houses of worship and cemeteries accessory hereto

Manufacture and bottling of soft drinks and wine

Manufacture and processing of textiles and textile products

Manufacturing, compounding, assembly or treatment of products

Manufacturing, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products

Manufacture of carpets and carpet yarns

Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment

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

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

Processing, assembly and manufacture of light industrial products or components Warehouse, storage and distribution centers

Welding and machine shops with storage

FIGURE 3. RECOMMENDATIONS

- Consider removing the "mixed use" ordinance from Code; relying on related ordinances
- 2. Reduce the number of permitted uses, if the ordinance is retained.
- 3. Remove Land Use GSA 1.4.6, page 248 from the Comp Plan.
- Require binding and specific site plans to show approving officials the exact layout and configuration for any mixed use application.
- Remove potential for variances and exceptions from applications; require specific setbacks and buffers, particularly on Community Character Corridors.
- 6. "If a Mixed Use ordinance is retained, it should be divided into "residential", commercial", "business", etc.
- Mixed Use must not result in an increase in population over that expected from by-right.
- 8. Mixed Use data from the Kimley-Horn "James City County 2002
 Development Potential Analysis" should be updated and factored into decisions on the ordinance.

We will be pleased to be part of any working group considering the "Mixed Use" rewrite.



James City County Planning Commission Forum

August 24, 2010

There has been considerable discussion about the potential use of economic opportunity zones by planners and the business community and my remarks will draw upon these ideas.

The Chamber & Tourism Alliance believes that growth in the county's economic base must be accommodated in the plan. Without some growth in that base, we will have increasing tax burdens caused by growing imbalance with planned residential expansion. Our members recognize the importance of maintaining the uniqueness of our area. James City County's quality of life is our key competitive advantage to attract businesses, residents, and visitors. We need a balanced economic portfolio that preserves the uniqueness of our historic area <u>and</u> attracts and maintains complementary businesses. One important part of achieving balance will be clear guidance in the plan concerning large tracts of land that are appropriate for development and those that are not. Economic opportunity zones are one means of ensuring that the scope of growth is measured and the location is established in a proper area.

James City County's 2009 Comprehensive Plan Update included a new Economic Opportunity Zone designation to encourage developments that have a positive fiscal contribution, provide quality jobs, enhance community values, are

environmentally friendly, and support local economic stability. Master planning is at the core of this designation. The Comprehensive Plan anticipates that no development should occur unless it is incorporated into area/corridor master planning efforts, which should be shielded from jurisdictional boundaries.

The Comprehensive Plan specifically notes the regional planning and cooperation opportunity for the Lightfoot/Hill Pleasant Farm and Quarterpath areas, but it notes that collaboration opportunities in other areas must be considered, as well. Areas that have already been developed along borders among the city, counties, and William & Mary, can provide insight on how to collaborate on future interjurisdictional developments.

Both James City and York Counties recognize the Lightfoot/Hill Pleasant Farm section as an area for significant development, much of which could be enhanced by extending Mooretown Road. This area includes approximately 1,100 acres — 600 in York and 500 in James City. The York comprehensive plan includes extension of Mooretown Road into this area and anticipates mixed use development. Both counties desire that the area develop through a master plan to include commercial and possibly some residential areas. James City County's suggested uses of the area include industrial, light industrial and office uses; primary uses would follow the recommendations for the general Economic Opportunity. York County has designated the Lightfoot area for Economic Opportunity with a Mixed Use overlay designation.

In addition to the Lightfoot/Hill Pleasant Farm area, other areas that would benefit from inter-jurisdictional collaboration include the Eastern State property, Camp Peary intersection, and the Rt. 199/Rt. 60/I-64 intersections. Further research among James City, Williamsburg, York and William & Mary is necessary to completely identify large and small scale opportunities for collaboration.

The issue of collaboration involves staff other than just economic development. Planning issues will surely arise as the three jurisdictions have their own separate zoning ordinances. A thorough review of each locality's development procedures will be necessary to determine conflicting ordinance permissions and uses. While

all three localities are subject to the same Virginia Building Code and Chesapeake Bay regulations, each jurisdiction has its own standards and interpretations for these and other policies. A regional development policy for site and building plans review within collaboration areas could also be beneficial. Having only one review and enforcement agency would ease confusion for developers and land owners. Finally, involvement of public utility staff is necessary to coordinate the effects on our regional water and sewer systems. Planning, Environmental and Building Code staffs would have to adopt consistent standards for projects within collaborative areas. Ideally, the master plan would include consideration of types and sizes of units, inclusion of workforce housing, and apartments. The plan would consider the infrastructure impacts, particularly on school enrollments, and would consider how those impacts would be apportioned across jurisdictions.

Preliminary engineering work and a master plan for collaborative development would address the site and building plans approval issues. When developing a master plan, it will be important to consider the businesses and end-users for the area. Coordination with both VEDP and HREDA would be useful to develop target industries for the region, and incorporate features that attract those general industries into the sites.

We urge the Planning Department and Commission to craft ordinances that enable the planned growth of economic opportunity zones to succeed in collaboration with other jurisdictions.

James City County Zoning Ordinance and Subdivision Ordinance Planning Commission Public Forum Tuesday, August 24, 2010
WILLIAMSBURG AREA ASSOCIATION OF REALTORS®
DISCUSSION POINTS

The Williamsburg Area Association of REALTORS® is a professional trade association that represents the real estate profession and property owners throughout the communities of James City County and the City of Williamsburg, as well as a portion of both New Kent and York Counties. The Association, with its 500-plus members, works diligently to promote pro-housing and pro-business interests and supports legislative, regulatory and political efforts that reflect our mission.

Inherent to the Association are five guiding principles upon which we have based our comments.

1. Provide Housing Opportunity and Choice

Homeownership is the cornerstone of the American dream and deserves a preferred place in our system of values as it contributes to community responsibility; civic, economic, business and employment stability; family security and overall well being of a community. These objectives can be met through market-driven housing approaches that foster a wide-range of urban, suburban and rural housing choices at all price levels to suit a diverse population.

2. Build Better Communities

Real estate of all types flourishes best in livable communities that offer a high quality of life at a reasonable cost. Livable communities offer a variety of affordable housing choices, good schools, low crime, quality public services, efficient transportation systems, ample recreation and park areas, open space, strong employment base and an economically viable commercial sector. To promote these essential livable community elements, growth policies should encourage market-driven and culturally diverse growth patterns that sustain and enhance a community's quality of life.

3. Protect the Environment

To maintain a region's quality of life and to protect the environment, governments should consider policies and programs that aid the control of pollution; provide for programs that encourage preservation of natural resources, significant lands and properties of historic significance; and further encourage, through incentives, the protection of endangered species, aquifers, rivers/streams, agricultural lands, wetlands, scenic vistas, natural areas, and open space.

4. Protect Private Property Rights

Private property rights are fundamental to our free-market economic system and are protected by the 5th and 14th Amendments to the United States Constitution. Our nation's economy depends on the preservation of the right to freely own, use and transfer real property.

5. Implement Fair and Reasonable Public Sector Fiscal Measures

To support adequately the infrastructure needs of communities resulting from growth, governments should cooperate in the adoption of balanced, fair, equitable and incentive-based approaches to finance and pay for the development, expansion and

maintenance of roads, schools, water and sewer facilities. Revenue and financing mechanisms established to pay for necessary infrastructure costs should be shared proportionally by those segments of the population served by improvements and not just be borne by property owners.

Relative to the Zoning and Subdivision Ordinances, and specifically to the topics tonight regarding commercial and mixed-use land use districts, we offer the following comments and observations:

We all know that business and industry are vitally necessary for a balanced tax base, employment, the health of a community and the growth of a community. Local real estate professionals are of the opinion that the County's current commercial and mixed use districts are old and outdated, allowing for very little in the way of "new" industry and commerce--i.e. web-based businesses, alternative energy industries, etc.

The current districts are inflexible and do not allow for future industries tomorrow that none of us can predict today.

The County should be highly creative about permitted uses in the various districts to maintain and expand current businesses, and to attract new businesses. The County should establish real incentives as part of creating more flexibility in the commercial districts. In other words, the County needs to do more to entice businesses to stay and to locate here. While streamlining the permit process and waiving fees are appreciated, it may not enough in today's economic climate. There should be additional incentives—such as tax credits for the number of or types of jobs created, tax abatements for certain businesses, more technology incubators and enterprise zone approvals, etc.

The County should encourage developments which provide mixed-use development and support design flexibility to promote mixing of various types of residential and non-residential uses and structures.

The County should approve the Economic Opportunity land use designation, which through the Comprehensive Plan is designed to increase the nonresidential tax base and stimulate the creation of jobs. This designation also will promote mixed-cost housing with a strong emphasis on workforce housing and higher density development. We believe that the housing component of the Economic Opportunity land use designation is the key factor in driving its success, and we offer our assistance to work with the County on the housing sector within these areas.

The Association follows trends in today's marketplace, and we can work with the County to share the features that buyers many want including walkable communities, green design, small lot size and small square footage, as examples. We are working with a local government in another community on its zoning ordinance re-write, and have provided policy makers and staff with details on current trends in the homebuyers market. It appears that those details are providing beneficial to that community as it works toward framing its future land use and zoning decisions for its neighborhoods and residents. We can provide the same information to James City County. It is through the zoning designation process, specifically commercial and mixed-use zoning, that James City County can increase the balance of our tax base so that less pressure is applied to residential properties.

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We support the creation of jobs and area businesses so that additional opportunities are created for a skillful, young workforce. A strong local economy results in a diverse local community. However, the backbone of any of these job opportunities also is a strong housing market that allows employees to live and work in the same place.

To that end, we ask that the following be incorporated into the new ordinances: Encourage a balanced mixture of commercial, industrial and residential land uses, including redevelopment.

Incentivize developers to incorporate workforce housing into their developments by allowing for bonus densities.

Encourage infill development, the redevelopment of existing parcels and the adaptive reuse of existing buildings to efficiently use infrastructure and natural resources.

WAAR offers itself as a resource to the County. Having worked on a variety of local government enabling legislation at the state level, we can provide specific language and details that have the potential to be very positive and fit into the County's goals and objectives.

We look forward to engaging with you in zoning, land use and subdivision discussions, and to developing solutions in order to create an achievable vision for our community.

M. RIVALOI 0 | 24 | 10 7-25

Development Standards

The County has done an outstanding job over the past several decades influencing the quality built environment we all enjoy. The challenge for our collective future is how we can continue to achieve a quality built environment within the broader context of various environmental, economic and societal sustainability constraints. Water comes to mind immediately. Landscaping requirements should be revised to significantly incentivize indigenous, drought-tolerant vegetation as required minimums and discourage the establishment of water-thirsty grass.

More broadly, I would encourage the County to once and for all incorporate the Builders for the Bay principals for water quality improvements that have languished since their consensus adoption in 2004. Development standards for setbacks, sidewalks, driveways, infill and redevelopment, street width, street length, rights-of-way, cul-desacs, parking ratios and parking codes are but a few of the items where consensus was reached between the development community, citizens and the conservation community and all levels of government. How often do we find that, consensus? Whenever we do, we should act swiftly to formalize such consensus, and thereafter, to work collaboratively with these stakeholders on additional policy areas where consensus might be achieved.

The Chesapeake Bay Preservation Act and local ordinances have been around since 1989. While the overall success of the program Statewide to date is arguable, the importance of continuing to manage stormwater runoff cannot be overstated. But James City County owes it to itself and to its existing and future residents and businesses to take a long hard look at how we implement the Act. James City County is

unique in its arbitrary max. 60% impervious cover requirements. It has become an absolute prescription for sprawl, which most serious students of growth management and environmental protection would say is among the most damaging growth patterns possible. Other equally or more progressive communities establish a downstream water quality standard and challenge the environmental and engineering design communities to use their knowledge, experience and creativity to achieve compliance. If there is evidence that JCC's program results in better downstream water quality compared to other jurisdictions, then I say keep up the good work. But there has been no such evidence produced to date, after more than 20 years.

Beyond inducing sprawl, this arbitrary requirement makes James City County less competitive than other communities in the Tidewater economic development arena because prospective businesses have to purchase that much more land in JCC to accommodate their planned physical plant. James City County would be well served by using appropriate environmental policy and technology to achieve its environmental goals, and planning and zoning strategies to achieve its community development/growth management goals. But by using one approach to accomplish the other, and vice versa, unsatisfactory results are sure to continue.

On another note, I am reminded of the controversy at John Deere some 5+ years ago, over their desire for a larger sign and one of more vivid colors. As I recall, there were ordinance provisions and policy decisions taken that together prevented Deere from achieving its signage goals. I would encourage the County to examine carefully the signage provisions for planned industrial and business parks, and to work towards an overall signage philosophy which embraces the value that quality signage represents to our cherished corporate citizens, while cognizant of the impact on views from a variety of adjacent or nearby sensitive properties. In particular, I would encourage the County to

adopt significantly more favorable signage opportunities for businesses located along Interstate 64 and major employment/industrial areas. We enjoy many longstanding corporate citizens, of whom we should be proud to boast to all who pass through our region that they selected James City County and are flourishing because of it.

Finally, form based codes are an attempt to prescribe the physical form of urban and semi-urban areas with the intent of creating livable, walkable and functional compact places where a variety of transportation modes can serve both residents and businesses. Form based codes support a Smart Growth approach to community development, and we should consider their adoption more broadly for higher intensity areas of the County, where population and employment centers can best be accommodated. The New Town master plan competition was essentially an exercise in form based planning. Much has been learned from the experience of New Town. Standing on the shoulders of those giants, we can reach for even better and more functional contemporary places to live, work and play, and Indeed, that is the future we should pursue to avoid continued sprawl.

7:40

My name is David Nelman and I live at 105 Broomfield Circle in James City County.

I'm representing the James City County Citizens' Coalition and we appreciate the opportunity to speak at this forum.

J4C believes that our wireless ordinance is well written and we support efforts to improve cell phone service in our county. However, we would like to see some changes in the ordinance to lessen the negative impact that some of these efforts may inadvertently have on county residents.

First, J4C understands the desire of carriers to extend their "by right" authority to initiatives such as the placement of wireless antennas hidden in chimneys and atop existing structures. However, we very strongly disagree that carriers should be able to build towers up to 120 feet 'by-right" in residential districts once these towers are deemed to be camouflaged by the planning director.

This is our major objection to the current wireless ordinance.

This objection is not intended to reflect negatively on our planning director. The "by right" authority for the construction of camouflaged towers can and will have a very large impact on many county citizens. This can readily be seen by the number of times it has been raised before various county bodies. The current "by right" authority for camouflaged towers in residential districts is too permissive and does not require the degree of public scrutiny that such a structures clearly warrant.

Camouflaged towers 120 feet high in residential neighborhoods aren't in the same category as antennas hidden in chimneys or installed on existing building. All applications for the construction of camouflaged towers in residential areas should be submitted under the SUP process and not permitted "by right". The SUP process will elicit greater justification from the carriers and provide for

legislative review with greater involvement of the public. Unlike many of the areas where the carriers understandably want increased "by right" authority, the controversial nature of camouflaged towers in residential areas and the large number of citizens affected by them make a very strong case in this instance for replacing "by right" authority with the SUP process

Next, J4C believes that areas zoned R-4 be should be included with residential zones R1, R2, R5 and R6 where tower mounted WCF's higher than 120 feet are prohibited.

We believe that the rationale that resulted in the 2005 ordinance changes separating R-4 districts from these other residential areas and permitting the construction in r-4 districts of tower mounted WCF's up to 120 feet under SUP's was essentially flawed. R4 areas like Governor's Land, Ford's Colony, Greensprings and Kingsmill do have extensive open space. However, this space is generally not sufficient to accommodate tower mounted WCF's over 120' without having a significant impact of residents' view shed. This is in part because while golf courses provide much of the open space, homes are routinely located along most fairways and maintenance areas, while buffered, are frequently located near homes.

We submit that the broadly based negative reaction to the proposal to build a 180 foot tower in Kingsmill several years ago is typical of residents' reaction that would undoubtedly result from any proposal to build tower mounted WCF over 120 in any R4 zoned area. Our ordinance should be changed to prohibit the construction of tower mounted WCF's up to 120 feet high in R-4 Districts.

Third, J4C believes that the setback for towers in residentially zoned districts should be increased from 400 to 1000 feet.

If you compare the reduced impact of the Greensprings tower which is approximately 1300 feet from the nearest residence with the impact of the proposed Kingsmill towers that would be approximately 400 feet from the nearest residence, it is clear that a significantly greater setback distance is desirable in residential districts. When you see a cell phone tower every time you walk out of your front door, look out your living room window or sit on your deck, four hundred feet is a very short distance.

J4C has several recommendations for changes to the Processing and Submittal Requirements section of our current ordinance

We think that applicants at pre-application meetings should be required to address pertinent alternative technologies, as well as pertinent changes in the capabilities of their networks, when applying to construct new towers. These are dynamic areas that could effect the need for new facilities and its scope. Carriers should be required to address their implications, if any, when they make application for new WCF's in the county.

J4C realizes that the issue of health implications of the electromagnetic radiation from cell towers is unresolved. However, we think that in addition to a statement from a certified engineer on the amount of electromagnetic radiation that will be emitted from a WCF, actual radiation from a facility should be

monitored after six months of operation and yearly thereafter to ensure compliance with FCC standards.

As the last Sec 24-128 item, we believe that all the technical evidence from tower applicants should not only be provided to the planning division in writing but that it should evaluated where appropriate with the help of independent telecommunications consultants. Much of the information provided by WCF applicants is highly technical and in many areas such as propagation patterns it is generated by the applicants themselves. Most other counties in Virginia have arrangements with outside consultants to help in the evaluation of wireless issues applications for WCF's. J4C contends that there needs to be more technical expertise on the county side of the table when our planners deal with these issues and that our ordinance should be changed to appropriately.

Next-balloon tests. We think that they are a good tool but that they could be improved. Specifically, we think that adjacent property owners should be advised individually two weeks before a scheduled test in writing or via the internet. Notices in the local paper are just too easy to miss. Secondly, a balloon test should not be accepted unless the balloon is located vertically above the proposed tower base and at the proposed tower height. Otherwise photos fail to show the true visual impact of the proposed tower and can be misleading to county residents.

Our last proposed change is a bit broad. We don't understand the reason Performance Standards for WCF's separate from the county wireless ordinance. The Performance Standards contains good information, but the document was

adopted over twelve years ago in 1998. Moreover, it's confusing when you try to read it and our wireless ordinance. We believe that the many good points contained in the Performance Standards could be retained and the confusion reduced, if it were incorporated into the county wireless ordinance as part of the current revision

Most of the points that I've addressed are covered in the written input that J4C provided to the Board of Supervisors and the Planning staff. If there are any questions we would be happy to answer them.

Finally, we'd like to make a plea for the county Wireless Communications Master Plan. We think that the long term view provided by such a plan would be very valuable and we would welcome the opportunity to participate, along with other interested parties, to help reflect the citizens' perspective.

From J4C, thank you again for the opportunity to speak.

7:35

Mr. Chairman, my name is William Halteman, I live in Kingsmill at 109 Randolph's Green.

Thank you for this opportunity to participate in the wireless communications ordinance update.

The JCC Wireless Communications Facilities Ordinance and Performance Standards, both approved on May 26, 1998, are more detailed and comprehensive that any of the adjoining county ordinances for wireless communication facilities. However, both need to be updated since neither interface with the JCC Comp Plan.

A 2009 Comp Plan map (Ref A) identifies and outlines areas in JCC which are "archaeologically sensitive." A wireless service provider submitting a WCF site plan for review should first request an archive search of the proposed site plan area in JCC from the Department of Historic Resources (DHR) to avoid impacting "known archaeological resources" shown on the map. JCC planners should require applicants to provide evidence of a archive search before initiating site plan review. R-4 zoning districts such as Kingsmill, which is inside a "ultra sensitive area" where camouflaged WCF's are permitted uses By Right, is a prime example as shown here (Ref B) where the two cell tower lease boxes (70' X 70') straddle a known historic resource identified as slave quarters with DHR designation 44JC1140. The former Planning Director provided NO "verifiable evidence" that an archive search had been

performed during a meeting on February 1, 2008, two months after the site plans were undergoing administrative review.

All WCF cell tower site plans proposed in ALL residential zoning districts should be submitted for review under a SUP – ONLY!

The required setback from ALL WCF's should be increased from 400 feet to 1000 feet in all residential zoning districts.

The most onerous and contentious section in Chapter 24, Wireless Communication Facilities, is <u>Sec. 24-122 (d)</u> which permits "camouflaged" WCFs in "<u>ALL</u>" zoning disticts subject to the **determination of the planning director**. The Planning Director's discretionary authority is subject to local public pressure, political and media influence, and should not be a determining factor in <u>ANY</u> ordinance or special regulation.

I have reviewed and personally assisted in the revisions sent to the committee by the J4C and strongly endorse their acceptance.

Thank you for your consideration of the proposed changes.

Mr. Chairman, my name is William Halteman, I live in Kingsmill at 109 Randolph's Green.

Thank you for the opportunity to participate in this wireless communications ordinance update.

The Planning Division must remain vigilant to the **need** for additional towers in JCC. The dynamics of wireless communications is changing rapidly with new tower acquisitions and technology.

The most controversial section in Chapter 24, Wireless Communication Facilities, is Sec. 24-122 (d) which permits "CAMOUFLAGED" WCFs, BY Right, in "ALL" zoning districts subject to the determination of the planning director. I mean no disrespect, but the Planning Director's broad discretionary authority is subject to economic, public, political, and media influences and should not be a determining factor in ANY ordinance or special regulation. Only the words in the ordinance should have effect and not be subject to arbitrary change.

<u>ALL</u> WCF site plans proposed in any **residential** zoning district should be reviewed under a Special Use Permit (SUP) versus **By Right!**

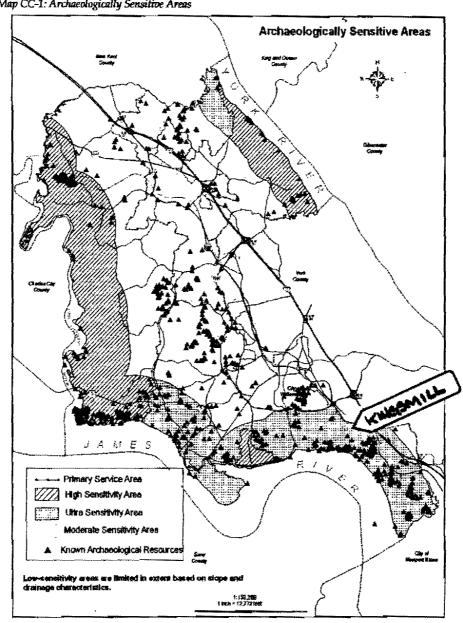
Sec. 24-123 (a) (1) should be changed to read: (1) All towers shall be setback from any off site existing residential structure *lot line* no less than 1,000 feet. Rationale:

Residential structures are **bounded** by front, rear and side lot lines. The lot lines should determine the WCF setback radius, not the structure.

The WCF ordinance does not interface with the Comprehensive Plan regarding "archaeologically sensitive areas." (Ref A). Any carrier submitting a request for a WCF site plan review which falls within a archaeologically sensitive area should first be required by the Planning Division to provide verifiable evidence that the Department of Historic Research (DHR) has performed an archive search of that area to preclude re-occurrence of the tower/equipment enclosure lease areas, routinely 70' x 70', impacting a known historic artifact site (44JC1140) as shown in (Ref B) at the present Kingsmill cell tower site

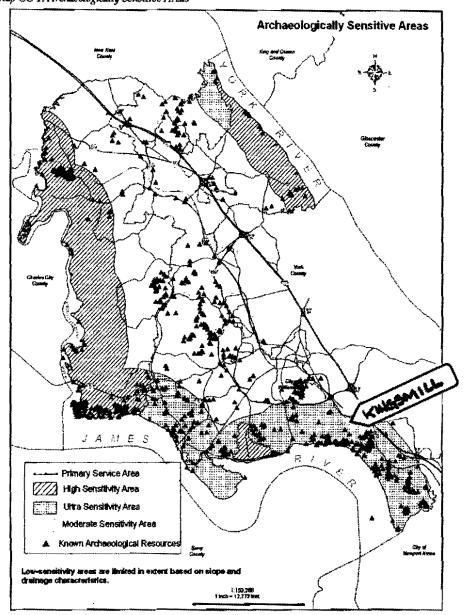
I have reviewed and discussed the revisions sent to this committee by the J4C and strongly endorse their acceptance.

Thank you for your hard work for the citizens of James City County.



Map CC-1: Archaeologically Sensitive Areas





Map CC-1: Archaeologically Sensitive Areas



7:30

SPEAKING POINTS JAMES CITY COUNTY / DEVELOPMENT STANDARDS August 24, 2010

- ✓ Good evening, Chair Peck and members of the Planning Commission. I'm Robert Duckett, Director of Public Affairs for the Peninsula Housing & Builders Association. Our association is made up of nearly 350 businesses that employ approximately 10,000 people in the local housing industry. Many of our members live and work in James City County and have created some of its most beautiful homes and neighborhoods.
- ✓ Thank you for the opportunity to comment tonight on the topic of Development Standards as the County prepares to update its zoning and subdivision ordinances.
- Our membership supports development standards, and James City County is noted for its high-quality residential development. However, our members want to emphasize that development standards need to be objective and measureable for the zoning classifications and subdivision regulations. Clarity and Consistency in these standards is tremendously important, in order to maintain the county's economic vitality.
- ✓ If county decides that it wants to hold higher development standards in comparison with other localities, then it does put itself at risk of losing businesses and jobs to other localities with less stringent standards. For example, a bio-tech firm with 25-50 employees at an average salary of \$65,000 may choose to locate in another locality. There is a way to maintain high standards but still remain competitive, however. If a proposed commercial/residential/industrial development meets the county's high standards, then approval should be by-right, without involving the legislative / CUP / SUP / rezoning process. This is sometimes referred as performance zoning.
- ✓ This way the county ensures it receives high quality development that meets its standards when demand for that type of economic development occurs.
- Some might worry that if county creates more performance-based development standards, then it would be, 'well, Katy-bar-the-door' and the county would see a flood of development. That's not correct. First, it's important to remember that in the who-what-why-where-when of development, the only "W" controlled by the developer is the "when." The other "Ws" are controlled by the locality. And the "when" is determined by the market. The "when" is determined by whether there will be tenants for commercial leases, or buyers for residential lots, or investors for future products.
- ✓ From the standpoint of promoting economic vitality, the worst approach would be to create high development standards, and then to move those goalposts during the legislative /CUP/SUP process by either changing density, or imposing even greater regulation or restrictions on the development project.

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- To summarize: As others have put it during previous discussions, the County's zoning and subdivision ordinances should say what they mean and mean what they say.
- ✓ As the county moves ahead with the zoning and subdivision update, our members want to remind you that this is the perfect opportunity to implement the recommendations from the 2004 Builders for the Bay study and the county's Better Site Design recommendations. Our members, along with representatives from the Planning Commission, and from local environmental groups, spent a great deal of their time working on these studies to come up with consensus recommendations that would help improve water quality and protect the bay and respect economic growth. It's time to put these recommendations into the county's zoning and subdivision ordinances.

Planning Commission Forum Zoning/Subdivision Ordinance Update August 24, 2010

[Prepared comments made by Stephen R. Romine of LeClairRyan on behalf of Verizon Wireless]

As you know, Verizon Wireless is a FCC licensed wireless telecommunications carrier. It provides a vital service to the citizens of James City County and is a well regarded corporate citizen.

- Verizon has been actively engaged in the recent Comprehensive Plan review and adoption process.
- 2. Verizon understands the desire to review existing County ordinances and to evaluate changes that may be incorporated.
- 3. Verizon is interested in providing the industry perspective to the process as the Wireless Communication Facilities Ordinance is examined. I believe everyone is aware of the significant benefits a robust communications network will have for County businesses and citizens.
- Verizon is familiar with the current ordinance and intends to have constructive suggestions on improvements as the County undertakes this study.
- 5. We look forward to working with the staff and Planning Commission and being an active participant in the process. We trust the end result will encourage and promote the enhancement of wireless services to the citizens and businesses of James City County.

Garry Johnson 7:50

J4C INPUT TO ORDINANCE REVIEW TREE ORDINANCE

JULY 2010

The James City County Citizens Coalition (J4C) has, over the past few years, watched as more and more beautiful, mature trees have been taken down to make room for development. This takes place regardless of the costs in terms of the environment, beauty of the area, wishes of the residents and sustainability for future generations. During the 2009 Comp Plan updating, it expressed concern for the preservation of trees during construction, not only for their aesthetics and the vistas they provide, but for their role in environmental protection. In general, ordinances should limit the number of exceptions and waivers, particularly in environmental matters and on community character corridors.

The County's Comp Plan and subsequent ordinance updates provide an opportunity to review current requirements or lack thereof, and move to incorporate more reasonable measures to protect the trees. A deaf ear has met citizens' continuous pleas for no-clear cutting and more attention to the few remaining forested areas. A fully implemented ordinance and early tree surveys and conceptual plans addressing the ordinance is no doubt the best way to remedy the situation.

The State Code of Virginia has incorporated tree conservation and a number of counties and cities in the State have adopted tree ordinances to ensure preservation of existing trees. The majority of James City County's attention to tree preservation is included in the Landscape ordinance and often developer's address the issue long after the conceptual plan stage. The J4C believes that an earlier site review of the trees and addressing them within the conceptual plan is essential to their preservation and the satisfying of citizens concerns.

The Code of Virginia recognizes the importance of tree preservation in its para. 18.2-140 – Destruction of trees, shrubs, etc. and its para. 15.2-961 and 15.2-961.1 – Replacement of trees during development process in certain localities. Its para. 10.1-1127.1 – Tree conservation ordinance; civil penalties indicates that violations of any ordinance regulating the removal of heritage, specimen, memorial or street trees is punishable by civil penalties.

In its review of Virginia city and county ordinances, the J4C finds the wording in those from Virginia Beach, Arlington and Lynchburg (as shown in Figure 1) more suitable to what we would like to see in a James City County Tree Ordinance. (PUT FIGURE 1 ON THE OVERHEAD)

As stated earlier the James City County ordinances have placed tree preservation primarily in the Landscaping Ordinance, with coverage also included in environment. The recently completed Comp Plan's Goals, Strategies and Actions (GSAs) fall in Community Character and Environment and include those identified in Figure 2. (PUT FIGURE 2 ON THE OVERHEAD)

The J4C believes that the approved GSAs can only be met with changes to the ordinances and with commitments of county officials and staff to implement the following recommendations:

- identify and mark mature trees that can be saved during the conceptual planning stage and before site plans are prepared;
- 2) prohibit all clear cutting;
- 3) identify trees that are to be preserved, possibly through phased removal of any trees not identified for preservation. Phased cutting should be limited to the areas under immediate construction. As has been shown, sites completely cleared and allowed to stand for months if not years, are a blight on the community.
- make preservation of tree canopies mandatory and, where they do not exist, an effort should be made to create them;
- 5) discourage development along these corridors (specifically those designated as historic areas or by-ways) and prohibit tree destruction;
- 6) create a special "tree ordinance" for the county, incorporating street trees, a "Specimen Tree Policy" and sections of any other ordinances relating to tree preservation;
- 7) incorporate "tree save" areas into the conceptual plan process.
- 8) provide additional credits for preservation of wooded areas where erosion will be reduced. Trees absorb and filter large amounts of stormwater - more than most BMPs

Additional information resulting from our review of current landscaping and other James City County ordinances have been given to the Policy Committee for its use in the rewrite exercise.

Figure 1 - Virginia City and County Tree Ordinance ^ Excerpts

The Virginia Beach City Code, Section 1.1 states in its opening narrative: "Trees are proven producers of oxygen, a necessary element for the survival of man. Trees appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide contents in the air, and they play a vital role in purifying the air that man breathes. Trees precipitate dust and other particulate airborne pollutants to settle on the ground. Trees, through their root systems, stabilize the water table and play an important and effective part in soil conservation and erosion control."

Arlington County defined the purpose of its tree ordinance to "protect the health, safety, and welfare of County citizens and the general public, to safeguard the ecological and aesthetic environment necessary to a community, to preserve, protect, and enhance valuable natural resources, and to conserve properties and their values."

The Lynchburg ordinance defines its goals as: "ensure development consistent with the goals of the comprehensive plan; reduce soil erosion; increase infiltration in permeable land areas to improve stormwater management, mitigate air, dust, noise and chemical pollution; reduce heat island effect; protect property values, provide buffers between incompatible uses; preserve existing natural vegetation as an integral part of the city and ensure that the city remains an attractive place to live, visit and work".

Figure 2 – GSAs PERTAINING TO TREES

- Environment 1.1.2.5 Promoting early submission of environmental inventories in order to protect trees,.....
- Environment 1.1.2.8 Continuing to promote the protection of trees.

 Economic Development 1.1.6 Support the recommendations of the
 Business Climate Task Force Report as determined by the Board of
 Supervisors. The report recommends: Staff will continue to
 encourage engineers and developers to pursue the use of the
 conceptual site plan review process; ...the conceptual site plan review
 process include a detailed site analysis that includes RAs and other
 primary and secondary conservation features.
- Community Character 1.1.3 Designate Community Character Corridors as wooded, urban and suburban, or open/agricultural.....
- Community Character 1.3.5 Expect that all currently approved and new development blends carefully with the topography and surrounding vegetation; preserves unique formations, greenery, and scenic views; and uses sustainable plantings and building techniques.
- Community Character 1.3.8 Design streets in commercial/retail centers and residential areas to better encourage street level activity and a safe and attractive pedestrian environments by encouraging the use of tools such as traffic calming, pedestrian scale amenities, gathering spaces, pedestrian places, street trees, pocket parks, and consolidated entrances with fewer curb cuts. Develop voluntary guidelines that can be used through the special use permit or rezoning process.
- Community Character 1.5.1 Review and amend applicable County ordinances and/or policies as enabled by Virginia Code to require a more detailed phased clearing plan that minimizes the removal of existing trees and ensures tree preservation measures are implemented during site plan review and pre-construction phase of development.
- Community Character 1.5.2 Consider adopting a Specimen Tree Policy that would enable developers who wish to presser specimen trees that are not within required tree save areas an option of gaining a waiver to delete another portion of the landscape requirements in order to preserve the more desirable existing trees.
- Community Character 1.53 Improve the methods the County uses during planning, pre-construction, construction and post-construction phases to ensure tree preservation measures are properly performed, resulting in healthy specimen trees and buffers and in proper maintenance.

FIGURE 3 – RECOMMENDATIONS

- identify and mark mature trees that can be saved during the conceptual planning stage and before site plans are prepared;
- 2) prohibit all clear cutting;
- 3) identify trees that are to be preserved, possibly through phased removal of any trees not identified for preservation. Phased cutting should be limited to the areas under immediate construction. As has been shown, sites completely cleared and allowed to stand for months if not years, are a blight on the community.
- make preservation of tree canopies mandatory and, where they do not exist, an effort should be made to create them;
- 5) discourage development along these corridors (specifically those designated as historic areas or by-ways) and prohibit tree destruction;
- 6) create a special "tree ordinance" for the county, incorporating street trees, a "Specimen Tree Policy" and sections of any other ordinances relating to tree preservation;
- 7) incorporate "tree save" areas into the conceptual plan process.
- 8) provide additional credits for preservation of wooded areas where erosion will be reduced. Trees absorb and filter large amounts of stormwater more than most BMPs

TREES IN CURRENT ORDINANCES

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p.1. sec. 24-86 - Reasons for tree preservation and landscaping requirements.
p.1 and 2. sec. 24-87(d) - Landscape plans, no c.o. all slants in, replacing and
               maintenance landscaping
p. 2 and 3. sec. 24-88(b)(6) - Substitutions to landscape plans.
       (p.3) landscape preserves and complements existing trees and
               topography substitutions.
p. 4. sec. 24-89 - tree protection - existing mature and specimen trees shall be preserved.
               during construct, groups of tree - fencing, erosion - tree removal - p.10
               Right of way (e) #2 and 3
p. 5. sec. 24-90 - Size of plantings - trees, ornamentals, shrubs (chart)
p. 5. sec. 24-91 - Definition of existing trees - (Sec. 24-2- has complete definition)
p. 6. sec. 24-92 - Plant landscape properly
p. 6. sec. 24-93 - Tree credits - saving trees reduces number of trees, thus need to plant
               saved trees labeled on seam - local, #, size, type
               chart giving tree credits
p. 7. sec. 24-94 - Landscape standards - except near buildings and parking lots)
               a) tree preservation - existing trees shall be retained to the maximum
               extent possible in the landscaped areas (landscape standards) - per 400
               sq.ft. I tree, 3 shrubs planted
               b) size and mixture of plants - % of trees required (chart
p. 7 and 8. sec. 24-95 - Near buildings - 10 feet-wide area, per 200 ft 2 = 1 ornamental
               and 5 shrubs
p. 8, 9, 10, 11. sec. 24-96 - Right of way - width of buffers (chart - p. 8)
               structure and parking setback
               waivers for buffers - 10' and 15'
               breaks in buffers
               tree saving, grooming and enhancement
               tree protection and landscape requirements (see section 24-94; p. 7-11)
p. 11 & 12. sec. 24-97 - Parking Lots - tree preservation and landscape planting (chart)
               size & mixture of plantings (chart)
               screening - evergreens or berms - 3' high
               bus parking lots
p. 14 & 18. sec. 24-99 - Multifamily - setbacks - 50' and internal streets setbacks
                      contain existing trees
(a)(1)(2); (c)(2)(a)
                      yards - contain existing trees
                      transitional screening
                      look at sec. 24-184 (manufactured homes)
                      landscaping side and rear and right of way - screening (business)
                      landscaping near buildings and transitional screening (business)
                      open space (chart) and impervious cover - not more than (bus.) (
                      setbacks (PUD & MU)
                      yards
(d)(1)(a)(b); d(2)
                      industrial - setbacks and landscape near buildings
                      transitional screening
& (3)
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LANDSCAPE ORDINANCE

Existing trees should be preserved.

- p. 1 2 emphasis on preserving existing tree canopy.
- p. 2, d existing trees shall be preserved (- landscape for c.o.)
- p. 3 -2 landscape plan preserves and complements existing trees and topography substitutions..
- p. 4 1 existing mature trees shall be preserved

 Tree protect existing mature and specimen trees integrated into overall plan. All uses common or planning director may require that native trees or specimen trees be preserved because they contribute significantly to ______ of the county.
- p. 6 a Tree credits existing viable trees, preserved on site
- p. 7 a existing trees shall be retained to the maximum extent possible in the landscaped areas. (landscape standards)
- p. 11 a parking lots designed and constructed so that existing viable trees are
 preserved to the maximum extent possible.
- p. 15 R5 Multifamily residential yards shall contain existing trees and plantings.
- p. 17 PUD (a) & MU (b) internal street (setbacks)- shall contain existing trees and plantings
- p. 17 2 yards all yards shall contain existing trees and plantings.

M. RWALAI 8/24/10 8:05

Procedural, Submittal and Administrative Items

Cumulative Impact Analysis - what is it and why does it matter?

Any meaningful attempt to address cumulative impact must begin with an appreciation for the fact that nothing involved in the realm of land development happens overnight. The land development process, from conception to completion, can take from one year, at best, to several years. Construction and occupancy follow only thereafter.

Community development is a dynamic process that is not easily ordered and prescribed or placed into neat paradigms. While supply and demand, location, location, location and timing is everything are three of the most basic tenets of real estate investment, in reality, it is local, regional and national macro-economic influences combined with the aggregate decision-making of countless individuals and businesses, acting in their own self-interest, that often leads to a very unpredictable, some might say chaotic environment in which things just seem to happen. Some things happen before our eyes, and others just happen.

I would suggest that on balance, more "things happen" unpredictably in the secondary housing market than in the new homes market. Most developers market, design and build their products specifically for relatively focused segments of the population, with relatively predictable age, income, child-bearing and activity levels associated with those markets. New mixed use neighborhoods also plan for multiple population segments, often in response to proffered commitments made through conditional rezonings. New commercial and industrial development is similarly targeted to specific users.

Conversely, existing neighborhoods that might previously have been designed as starter homes (like some older ranchers) might over time

become more attractive as seniors housing, having only one floor and often located closer to the earlier "urban core" of the community. Older shopping destinations also change their market orientation over time, responding to changes in transportation or new offerings elsewhere in the community. Such transitions can have significant impacts on school age population, commuting patterns and transportation impacts, recreation demands, police and fire protection, tax generation and more.

In the 2005 cash proffer committee, working with Staff of the School Board and the County, we were able to match public school bus ridership data with a variety of other neighborhood statistics to understand differences in school age children generation between newer neighborhoods and older ones. But in that same process, it became clear, to me at least, that in stubborn reliance upon the "make growth pay for itself" mantra, we lost sight of the impacts arising from changes that eventually occur in the County's previously developed properties over time. And since the inventory of existing homes and business facilities at any given time is larger than the approved but as yet unbuilt development on the books, we have not really been looking to the greatest source of both positive and negative community impact, and opportunity. That is, those of us who are already here. How we interact, what demands we place on our government and on each other, to what degree we are willing to compromise for the greatest public good – these factors, day in and day out, make the community what it is, for better or for worse.

Addressing this dichotomy in a balanced way is important because the community's schizophrenia over continued development versus maintenance of the status quo reflects a deep division in our region. These are largely present-oriented perspectives and each has its merits. Having an operational, collective future-orientation, however, is much

more difficult. Perhaps there is but one thing on which we can all agree: the only thing that is constant is change.

If we are to get a handle on change in our community, and the future it portends, we must look first to ourselves and to our demands on our government. Then, we must look at our government and understand and account for how it spends our tax dollars. Only then can we fairly begin to set forth the expectations we have for those who will come later. Presumably, such soul searching will lead us all to an equitable and sustainable way of paying for our collective future.

Cumulative impact analysis is a catchy phrase, and it suggests that the complex interconnections between people and places, their homes, their cars, their jobs, their schools, the water we drink, the pollution we create, the very fabric of our community, can be understood through a series of spreadsheets and algorithms. These algorithms might become policies, and the policies might become actions, or inactions. But as useful as such analyses might be, we must ask ourselves, throughout this community, are we part of the problem or are we part of the solution? How do our actions, or inactions, contribute to the betterment or degradation of our community? How can we make a positive difference? Getting involved, working collaboratively with those of opposing views to understand and shape the broader issues of community development, not arguing across the aisle over specific zoning and SUP cases, this can be our future. Sign me up.

My name is Suzy Cheely and I am the Director of Design and Engineering for Busch Gardens Williamsburg (a division of SeaWorld Parks and Entertainment LLC), here in James City County.

I am here tonight to request a modification to the Zoning Ordinance as relates to the required review process for minor amendments to previously approved site plans that cannot be seen from Adjacent Property Owners.

Each year, we have several applications for small sheds, additions of small closets, or even small carts that require the same review process as a new full size restaurant or shop. Many times it is an urgent need from one of our departments as a result of a special event, concert, or unusually large crowds.

Our request is to waive the requirement for a site plan review for a certain size shed or cart – say 500 sf, for example, and allow us to proceed directly to Code Compliance and submit for a Building Permit. Without waiting for approval from Planning, the building permit can be issued within a few days.

An alternate request is to allow us to apply for a Building Permit and concurrently request an "administrative" review from Planning. The site plan submittal could still be logged in, the planners would still have a chance to review, the fee would still be collected, but final "approval" would not hold up the issuance of the building permit, and installation of our shed or cart.

Obviously, we would not make this request for carts that require water or sewer hookups or that would require a land disturbance permit. This would strictly be for small structures that could easily be permitted. We would be happy to meet with staff on site to show them the location of the proposed addition at their convenience.

Thank you for your consideration of our request. I'll be happy to answer any questions.

Open Commont

STATEMENT OF BOB SPENCER

Good Evening.

My name is Bob Spencer. I live at 9123 Three Bushel Drive, Toano. I am the new Chair of James City County Concerned Citizens (J4C).

Before I discuss specific aspects of this section of public input, I want to thank you for setting aside the sessions this evening and next Wednesday for citizens to express comments relative to the ordinance rewrites to make them more consistent with the recently adopted Comprehensive Plan. But I do want to express concern that these sessions have been schedules for the two weeks before Labor Day when many people are on vacation or concentrating on other things.

I understand that there will be an opportunity for the public input again after the ordinances have been drafted. We appreciate having that opportunity.

As you are aware, J4C has major concerns about the use of only having administrative reviews of development applications, such as those for cell towers in residential areas, even where those developments are considered "by right". We strongly believe that public hearings and review and approval by the Planning Commission and Board of Supervisors should be utilized, particularly where there are actual or potential impacts upon significant sections of the County. We do believe that the approval of certain types of developments can be streamlined where it is clear that such developments meet standards and do not have a negative impact on residents.

We are particularly concerned about the use of old and out of date plans sambe used to justify development without changes to meet current requirements. For example, the recent infill development of Autumn West and the proposed development of five lots on Route 199 are examples of our concerns. I suspect that it may take action by the General Assembly to address this issue. If so, I urge you to contact our legislators and express this concern.

Early submission of environmental inventories has been promoted by J4C ever since its inception. We are extremely pleased to see that this has been incorporated in the Environmental Goals, Strategies and Actions in the new Comprehensive Plan.

We are also pleased that the new Comprehensive Plan calls for the development of a Cumulative Impact model against which new proposals will be measured. If this works as it should, no longer will a project be judged on its impact in isolation. My former law firm in New York represented a number of municipalities in Westchester County, New York. A major development problem was the scramble by each municipality to increase its tax base at the cost of regional consideration. J4C is now working on a