

**Policy Committee
Government Center Complex
Large Conference Room, Building A**

July 13, 2011 - 4:00 p.m.

A. Roll Call

B. Old Business

C. New Business

a. Economic Opportunity Districts

b. Commercial Districts

c. Green Building

D. Adjournment

POLICY COMMITTEE MEETING

July 13, 2011

4:00 p.m.

County Complex, Building A

1) Roll Call

Present

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

Staff Present

Mr. Steven Hicks
Mr. Allen Murphy
Ms. Tammy Rosario
Mr. Jason Purse
Ms. Ellen Cook
Mr. Chris Johnson
Mr. Brian Elmore

Mr. Jack Fraley called the meeting to order at 4:00 p.m.

2) Minutes

Mr. Al Woods moved for approved of the June 7, 2011 minutes.

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

Mr. Woods asked staff to consider Mr. Reese Peck's comments on page 7 of the June 7th minutes, discussing policy process revisions, including better organization of policy documents and a more consistent adoption and amendment process.

Mr. Allen Murphy stated staff updated the Planning website to include policies and guidelines in a more logical order. He asked the Committee to review these changes and submit comments to staff.

Mr. Fraley stated that with Mr. Peck's resignation, Mr. Rich Krapf will serve on both the Policy Committee and Development Review Committee.

3) New Business

A) Economic Opportunity

Mr. Jason Purse stated the Economic Opportunity (EO) draft ordinance was revised based feedback received at the Board of Supervisors worksession in June. The Board recommended four changes: reducing the height limit to 60' and up to 100' with a waiver, calculating density based on developable acreage, adding more specific benchmarks to the construction phasing policy, and clarifying the section on buffers.

Mr. Krapf asked if the 15% of developable land allowed for non-primary workplace uses included the 10% of developable land allowed for residential uses.

Mr. Purse stated that was correct.

Mr. Joe Poole asked what provisions protect the County from the development of a New Town-style Mixed Use development that fails to attract industrial uses.

Mr. Purse stated 85% of the development is required to be office, industrial, and research and technology uses. The balance of uses in the ordinance limits retail and residential development.

Ms. Tammy Rosario stated review of the master plan and rezoning during the legislative process provides another level of protection.

Mr. Poole stated in the ordinance's Statement of Intent, there is the subject phrase "community values." He asked how those values would be defined. The Statement's language was less specific than other parts of the Zoning Ordinance.

Mr. Murphy stated the language was based on community values expressed in the Comprehensive Plan. He stated the Statement of Intent is intended to be less specific than the rest of the draft ordinance.

Mr. Poole asked if an EO master plan would prevent piecemeal development.

Mr. Purse stated the ordinance is written to encourage any EO-designated property to become involved with any master planning effort to help create a cohesive development. He stated the entire EO-designated area should be evaluated at the same time to avoid a few scattered buildings being constructed. The process is more involved and detailed than the County asks for in other zoning districts. EO property owners chose to request that designation, and can choose to participate in any future EO development voluntarily as well.

Mr. Purse stated the ordinance's language encourages EO property owners to get involved with any new development to help create a more cohesive development. A large and cohesive project area should help avoid the development of a few scattered parcels.

Mr. Al Woods asked how an applicant would master plan a development without control of all the properties. He asked about the positioning of the 15% non-primary workforce uses.

Mr. Purse stated there are other protections in the ordinance, including the clustered Urban/Residential Core, to condense the non-primary uses into a single area.

Mr. Tim O'Connor asked how the ordinance would avoid a single applicant developing the 15% area first, leaving other applicants unable to include retail or residential uses.

Mr. Purse stated property owners need to work together at the beginning of the process. He stated applicants must be made aware EO is not intended for residential development.

Mr. Poole stated the master plan process should be tightly written to make sure its intentions carry through.

Mr. Fraley stated he would like more substantive viewshed protection ordinance language. He stated language could be added to a master plan by asking applicants to demonstrate the process they considered in order to accommodate perimeter view sheds.

Mr. Murphy stated staff would bring forward that request to decision makers.

Mr. Fraley stated there should be specific language on how the applicant protected viewsheds, including building placement, building mass and height, enhanced buffering, and architectural treatments. He stated the ordinance should include examples and illustrations.

Mr. Fraley stated he was concerned with the lack of open space requirement outside of the Urban/Residential Core.

Mr. Purse stated the County's industrial districts, M-1 and M-2, don't have any open space requirements, since in those districts people typically don't use open space for recreation. He stated the County does not want industrial EO applicants to face greater restrictions than in industrial zoning.

Mr. Fraley stated industrial zones are hodge-podge development, where EO is an interconnected business community.

Mr. Krapf asked if he were a business owner, what would be the incentive to locate his operation in the EO zone.

Mr. Murphy stated flexibility.

Mr. Krapf stated ordinance language could encourage but not mandate open space outside of the core.

Mr. Mike Maddocks stated even if the ordinance does not cover everything, each project will still undergo professional staff review.

Mr. Murphy stated each project will have to adhere to Chesapeake Bay Act open space requirements.

Mr. Fraley stated master plan principles should be clearly stated up front.

Mr. Rich Costello of AES stated densities should be increased since density is calculated based on developable acreage instead of total acreage. He stated language permitting two-family dwellings should be removed from the permitted uses. Activities such as playgrounds should be allowed in the open space areas of the residential core.

Mr. Poole stated he did not want to use other localities with less strict standards for comparison. He stated he wanted to preserve the County's quality of life.

Ms. Rosario stated the ordinance contains the most recent definition of non-developable acreage, based on the Rural Lands Committee's work. She stated that definition is being revised as part of the Residential Cluster Overlay district ordinance update.

Mr. Purse stated non-developable acreage will be defined in the definitions section of the ordinance.

Ms. Susan Gaston asked if there would eventually be an “opt-in” for property owners.

Mr. Fraley stated yes. He stated all property owners have the right to develop their A-1 properties using the current zoning.

Ms. Rosario stated properties designated EO have the opportunity to opt in or out of any master plan process. She stated it is in property owners’ interest to participate in the master plan to have a voice at the table when decisions are being made. If property owners do not participate, their property will still be included in the master plan. Property owners would then choose to opt in or opt out of any rezoning effort.

Mr. Wayne Moyer asked to defer EO work until after the November elections to allow citizens to better educate themselves about the ordinance and allow the Board to consider the Transfer of Development Rights program. He asked for 60’ and 100’ balloon tests at various points of the Hill Pleasant Farm property so adjacent property owners could better understand the impacts. A portion of the EO district should be set aside for agricultural production for local sale. The EO area should be restricted to the Hunt Farm to see if it works before extending it to Croaker Road.

Ms. Rosario stated approval of the district does not rezone any property.

Mr. Fraley stated the Board identified EO has one of four priority zoning ordinance update items and created timelines for its review by staff and the Commission.

Mr. Bob Spencer asked about placement of a new two-lane road to support the EO area.

Ms. Rosario stated the Hampton Roads Planning District Commission will fund a corridor study to assess environmental impacts and a best alignment for a 2-lane, possibly 4-lane road. She stated the road proposed in the Comprehensive Plan is a Mooretown extension to Croaker.

Ms. Gaston stated the Virginia Association of Realtors supports the EO zone. She stated enhanced economic opportunities will slow the trend of graduates leaving the area, increase quality of life, and take pressure off of residential taxes.

Mr. Poole stated he did not want to see additional retail in that area of the county. He stated he wanted to see a good master plan mixed with industrial and corporate development.

Mr. Fraley stated he was pleased with staff work.

B) Commercial Districts

Mr. Chris Johnson stated the Board identified four changes they would like to see before advancing the full draft ordinance for review by the Planning Commission. He stated the Board directions were to remove performance standards in each of the four commercial districts, replacing them with a Board policy document directing performance standards, which includes a table of uses. The table would make by-right and specially permitted uses more understandable and accessible. The Board also wanted to grant approval authority for design standards, master plan consistency, waivers, setbacks, and modifications to the Planning Director where those reviews are now handled by the DRC.

The DRC would still review appeals. This would continue the trend of making the DRC more strategic on the front end of the development review process, and the appellate body on the back end.

Mr. Johnson stated the Board including performance standards into the ordinance could create a greater chance of nonconformities should the ordinance is changed in the future.

Mr. Fraley stated performance standards are written for by-right development. He stated through the use of performance zoning, the County can reduce the number of SUPs. Performance standards for SUPs would be very difficult to develop.

Mr. Johnson stated staff reviewed the four commercial districts two years ago for lower impact SUPs that could be changed to by-right. Staff believes there are few additional special uses that could be made by-right. Using performance standards to make a special use by-right was discussed at the worksession, although developing a commercial property has very different impacts depending on its location in the county. Developing performance standards to make a use by-right proved too subjective and difficult. Staff was not comfortable making a homogeneous list of performance standards considering the uniqueness of various commercial areas and corridors.

Mr. Fraley stated the Committee need to vote on a recommendation for the Board regarding changing commercial SUP triggers in Section 24-11. The Committee will vote on raising the building square footage threshold from 10,000 to 20,000 and raising the building addition threshold from 5,000 to 10,000 square feet and the peak-hour trips threshold from 75 to 100.

Mr. Steven Hicks stated the change reflects additional business friendliness and the desire for predictability. Many businesses range within a 15,000 square foot building size. Certain medium sized businesses, such as pharmacies, will continue to have other trigger points.

Mr. Johnson stated staff analyzed a decade of SUP cases. Over that decade, Section 24-11 triggered 24 SUPs. Staff wanted to raise the SUP bar enough to increase predictability and facilitate economic development, but not far enough to risk losing the ability to protect community character. Building size causes fewer impacts than vehicle trips. If the building threshold was 20,000 ten years ago, 13 of those 24 SUPs would have been by-right. He stated there was no way to quantify the number of applicants who reviewed the County's requirements and decided to locate businesses elsewhere. It doesn't benefit the County to force businesses to reduce their size to meeting an arbitrary number like 10,000 square feet.

Mr. Poole stated he wasn't prepared to support the increases. He stated the commercial growth in the county in the past ten years has been fairly significant and he didn't feel the commercial development process is broken. He hasn't heard from any applicants saying they couldn't get into the County.

Mr. Johnson stated the County wants to remain competitive in the marketplace for smaller businesses that are looking to locate in the area. The County is making a series of changes in total to make itself more competitive at attracting businesses while retaining standards which protect community character.

Mr. Hicks stated he was comfortable with the changes. He stated the changes were a good balance based on Board guidance regarding the triggers.

Mr. Krapf stated that while he values the DRC reviews, the smaller businesses are the ones more impacted by the additional steps and can least afford a protracted process. He stated he was comfortable with staff not letting anything slipping through. He would support the changes.

Mr. Maddocks stated he supported staff's recommendation.

Mr. O'Connor stated 20,000 square feet is a good starting point.

Mr. Woods stated he was comfortable with the changes.

Mr. Fraley stated he was fine with the changes.

In a voice vote, the Committee recommended approval of staff draft language. (5-1: Yes: Fraley, Woods, Maddocks, Krapf, O'Connor; No: Poole).

Mr. Fraley stated the Committee must recommend changes to Section 24-147 changing DRC triggers from 30,000 to 50,000 square feet, changing multifamily developments without a master plan from 50 to 10, and elimination of fast food. He stated most fast food restaurants will still trigger SUP traffic triggers.

Mr. Fraley asked if anyone had a problem with removing the fast food triggers or reducing the multifamily trigger to 10 units.

Mr. Krapf stated he favored the 30,000 square foot trigger. He stated DRC review represents a minimal time delay while the enhancements provided by the DRC have allowed for better projects.

Mr. Johnson stated that at its last meeting, the Commission discussed adding the language contained in Section 24-11 for exceptions for commercial SUPs – warehouse, distribution, office, and manufacturing – into the DRC language while retaining the 30,000 square foot threshold.

Mr. Hicks asked what was being gained from DRC review in addition to professional staff review.

Mr. Krapf stated it provides an extra look at architectural elevations, building placement, relationship to other developments, and topography. He stated he supported staff's suggestion to exempt warehouses and similar uses since they are in an environment where aesthetics are not as important. He would rather review too many site plans rather than raising the threshold to 50,000 square feet.

Mr. Johnson stated staff encourages SUP applicant to come before the DRC for consideration of issues before they become big enough issues to defer cases at the Commission level. He stated the DRC can have input at the beginning of the process rather than coming in after legislative approval. The development community has realized DRC conceptual consideration creates a smoother process.

Mr. Fraley stated he supported the DRC giving input at the front end rather than after legislative review. He stated any adjacent property owners with a problem can appeal to the DRC.

Mr. Poole stated one benefit of back-end review is the availability of construction documents.

He stated the DRC provides the public's representation in the development process. The DRC has been very flexible with applicants.

Mr. Hicks stated applicants would like to move forward after Board approval. He stated for the county to attract businesses, a reputation for predictability and no surprises is important. There is a perception the County gets another 'bite at the apple' through the DRC process, which can send applicants back to the Commission.

Mr. Poole stated he did not want any surprises for citizens.

Mr. Maddocks stated he adds more to the process reviewing conceptual plans at the DRC, discussing general issues, such as appropriateness or aesthetics. He stated he felt he was not in as good a position to review the nuances of technical site plans.

Mr. Murphy stated exempting warehouses, distribution, office, and manufacturing uses has more impact than raising the square footage threshold.

Mr. Poole moved to recommend retaining the 30,000 square foot DRC trigger, with exemptions for warehouse, distribution, office, and manufacturing.

Mr. Woods stated then when his firm sought to locate a new store because of the opportunities in an attractive market, the additional regulatory costs were irrelevant. He stated large commercial enterprises were not concerned with the process. The process has not demonstrated it has been onerous to any business. The DRC adds value to the process, particularly for large projects.

The Committee recommended retaining the 30,000 square foot DRC trigger, with exemptions for warehouse, distribution, office, and manufacturing.

Mr. Fraley asked to move green building to the next DRC meeting.

4) Adjournment

Mr. Woods moved to adjourn. The meeting was adjourned at 6:20 p.m.

Jack Fraley, Acting Chair of the Policy Committee

MEMORANDUM

DATE: July 13, 2011
TO: Policy Committee and Planning Commission
FROM: Jason Purse, Senior Planner
SUBJECT: Economic Opportunity Ordinance

Staff presented a draft ordinance for the Economic Opportunity District to the Policy Committee in April 2011. Subsequently, the Board of Supervisors held a work session to discuss the draft on June 28th. Based on that feedback, staff will be amending the ordinance language in the coming weeks with plans to present the final ordinance language to the Planning Commission for consideration at the August 2011 meeting. In advance of that meeting, staff is providing an update to the Policy Committee and Planning Commission on the Board comments to the draft to allow additional time for review. The Board recommended the following changes:

- A decrease in the overall height limit to 60 feet, with the ability to receive a height waiver for structures up to 100 feet.
- Calculation of density based on the developable land area.
- More specifics about a construction phasing policy to ensure residential development does not precede the primary uses in the EO District.
- Staff has also reworded the buffer section of the ordinance in order to make it more easily understandable:

A buffer of 25 feet shall be maintained from the perimeter of an economic opportunity district. The buffer in an economic opportunity district shall be increased to 100 feet where adjoining property is designated low-density residential or rural lands on the comprehensive plan. In addition, the buffer shall also be increased to 100 feet where an economic opportunity district adjoins property in a community character area, except where those properties are included in the economic opportunity master plan.

Staff has attached the draft ordinance that was sent to the Board of Supervisors for the June 28th work session for your review.

ECONOMIC OPPORTUNITY, EO

Sec. 24-XXX. Statement of intent.

The purpose of the Economic Opportunity district is to facilitate economic development, an increased non-residential tax base, and the creation of jobs. The lands should be at strategic locations in the County relative to both available and planned transportation and utilities infrastructure, the lands should be developed consistent with the approved comprehensive plan. All parcels zoned Economic Opportunity shall be located inside the Primary Service Area.

The principal uses and development form should optimize the economic development potential of the area and encourage development types that have certain attributes, principally that they offer a positive fiscal contribution, provide quality jobs, enhance community values, are environmentally friendly, and support economic stability. Master planning is at the core of this designation, and development should be limited unless incorporated into master planning efforts, which should address environmentally sensitive areas, available infrastructure (roads, water, sewer, transit, etc.), public facilities, and adjacent land uses to include lands in adjacent jurisdictions.

Sec. 24-XXX. Documents required for submission.

(a) *Required documents.* In addition to the submittal requirements set forth in section 24-23 of the zoning ordinance, the applicant shall submit the following documents to the planning director for submission to the planning commission:

(1) *Documentation of master planning efforts.* Because the Economic Opportunity district may incorporate parcels owned by many different property owners, encounter multiple infrastructure capacity issues, and in some cases cross jurisdictional boundaries, it is important that a comprehensive master plan is established for each EO designated area. The master planning effort shall ensure that all property owners have an opportunity to participate. If an individual land owner who owns property designated EO does not wish to participate in the master planning process, such land shall still be included in the master planning effort in order to create a cohesive development, although individual land owners will retain discretion in use and rezoning of properties. Properties not designated EO shall be recognized and adequate buffers provided in the master plan to protect the current use of that land if applicable.

Prior to any rezoning, the applicant must demonstrate that any planning effort has ensured that a project has phased development to be concurrent with, and provide for, adequate road infrastructure, water, sewer, transit, fire stations, police and general government services, parks and recreation facilities, schools, and other facilities and service needs generated by the development.

(2) *Transit.* A master plan that shows the proposed location of any bus, rapid transit or commuter/light rail stations, and documentation supporting the plan or infrastructure for construction of such facilities.

(3) *Urban/Residential Core.* If any residential/commercial development is proposed, the master plan shall delineate an area as the urban/residential core of the Economic Opportunity area. The urban/residential core shall include all areas planned for residential development in the Economic Development area, as well as all areas planned for commercial/retail uses to serve as support uses to the residential and employment centers of the Economic Opportunity area. There shall be no more than one urban/residential core for an entire Economic Opportunity, as designated on the Comprehensive Plan. The urban/residential core shall not exceed fifteen (15) percent of the total developable Economic Opportunity area, as designated on the Comprehensive Plan. If bus rapid transit or commuter/light rail stations are proposed, the urban/residential core must be within one-quarter (1/4) mile of those stops.

Development outside the urban/residential core shall consist of primary workplace uses, including office, research, and light industrial.

(4) *Construction Phasing.* A project build-out schedule shall be submitted for review by staff, the planning commission and board of supervisors, in accordance with the board of supervisors adopted construction phasing guidelines adopted on _____. The purpose of such phasing plan shall be to provide assurance to the board of supervisors that infrastructure improvements will be constructed in order to support the development intensities proposed. The project build-out schedule shall also provide assurances that the development will include both the proposed non-residential and residential elements at certain project milestones and/or at build-out.

(5) *Accommodating Rail Usage.* If rail or bus rapid transit is proposed or approved, the master plan shall demonstrate design characteristics supportive and accommodating of rail usage (i.e. reduced and/or structured parking, pedestrian accommodations, finer mixing of uses, etc.)

(6) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be preserved to the maximum extent possible, and an environmental inventory shall be provided in accordance with sec. 24-23.

Sec. 24- XXX. Minimum area of districts.

Economic Opportunity districts shall be located on a single parcel of land, or separate parcels that are a part of an approved master plan, which shall total not less than twenty-five acres.

Sec. 24- XXX. Density.

(a) *Balance of land uses.* Not more than fifteen (15) percent of the developable land area within an Economic Opportunity area, as delineated on the master plan, shall be dedicated to non-primary workplace uses. The remaining 85% of the developable land area shall be dedicated to primary uses. Non-primary workplace uses include retail, convenience and service uses, restaurants, child care, residential development or other uses intended to support and compliment primary workplace uses. For the purposes of this requirement primary workplace uses include office, research, light industrial or other uses that will provide a significant fiscal benefit to the County.

Additionally, non-primary workplace uses should be grouped together in an effort to maximize the area for workplace uses. The location of the non-primary workplace uses should not prevent the availability of large contiguous sections of land for office, research, or light industrial development.

(b) *Residential.* Residential dwelling units are permitted in the urban/residential core area, as delineated on the master plan, which shall not exceed ten (10) percent of the total developable master planned Economic Opportunity area. The number of dwelling units which may be constructed in any the urban/residential core as indicated on the master plan shall be determined by the number of gross acres of the Economic Opportunity master plan area and the use proposed. The maximum densities of dwelling units per acre which may be constructed are:

<i>Dwelling Type</i>	<i>Maximum Density*</i>
Multi-Family structures	7
Apartments	10

*It should be noted that the EO District is being evaluated as a possible receiving area for a Transfer of Development Rights program. Should a TDR program be enacted, the densities in this district would be

increased. Any increase would be reflected in a separate TDR ordinance, and not in this EO chart. A TDR ordinance may also include commercial density bonuses. If commercial bonuses are included a commercial density chart will need to be added to this ordinance as well. (This language will not be included in the final ordinance).

(1) For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 35% of the total site area is non-developable. For parcels where more than 35% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 35% of the total parcel acreage.

(c) Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient. * (This section may require updating at a later date due to ordinance update discussions for other topics)

Sec. 24- XXX. Permitted uses.

In the Economic Opportunity districts, all structures to be erected or land to be used shall be for one or more of the following uses:

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory structures, as defined in section 24-2	P	
	Apartments		SUP
	Multiple-family dwellings		SUP
	Group quarters		SUP
	Nursing homes		SUP
	Townhouses		SUP
	Two-family dwellings		SUP
Commercial Uses	Accessory structures, as defined in section 24-2	P	
	Adult day care centers	P	
	Automobile rental	P	
	Automobile repair and service including tire, transmission, glass, body and fender, and other automotive product sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing	P	
	Automobile service stations; if fuel is sold, then in accordance with section 24-38	P	
	Banks and other similar financial institutions	P	
	Barber and beauty shops	P	
	Business, professional and governmental offices	P	
	Child day care centers	P	
	Clubs, public or private, civic or service clubs, county clubs, lodges and fraternal organizations	P	
	Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Contractor offices, equipment storage yards, shops and warehouses with storage under cover or	P	

screened with landscaping and fencing from adjacent property		
Convenience stores; if fuel is sold, then in accordance with section 24-38	P	
Corporate offices	P	
Courier services	P	
Data processing centers	P	
Drug stores	P	
Dry cleaners and laundries	P	
Employment services or agencies	P	
Farmer's markets	P	
Fast food restaurants		SUP
Feed, seed and farm supply stores	P	
Fire stations	P	
Fish farming	P	
Gift stores	P	
Greenhouses and nurseries	P	
Health clubs, exercise clubs and fitness centers	P	
Home occupations as defined	P	
Hotels, motels, tourist homes and convention centers	P	
Indoor sport facilities	P	
Indoor theaters	P	
Janitorial service establishments	P	
Limousine service	P	
Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38		SUP
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packaging or distribution under cover or screened with landscaping and fencing from adjacent property		SUP
Off-street parking as required by section 24-53	P	
Office supply stores, secretarial and duplicating services	P	
Parking lots and garages	P	
Photographer, picture, artist and sculptor stores and studios	P	
Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Printing and publication establishments	P	
Property maintenance facilities, sheds or garages	P	
Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of	P	

	amusement		
	Rental of rooms to a maximum of three rooms	P	
	Restaurants, tea rooms and taverns	P	
	Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plan supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods	P	
	Retail food stores, bakeries and fish markets	P	
	Security service offices	P	
	Shooting ranges, indoor		SUP
	Taxi service	P	
	Theme parks		SUP
	Truck stop; if fuel is sold, then in accordance with section 24-38		SUP
	Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
	Vehicle and trailer sales and service (with major repair limited to a fully enclosed building)	P	
	Veterinary hospitals	P	
	Water well drilling establishments	P	
Civic	Nonemergency medical transport	P	
	Post offices	P	
	Water impoundments, new or expansion of	P	
Utility	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Radio stations, television stations, transmission relay stations and communication towers		SUP
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communication Facilities		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP

	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	
	Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit: (a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and (a) Distribution lines and local facilities within a development, including pump stations		SUP
Open	Timbering	P	
	Wineries	P	
Industrial Uses	Food processing and storage, but not the slaughter of animals	P	
	Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property		SUP
	Heliports, helistops		SUP
	Hospital		SUP
	Industrial and technical training schools	P	
	Laser technology production	P	
	Machinery sales and service with major repair under cover		SUP
	Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks and wine	P	
	Manufacture and processing of textiles and textile products in structures not more than 10,000 square feet	P	
	Manufacture and processing of textiles and textile products in structures more than 10,000 square feet		SUP
	Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, and yarn	P	
	Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	

Manufacture of carpets and carpet yarns in structures of not more than 10,000 square feet	P	
Manufactured home or mobile home sales	P	
Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity	P	
Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment	P	
Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments	P	
Petroleum storage		SUP
Private streets within "qualifying industrial parks" in accordance with section 24-55	P	
Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect	P	
Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit		SUP
Research, development and design facilities or laboratories	P	
Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property	P	
Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	

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

(a) *Complementary design.* Economic Opportunity districts are intended to have an integrated character with strong unifying design elements meeting the following standards:

(1) **Unified Building Design.** Building design, in the urban/residential core as designated on the master plan, shall be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.

The urban/residential core shall focus on pedestrian-scaled design, a mixing of uses within buildings, and general design standards (such as landscaping, road design, etc.) that may be different from the Economic Opportunity design.

(2) **Unified Open Space.** Projects, in the urban/residential core as designated on the master plan, shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). All buildings or building clusters within the development must be connected with linkages other than roads (i.e., sidewalks, bikeways or multi-use paths). The master plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). See section 24-536.8 for more details on Open Space.

(b) **Water and sewer.** All structures and uses within an Economic Opportunity district shall be served by publicly owned and operated water and sewer systems.

(c) **Recreation areas.** Residential areas and mixed use structures, within the urban/residential core, shall be provided with a recreation area or areas adequate to meet the needs of the residents. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities in accordance with the guarantees established as part of master plan or final development plan approval. The composition of the facilities to be installed shall be approved by the planning director. Such facilities shall be owned and maintained by the developer or a residents' association.

(d) **Parking.** Off-street parking facilities, within the urban/residential core, shall be provided in accordance with the off-street parking requirements of section 24-53. The visibility of parking lots or structures shall be minimized by placement to the side or rear of buildings and/or with landscape screening.

(e) **Streetlights.** Streetlights, within the urban/residential core, shall generally be provided at each intersection and other public areas. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development.

(f) **Signage and entry points.** All signs within an Economic Opportunity district shall comply with article II, division 3 of this chapter.

(g) **Traffic circulation** in the urban/residential core as designated on the master plan. Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. All streets shall be constructed and designed in accordance with section 24-536.11.

(h) **Landscaping.** All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and Chapter 23 of the County Code, the Chesapeake Bay Preservation Ordinance.

Sec. 24- XXX. Open space. * (This section may require updating at a later date due to ordinance update discussions for other topics)

Development within the urban/residential core of the Economic Opportunity districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient shall not be counted towards meeting the open space requirement.

For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a Community Character Corridor on the Comprehensive Plan.
- (2) Buffer area(s) of no less than 50 feet around an RMA wetland as measured from the landward edge of the wetland.
- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.
- (4) Preservation of any developable area demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in *Virginia's Endangered Species*, (Virginia Department of Game and Inland Fisheries, 1991)), where preservation of such area is not required by local, state or federal law.
- (5) Bikeways, bike paths, sidewalks, hiking trails, greenways or other similar amenity.
- (6) Public or private picnic areas, parks, plazas or other gathering areas.
- (7) Public or private community facilities such as swimming pools, tennis courts, and recreation buildings. Golf courses may also be counted as open space for the purpose of meeting the open space requirement to a maximum of 50 percent of the required open space.

Open space area shall be protected by easements, maintenance agreements and/or other assurances satisfactory to the county attorney

Sec. 24- XXX. Height of structures.

- (a) Structures may be erected up to 75 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.
- (b) A structure in excess of 75 feet in height but not in excess of 120 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. * (The wireless communication facility section is being processed separately, so this section may require additional updating at a later date)

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

(1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;

(2) Such structure is part of a Transit Oriented Development that utilizes a mass transit system, or is a primary Economic Opportunity use as determined by the County Administrator and is of substantial fiscal benefit to the County;

(2) Such structure will not obstruct light from adjacent property;

(3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

(4) Such structure will not impair property values in the surrounding area;

(5) Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

(6) Such structure would not be contrary to the public health, safety or general welfare.

Sec. 24- XXX. Setback and buffer requirements.

(a) *Location of structures.* Structures shall be located 25 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right-of-way, is less than 50 feet in width, structures shall be located 45 feet or more from the centerline of the external existing or planned or internal arterial public road. Structures shall be located a minimum of 50 feet or more from any Community Character Corridor.

(b) *Required buffers from Economic Opportunity districts.* A buffer of 25 feet shall be maintained from the perimeter of an Economic Opportunity district. The buffer shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development. Where uses permitted in the Economic Opportunity district adjoin an existing residentially zoned district or an A-1 or R-8 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped buffer shall be increased to 100 feet. A buffer of 100 feet shall be maintained from any property in a Community Character Area that is not included in the overall EO master plan.

(c) *Setback and/or buffer modifications; criteria for determination.* Reduction of the width of the setbacks and/or buffers specified in subsections (a) and (b) above may be approved for an Economic Opportunity zoning district upon demonstration that the proposed setback and/or buffer, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback and/or buffer requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the

Comprehensive Plan. In addition, a request for a setback and/or buffer modification must meet one or more of the following criteria:

(1) The proposed setback and/or buffer is for the purpose of integrating proposed Economic Opportunity development with adjacent development, and if located in a Community Character Area, compliments the character of the existing structures;

(2) The proposed setback and/or buffer substantially preserves, enhances, integrates and complements existing trees and topography;

(3) The proposed setback and/or buffer is due to unusual size, topography, shape or location of the property, or other unusual conditions, excluding the proprietary interests of the developer.

(d) *Requests for modifications.* Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

(e) *No minimum lot size or yard requirements.* Except for required setbacks specified in (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Economic Opportunity district other than as specified in approved final plans.

(f) *Uses prohibited.* Setbacks shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback.

Sec. 24- XXX. Street improvements.

(a) All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

(b) Private streets may be permitted upon the approval of the board of supervisors and shall be coordinated with existing or planned streets of both the master plan and the county Comprehensive Plan. Private streets shown on the development plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.

The construction of streets whether public or private shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and development manger or designee.

(c) To the extent streets are private rather than public, the applicant must also submit assurances satisfactory to the planning commission that a property owner's community association or similar organization has been legally established under which the lots within the area of the development plan will be assessed for the cost of maintaining private streets and that such assessments shall constitute a pro rata lien upon the individual lots shown on the development plan.

(d) The uniqueness of each proposal for an Economic Opportunity development requires that the specifications for the width, surfacing, construction and geometric design of streets with associated drainage and the specifications for curbs and gutters be subject to modification from the specifications established in chapter 19. The development manger or designee may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for these facilities where the development manger or designee finds that such specifications are not required in the interests of the

residents and property owners of the economic opportunity development and that the modifications of such specifications are not inconsistent with the interests of the entire county.

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

- (1) That the waiver or modification will result in design and construction that is in accordance with accepted engineering standards;
- (2) That the waiver or modification is reasonable because of the uniqueness of the economic opportunity development or because of the large area of the economic opportunity development, within which the nature and excellence of design and construction will be coordinated, preplanned and controlled;
- (3) That any waiver or modification as to streets is reasonable with respect to the generation of vehicular traffic that is estimated will occur with the area of the master plan;
- (4) That traffic lanes of streets are sufficiently wide enough to carry the anticipated volume and speed of traffic and in no case less than ten feet wide; and
- (5) That waivers or modifications as to base and surface construction of streets and as to the condition of ditches or drainage ways be based upon the soil tests for California Bearing Ratio value and erosion characteristics of the particular subgrade support soils in the area.

EOOrd_ord

MEMORANDUM

DATE: July 13, 2011
TO: Planning Commission and Policy Committee
FROM: Christopher Johnson, Principal Planner
SUBJECT: Commercial Districts, Ordinance Changes

Staff presented the draft ordinances for the Commercial Districts (LB, B-1, M-1, M-2) as well as Section 24-11, Commercial Special Use Permits and Section 24-147, DRC Review Criteria to the Policy Committee on June 7, 2011. Subsequently, the Board of Supervisors held a work session to discuss the drafts on June 28, 2011. Staff will be amending the proposed ordinance language in the coming weeks to incorporate Planning Commission and Board of Supervisors comments in hopes of presenting final ordinance language to the Planning Commission at the September 7, 2011 meeting. In advance of that meeting, staff is providing an update to the Planning Commission and Policy Committee on the Board of Supervisors comments on the draft to allow time for review. The Board recommended the following changes:

- Remove the performance standards for uses which require a special use permit from each of the commercial districts and incorporate them into a Board policy document
- Draft a table of uses which lists all permitted and specially permitted uses by zoning district
- Grant approval authority for design standards, determinations of consistency, modifications, waivers or setback reductions to the Planning Director
- Add an appellate subsection to all sections which authorize the Planning Director approval authority

Staff has attached the draft ordinances that were sent to the Board of Supervisors for the June 28, 2011 work session for your review.

Attachment:

1. Draft ordinance, Section 24-11, Commercial Special Use Permits
2. Draft ordinance Section 24-147, Development Review Committee Criteria
3. Draft ordinance, Article 5, Division 9, Limited Business District, LB
4. Draft ordinance, Article 5, Division 10, General Business District, B-1
5. Draft ordinance, Article 5, Division 11, Limited Business/Industrial District, M-1
6. Draft ordinance, Article 5, Division 12, General Industrial District, M-1

Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.

(a) *General requirements.* A special use permit issued by the board of supervisors shall be required for:

(1) Any convenience store;

(2) Any commercial building or group of buildings which exceeds ~~10,000~~ **20,000** square feet of floor area; or

(3) Any commercial building or group of buildings, not including office uses, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the site during the peak hour of the operation, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled *Trip Generation*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director; or

(4) Automobile ~~and gasoline~~ service stations *which sell or dispense fuel*.

(b) *New buildings, additions or expansions.* A special use permit shall be required for a new building, addition or expansion when:

(1) In combination with the existing structure, it exceeds the thresholds set forth in paragraph (a);

(2) It adds ~~5,000~~ **10,000** square feet or more of commercial floor area or, in combination with other new buildings, additions or expansions, generates ~~75~~ **100** or more peak-hour trips than generated by the existing or approved use on May 21, 1990, or than approved in a special use permit, whichever is greater; and

(3) It is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:

a. Common ownership or control of the parcels under consideration by the same person(s) or entity(ies), or similar or related entities;

b. Regardless of factor a. above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and

c. Proximity. For the purpose of this paragraph, "proximity" means adjacent parcels, parcels separated by property under common ownership or control by the same person(s) or entity(ies) or similar or related entities, or parcels separated by a public or private right-of-way.

(c) *Design and submittal requirements.* Any building or use and addition or expansion thereto requiring a special use permit under this section shall comply with the requirements of section 24-23.

(d) *Exemptions.* The following shall be exempt from the requirements of this section:

(1) Any use or building and expansion or addition thereto with preliminary site plan approval prior to May 21, 1990;

(2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;

- (3) Any use or building and expansion or addition thereto shown on a proffered binding master plan that binds the general location of all of the features on the plan as required under this section;**
- (4) Any building located in a mixed use district, residential planned community district or planned unit development district; or**
- (5) Any building predominantly used as a warehouse, distribution center, office, or for other industrial or manufacturing purposes. For purposes of this exemption only, the term “predominantly” shall mean 85 percent of the total square feet of the building or more.**

(Ord. No. 31A-121, 5-21-90; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-155, 1-3-94; Ord. No. 31A-201, 12-1-99)

Sec. 24-147. Criteria for review.

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

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

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 9. LIMITED BUSINESS DISTRICT, LB

Sec. 24-367. Statement of intent.

The Limited Business District, LB, is intended to provide opportunities for a limited range of office, retail and service establishments of small to moderate size, with ~~small~~, well-landscaped parking areas *and an appropriate amount of perimeter and right-of-way landscape buffering when located adjacent to residentially zoned or Comprehensive Plan Land Use Map designated residential or agricultural property*. The district is characterized by the absence of nuisance factors such as constant heavy trucking and excessive noise, dust, light and odor. This classification is appropriate where proximity to residential areas, existing land uses, traffic patterns and other factors make it desirable to maintain a commercial character which is less intense than permitted in the General Business District, B-1. To enhance the character of the district and to improve its compatibility with low-density surroundings, limitations on building height and ~~bulk size~~ are imposed, and special requirements are imposed on areas designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

(Ord. No. 31A-88, 20-LB.1, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-368. Permitted uses.

Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the Limited Business District, LB, buildings or structures to be erected or land to be used shall be for one or more of the following:

Adult day care centers.

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

Auction houses.

Bakeries and fish markets.

Banks and other similar financial institutions.

Barber and beauty shops.

Business, governmental and professional offices.

Catering and meal preparation 5,000 sq. ft. or less.

Child day care centers.

Contractor's offices (with storage of materials and equipment limited to a fully enclosed building).

Drug stores 10,000 sq. ft. or less.

Dry cleaners and laundries.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Grocery Stores 10,000 sq. ft. or less.

Health clubs, exercise clubs, fitness centers.

~~Houses of worship.~~

Libraries.

Lodges, civic clubs, fraternal organizations and service clubs.

Lumber and building supply (with storage limited to a fully enclosed building).

Mailing and facsimile transmission reception.

Medical clinics or offices.

New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).

Off-street parking as required by this section 24-53.

Office supply stores, secretarial and duplicating services.

Pet stores and pet supply sales.

Photography studios and sales, artist and sculptor studios, *hobby shops*, art and crafts and handicraft shops, antique shops, reproduction and gift shops, *and souvenir shops*.

Places of public assembly, including houses of worship or public meetings halls.

Plumbing and electrical supply (with storage limited to a fully enclosed building).

Post offices.

~~Public meeting halls.~~

Restaurants (excluding fast food restaurants) tea rooms with 100 seats or less.

Retail and service stores, including the following stores: *appliances*, books, *cameras*, candy, carpet, coin, department, *discount*, dressmaking, *electronics*, florist, furniture, furrier, garden supply, *gourmet foods*, greeting card, gunsmith (excluding shooting ranges), hardware, *health and beauty aids*, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, *optical goods*, paint, ~~pet~~, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, *variety*, wearing apparel and yard goods.

Retail food stores 5,000 sq. ft. or less.

Schools, *public or private*.

Timbering in accordance with section 24-43.

Tourist homes.

Veterinary hospitals (with all activities limited to a fully enclosed building *with the exception of supervised animal exercise while on a leash*).

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(Ord. No. 31A-88, 20-LB.2, 4-8-85; Ord. No. 31A-95, 4-7-86; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-174, 1-28-97; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-244, 2-9-10)

Sec. 24-369. Uses permitted by special use permit only.

In the Limited Business District, LB, buildings or structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in Section 24-269.1*:

Automobile service stations, in areas not designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan; if fuel is sold, then in accordance with section 24-38.

Convenience stores without the sale of fuel, *in areas not designated Neighborhood Commercial or Low Density Residential on the Comprehensive Plan Land Use Map*.

Drug Stores 10,000 sq. ft. or more

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

Firearms sales and service.

Flea markets, in areas not designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

Marinas, docks, piers, yacht clubs, boat basins and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.

Privately or publicly owned solid waste container sites.

Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Restaurants (excluding fast food restaurants), tea rooms and taverns over 100 seats.

Retail food stores over 5,000 sq. ft.

Telephone exchanges and telephone switching stations.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an

individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit.

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

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

(Ord. No. 31A-88, 20-LB.3, 4-8-85; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-173, 12-10-96; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-244, 2-9-10)

Sec. 24-369.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by Special Use Permit in the Limited Business District, LB:

- (1) Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.***
- (2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.***
- (3) Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.***

(4) *Lighting* – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaires used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.

(5) *Water Conservation Standards* – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-369.1 (1) – (5) after finding that such information would not be germane to the application.

Sec. 24-370. Special provisions for areas within the Limited Business District, LB, designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan.

The Comprehensive Plan defines Neighborhood Commercial areas as limited business activity areas located within the primary service area, serving residents of the surrounding neighborhoods in the immediate area, and having only a limited impact on nearby development. Neighborhood Commercial development shall be compatible with surrounding development in terms of scale, building design, materials and color. The Comprehensive Plan specifies that within Low-Density Residential areas, non-residential uses should not alter, but rather, complement the residential character of the low-density residential area in which they are located. For non-residential uses in Low-Density Residential areas, measures shall be provided to protect nearby residential uses and the character of the surrounding area. The requirements of this section shall apply to areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan as determined by the director of planning.

(a) *Permitted uses.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, buildings to be erected or land to be used shall be for one or more of the uses as permitted in section 24-368.

(b) *Uses permitted with a special use permit only.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, buildings to be erected or land to be used shall be for one or more of the uses permitted in section 24-369 only after the issuance of a special use permit by the board of supervisors. A special use permit application shall demonstrate to the director of planning substantial conformance to the county's Neighborhood Commercial Development Standards policy.

(c) *Design standards.* Development within areas designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan shall demonstrate to the director of planning substantial consistency with the following provisions:

(1) Large work area doors or open bays shall be screened from external roadways by fencing or landscaping *or oriented on the sides or rear of the proposed building.*

(2) Heating, ventilating and air conditioning equipment, duct work, air compressors, and other fixed operating machinery shall be screened from adjoining property and the street right-of-way with fencing or landscaping or parapet walls up to four feet above the height of the building on which the wall site if such equipment is located upon the roof. Large trash receptacles, dumpsters, utility meters, above ground tanks, satellite dishes, antennas, etc. shall be similarly screened.

(3) If used, fences in front of buildings on the site shall be decorative in appearance as determined by the director of planning and shall be landscaped.

(4) Signs shall generally have no more than three colors. Generally, pastel colors shall not be used. Free-standing signs shall be of a ground-mounted monument type and shall not be larger than 32 square feet not erected to a height greater than eight feet and shall employ ground mounted lighting concealed by landscaping.

(5) Site landscaping shall be reviewed and approved by the director of planning and shall be consistent with the natural landscape and character of the surroundings. A unified landscape design shall be provided, including street trees.

(6) Compliance with the provisions of this subsection shall be evidenced by the submission to the director of planning of a site plan, in accordance with the requirements of section 24-145, site plan submittal requirements.

(d) *Building coverage limits.* For areas within the Limited Business District, LB, that are designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan, a special use permit issued in accordance with section 24-9 shall be required for any building that exceeds a 2,750 5,000 square foot building footprint. A special use permit application shall demonstrate to the director of planning substantial conformance to the county's Neighborhood Commercial Development Standards policy.

(e) *Appeals.* In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the ~~planning commission~~ director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-187, 3-23-99)

Sec. 24-371. Area requirements.

No area requirements.

(Ord. No. 31A-88, 20-LB.4, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-372. Setback requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the ~~development review committee~~ director of planning. In the event the director of planning disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the ~~planning commission~~.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The ~~development review committee~~ *director of planning* will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(c) The applicant has offered extraordinary site design which better meets the Development Standards of the Comprehensive Plan.

Appeals. In the event the director of planning disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.

(Ord. No. 31A-88, 20-LB.5, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-373. Yard regulations.

(a) The minimum side yard shall be 20 feet for each main structure. The minimum rear yard shall be 20 feet.

(b) All accessory structures shall be located at least ten feet from any side lot line.

(c) The minimum side yard shall be increased to 35 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use, on the Comprehensive Plan. The minimum rear yard shall be increased to 35 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side yard shall be increased to 50 feet if the property is designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan and the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 50 feet if the property is designated Neighborhood Commercial or Low-Density Residential on the Comprehensive Plan and the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(Ord. No. 31A-88, 20-LB.6, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-187, 3-23-99)

Sec. 24-374. Special provisions for the adjustment of yard requirements.

The following may be eligible for a waiver from any part of section 24-373:

The subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are:

(a) Constructed as part of a multiunit structure in which the units share common walls, or as part of a multiple-structure commercial development; and

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan *which has been legislatively approved by the Board of Supervisors.*

In these instances, the ~~planning commission~~ *director of planning* may grant, at its ~~his~~ discretion, a waiver from any part of section 24-373 upon finding:

(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-373; and

(2) Adequate parking is provided as per the requirements of this chapter, and where determined necessary by the commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas; and

(3) Adequate provisions are made to assure compliance with article II, division 3 of this chapter, and where determined necessary by the commission, adequate easements or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and

(4) The complex or structure is adequately designed and serviced from the standpoint of safety, and the county fire chief certifies that the fire safety equipment to be installed is adequately designed and the county building official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

Appeals. In the event the director of planning disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.

(Ord. No. 31A-88, 20-LB.7, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-187, 3-23-99)

Sec. 24-375. Height limits and height limitation waivers.

(a) Structures may be erected up to 35 feet in height from grade to the top of the structure, including all penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure. Parapet walls may be up to four feet above the height of the building on which the walls rest.

(b) Church spires, belfries, cupolas, athletic field lighting, chimneys, flues, monuments, flagpoles and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed the maximum approved height of the structure to which it is mounted, upon finding that:

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

(c) All accessory structures shall be ~~less~~ **lower in height** than the main structure ~~in height~~.

(Ord. No. 31A-88, 20-LB.9, 4-8-85; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-187, 3-23-99; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

Sec. 24-376. Building coverage limits.

Building coverage shall not exceed ~~20~~ **30** percent of the total lot area. The floor area ratio shall not exceed 40 percent of the total lot area.

(Ord. No. 31A-187, 3-23-99)

Sec. 24-377. Sign regulations.

To assure an appearance and condition which is consistent with the purposes of the Limited Business District, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(Ord. No. 31A-88, 20-LB.10, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-378. Outdoor storage prohibited.

The outdoor storage of materials, supplies and goods for sale shall be prohibited in the limited business district.

(Ord. No. 31A-88, 20-LB.11, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-379. Site plan review.

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with article III of this chapter.

(Ord. No. 31A-88, 20-LB.12, 4-8-85; Ord. No. 31A-187, 3-23-99)

Sec. 24-380. Sidewalks.

Sidewalks shall be required for all projects requiring site plan review in accordance with section 24-35.

(Ord. No. 31A-187, 3-23-99)

Sec. 24-381. Landscaping.

Landscaping shall be provided as required in article II, division 4.

(Ord. No. 31A-187, 3-23-99)

Secs. 24-382 - 24-388. Reserved.

Sec. 24-11. Special use permit requirements for certain commercial uses; exemptions.

(a) *General requirements.* A special use permit issued by the board of supervisors shall be required for:

- (1) Any convenience store;
- (2) Any commercial building or group of buildings which exceeds ~~10,000~~ **20,000** square feet of floor area; or
- (3) Any commercial building or group of buildings, not including office uses, which generates, or would be expected to generate, a total of 100 or more additional trips to and from the site during the peak hour of the operation, based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of its book entitled *Trip Generation*. The applicable trip generation rate shall be determined by the planning director. The planning director may permit other traffic generation rates to be used if an individual or firm qualified to conduct traffic engineering studies documents that the use would not reasonably be expected to generate the amount of peak hour traffic projected by application of ITE traffic generation rates, provided the documentation is acceptable to the planning director; or
- (4) Automobile ~~and gasoline~~ service stations **which sell or dispense fuel.**

(b) *New buildings, additions or expansions.* A special use permit shall be required for a new building, addition or expansion when:

- (1) In combination with the existing structure, it exceeds the thresholds set forth in paragraph (a);
- (2) It adds ~~5,000~~ **10,000** square feet or more of commercial floor area or, in combination with other new buildings, additions or expansions, generates ~~75~~ **100** or more peak-hour trips than generated by the existing or approved use on May 21, 1990, or than approved in a special use permit, whichever is greater; and
- (3) It is located on the same property as the existing structure or other parcel which is a logical component of such property. Factors to determine whether a parcel is a logical component include:
 - a. Common ownership or control of the parcels under consideration by the same person(s) or entity(ies), or similar or related entities;
 - b. Regardless of factor a. above, shared access to public roads, shared parking arrangements, shared traffic circulation or shared service areas; and
 - c. Proximity. For the purpose of this paragraph, "proximity" means adjacent parcels, parcels separated by property under common ownership or control by the same person(s) or entity(ies) or similar or related entities, or parcels separated by a public or private right-of-way.

(c) *Design and submittal requirements.* Any building or use and addition or expansion thereto requiring a special use permit under this section shall comply with the requirements of section 24-23.

(d) *Exemptions.* The following shall be exempt from the requirements of this section:

- (1) Any use or building and expansion or addition thereto with preliminary site plan approval prior to May 21, 1990;
- (2) Any use or building and expansion or addition thereto for which the start of construction began prior to May 21, 1990, in accordance with a site plan approved prior to that date;

- (3) Any use or building and expansion or addition thereto shown on a proffered binding master plan that binds the general location of all of the features on the plan as required under this section;**
- (4) Any building located in a mixed use district, residential planned community district or planned unit development district; or**
- (5) Any building predominantly used as a warehouse, distribution center, office, or for other industrial or manufacturing purposes. For purposes of this exemption only, the term “predominantly” shall mean 85 percent of the total square feet of the building or more.**

(Ord. No. 31A-121, 5-21-90; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-155, 1-3-94; Ord. No. 31A-201, 12-1-99)

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 10. GENERAL BUSINESS DISTRICT, B-1

Sec. 24-389. Statement of intent.

Generally, the General Business District, B-1, covers that portion of the community intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy ~~trucking~~ *truck traffic* other than stocking and delivery of light retail goods or by any factors other than occasioned by incidental light and noise *commonly associated by the* of congregation of people and passenger vehicles.

(Ord. No. 31A-88, 20-81, 4-8-85)

Sec. 24-390. Permitted uses.

Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the General Business District, B-1, structures to be erected or land to be used, shall be for one or more of the following uses:

Adult day care centers.

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

Banks and other similar financial institutions.

Barber and beauty shops.

Business, governmental and professional offices.

Child day care centers.

Contractor's offices with storage of materials and equipment limited to a fully enclosed building.

Drug stores.

Dry cleaners and laundries.

Farmer's Market.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Health clubs, exercise clubs, fitness centers.

Hotels, motels, ~~and~~ *and* tourist homes ~~and convention centers~~.

~~Houses of worship.~~

Indoor sport facilities (excluding shooting ranges).

Indoor theaters.

Libraries.

Limousine services (with maintenance limited to a fully enclosed building).

Lodges, civic clubs, fraternal organizations and service clubs.

Lumber and building supply (with storage limited to a fully enclosed building or fully screened from view with a structural barrier approved by the ~~development review committee~~ *director of planning*, located within the building setback area with a maximum height of 12 feet).

Machinery sales and service (with storage and repair limited to a fully enclosed building).

Marinas, docks, piers, yacht clubs, boat basins, and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.

Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce or seafood receiving, packing or distribution.

Medical clinics or offices.

Micro-breweries.

Museums.

New and/or rebuilt automotive parts sales (with storage limited to a fully enclosed building).

Off-street parking as required by section 24-53.

Parking lots, *parking structures* and garages.

Photography *studios and sales*, artist and sculptor studios, *arts and craft shops and sales, antique shops gift shops and souvenir shops*.

Places of public assembly, including houses of worship and public meeting halls.

Plumbing and electrical supply (with storage limited to a fully enclosed building).

Police stations.

Post offices.

Printing and publishing.

Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls, *bingo halls* and other indoor centers of amusement.

~~Public meeting halls.~~

Radio and television stations and accessory antenna or towers and tower mounted wireless communication facilities, which are 60 feet or less in height.

Research, development and design facilities or laboratories.

Restaurants, fast food restaurants, tea rooms and taverns.

Retail and service stores, including the following stores: *alcohol*, antiques, arts and crafts, books, *cameras*, candy, carpet, coin, department, dressmaking, duplicating services, *electronics*, florist, furniture, furrier, garden supply, gift, *gourmet foods*, greeting card, gunsmith (excluding shooting ranges), handicrafts, hardware, *health and beauty aids*, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, office supply, *optical goods*, paint, pet, photography, picture framing, plant supply, secretarial services, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, *variety*, wearing apparel, and yard goods.

Retail food stores, bakeries and fish markets.

Schools, *public or private*.

Security service offices.

Telephone exchanges and telephone switching stations gap.

Timbering in accordance with section 24-43.

Vehicle rental facilities.

Veterinary hospitals.

Wholesale and warehousing (with storage limited to a fully enclosed building).

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(Ord. No. 31A-88, 20-82, 4-8-85; Ord. No. 31A-96, 4-7-86; Ord. No. 31A-102, 6-1-87; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-143, 5-4-92; Ord. No. 31A -145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-174, 1-28-97; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-236, 8-12-08; Ord. No. 31A-244, 2-9-10)

Sec. 24-391. Uses permitted by special use permit only.

In the B-1, General Business District, buildings to be erected or the land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in Section 24-391.1:*

Amphitheaters or stadiums.

Antennas and towers in excess of 60 feet in height.

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

Campgrounds.

Convenience stores; if fuel is sold, then in accordance with section 24-38.

Convention centers.

Country clubs and golf courses, public or private.

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

Firing ranges, shooting ranges or paintball ranges, limited to a fully enclosed building.

Flea markets.

Heliports and helistops, as an accessory use.

Hospitals.

Kennels.

Nonemergency medical transport.

Nursing homes.

Outdoor centers of amusement, *including miniature golf courses, waterslide parks, baseball and/or softball hitting cages.*

Outdoor sport facilities, *including golf driving ranges and skate parks.*

Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect.

~~Privately or publicly~~ owned solid waste container sites.

Railroad facilities including tracks, bridges and, stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways, are permitted generally and shall not require a special use permit.

Taxi service.

Theme parks of ten acres or more.

Tire, transmission, glass, body and fender and other automotive repair and service (with storage and major repair limited to a fully enclosed building).

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

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

Vehicle and trailer sales and services (with major repair limited to a fully enclosed building).

~~Vehicle rentals.~~

Waste disposal facilities.

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

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

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

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

(Ord. No. 31A-88, 20-82.1, 4-8-85; Ord. No. 31A-96, 4-7-86; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-133, 11-4-91; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-234, 4-8-08; Ord. No. 31A-236, 8-12-08; Ord. No. 31A-244, 2-9-10)

Sec. 24-391.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by a Special Use Permit in the Limited Business District, LB:

(1) Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

(2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.

(3) Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.

(4) Lighting – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.

(5) Water Conservation Standards – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-391.1 (1) – (5) after finding that such information would not be germane to the application.

Sec. 24-392. Area requirements.

No area requirements.

(Ord. No. 31A-88, 20-83, 4-8-85)

Sec. 24-393. Setback requirements.

Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the centerline of the street.

(1) Setbacks may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the development review committee.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The ~~development review committee~~ *director of planning* will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(a) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(b) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(c) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.

(2) In areas where the board of supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (1), the ~~development review committee~~ *director of planning* can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (1) above.

(3) Appeals. In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-88, 20-84, 4-8-85; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-241, 6-9-09)

Sec. 24-394. Yard regulations.

(a) Buildings shall be located 20 feet or more from side or rear property lines. However, the minimum side yard shall be 50 feet if the side yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be 50 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards shall be increased an additional one foot for each one foot of building height in excess of 35 feet.

(b) All accessory structures shall be located at least ten feet from any side or rear lot line.

(Ord. No. 31A-88, 20-84.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-180, 9-8-98)

Sec. 24-395. Special provisions for the waiver of yard requirements.

The following may be eligible for a waiver from any part of section 24-394:

The subdivision of commercial property on which commercial units for sale, for sale in condominium, or for lease are both:

(a) Constructed as part of a multiunit structure in which the units share common walls, or as part of a multiple-structure commercial development; and

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

In these instances, the ~~planning commission~~ *director of planning* may grant, at ~~its~~ *his* discretion, a waiver from any part of section 24-394 upon finding:

(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-394;

(2) Adequate parking is provided as per the requirements of this chapter and, where determined necessary by the commission, adequate easements or other agreements are recorded to guarantee access and maintenance of the parking areas and other common areas;

(3) Adequate provisions are made to assure compliance with article II, division 3 of this chapter and, where determined necessary by the commission, adequate easements, or agreements are recorded to allow grouping of signs on one standard, placement of signs in common areas or other appropriate arrangements made necessary because of the reduced yard area of the individual units; and

(4) The complex or structure is adequately designed and serviced from the standpoint of safety, and that the county fire chief certifies that the fire safety equipment to be installed is adequately designed and the county building official certifies the complex is designed to conform to the BOCA Code, so as to offer adequate protection to life and property.

(5) Appeals. In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-88, 20-84.2, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-180, 9-8-98)

Sec. 24-396. Reserved.

Sec. 24-397. Height limits and height limitation waivers.

Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade, in accord with the following criteria:

(1) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of or on top of the structure and accessory and non-accessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

a. The regulations of section 24-398 regarding building coverage, floor area ratio and open space are met;

b. Such structure will not obstruct light from adjacent property;

c. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

d. Such structure will not impair property values in the surrounding area;

e. Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and the building is reasonably

well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

f. Such structure would not be contrary to the public health, safety or general welfare.

(2) Parapet walls may be up to four feet above the height of the building on which the walls rest.

(3) No accessory structure which is within ten feet of any lot line shall be more than one story high. All accessory structures shall be less than the main structure in height.

(Ord. No. 31A-88, 20-86, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-143, 5-4-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-180, 9-8-98; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07)

Sec. 24-398. Building coverage limits.

Building coverage shall not exceed ~~25~~ **40** percent of the total lot area and the floor area ratio shall not exceed 60 percent. ~~However, the floor area ratio may be increased to 75 percent if the additional floor area is used to provide indoor parking.~~

(Ord. No. 31A-180, 9-8-98)

Sec. 24-399. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the General Business District, B-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

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

(Ord. No. 31A-88, 20-86.1, 4-8-85; Ord. No. 31A-180, 9-8-98)

Sec. 24-400. Site plan review.

All buildings or complexes of buildings erected, altered or restored within the district shall be subject to site plan review in accordance with section 24-142.

(Ord. No. 31A-88, 204-86.3, 4-8-85; Ord. No. 31A-180, 9-8-98)

Sec. 24-401. Sidewalks.

Sidewalks shall be required for all projects requiring site plan review in accordance with section 24-35.

(Ord. No. 31A-180, 9-8-98)

Sec. 24-402. Landscaping.

Landscaping shall be provided as required in article II, division 4.

(Ord. No. 31A-180, 9-8-98)

Secs. 24-403 - 24-409. Reserved.

Chapter 24

ARTICLE V. DISTRICTS

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

Sec. 24-410. Statement of intent.

The primary purpose of the Limited Business/Industrial District, M-1, is to establish an area where the principal use of land is for limited business/industrial operations which are not ordinarily compatible with *adjacent* residential development. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for limited business and industrial purposes;
- (2) Prohibit residential developments on land reserved for limited business and industrial uses;
- (3) Permit certain commercial and office uses in a manner which is compatible with limited business and industrial uses; and
- (4) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects *or impacts commonly associated with* of the development of limited business and industrial uses.

(Ord. No. 31A-88, 20-87, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-411. Permitted uses.

Reference section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

Adult day care centers.

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

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

Automobile sales and service with major repair limited to a fully enclosed building.

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions.

Barber and beauty shops.

Business, professional and governmental offices.

Child day care centers.

Commercial marinas, docks, piers, yacht clubs, boat basins and servicing areas for same; if fuel is sold, then in accordance with section 24-38.

Contractor offices or shops, including plumbing, electrical, HVAC, home improvement or construction, swimming pool, landscaping, cabinet making, general building, excavating, equipment storage yards, shops and warehouses with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Courier services.

Data processing centers.

Drugstores.

Dry cleaners and laundries.

Farmer's markets.

Feed, seed and farm supply stores.

Fire stations.

Funeral homes.

Health clubs, exercise clubs, and fitness centers.

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Hotels, motels or convention centers with accessory retail sales, barber shops and beauty shops located within the hotel, motel or convention center for the principal benefit of the resident guest.

~~Houses of worship.~~

Indoor sport facilities.

Industrial dry cleaner and laundry.

Industrial and technical training schools.

Janitorial service establishments.

Kennels.

Laboratories, research and development facilities.

Laser technology production.

Laundry and dry cleaning operations.

Lumber and building supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Machinery sales and service with major repair limited to a fully enclosed building.

Manufacture and assembly of musical instruments, toys, novelties, and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of textiles and textile products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly, or fabrication of sheet metal products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, yarn, and stone.

Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.
Manufacture of cans and other products from previously processed metals.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

Manufacture of pottery and ceramic products using kilns fired only by gas or electricity.

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

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

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

Manufactured home or mobile home sales.

Marine or waterfront businesses to include receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing and distribution.

Medical clinics and offices, *including emergency care and first air centers.*

Micro-breweries.

Nonemergency medical transport.

Nurseries.

Off-street parking as required by section 24-53.

Places of public assembly including houses of worship and public or private meeting halls.

Plumbing and electrical supply stores with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Post offices.

Printing, lithographing, engraving, photocopying, blueprinting and publishing establishments.

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Publicly ***or privately*** owned solid waste container sites.

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

Recycling center or plant.

Research, development and design facilities or laboratories.

Restaurants, ***fast food restaurants***, tearooms and taverns.

Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.

Retail food stores, bakeries and fish markets.

Security service offices.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Tire, transmission, glass, body and fender and other automotive product sales and service with major repair limited to a fully enclosed building and vehicle storage screened from adjacent property by landscaping and fencing.

Vehicle and trailer sales and service with major repair limited to a fully enclosed building.

Vehicle rentals.

Veterinary hospitals.

Warehouse, storage and distribution centers with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property,

Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

Water well drilling establishments.

Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(Ord. No. 31A-88, 20-88, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-152, 8-16-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-208, 8-13-02; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-236, 8-12-08)

Sec. 24-412. Uses permitted by special use permit only.

In the Limited Business/Industrial District, M-1, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in 24-412.1:*

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

Convenience stores; if fuel is sold, then in accordance with section 24-38.

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

Heliports, helistops and accessory uses.

Hospitals.

Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.

Outdoor sports facilities with water and sewer facilities for golf courses as approved by the board of supervisors.

Petroleum *products bulk storage and retail distribution.*

Propane storage, distribution and sale.

Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Resource recovery facilities.

Shooting ranges, indoor.

Solid waste transfer stations.

Theme parks of ten acres or more.

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

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

Truck stops; if fuel is sold, then in accordance with section 24-38.

Truck terminals; if fuel is sold, then in accordance with section 24-38.

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

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

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

(Ord. No. 31A-88, 20-88.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-121, 5-21-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-156, 5-16-94; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-236, 8-12-08)

Sec. 24-412.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by a Special Use Permit in the Limited Business District, LB:

- (1) Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites,***

such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

- (2) **Architecture** – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.
- (3) **Landscaping** – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.
- (4) **Lighting** – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.
- (5) **Water Conservation Standards** – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-412.1 (1) – (5) after finding that such information would not be germane to the application.

Sec. 24-413. Outdoor operations and storage.

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors shall meet the requirements of section 24-41.

(Ord. No. 31A-144, 6-1-92)

Sec. 24-414. Area requirements and minimum lot width.

(a) Minimum lot size shall be 10,000 square feet.

(b) Minimum width of lots shall be 75 feet at the setback line.

(Ord. No. 31A-88, 20-89, 204-89.1, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-415. Setback requirements.

(a) Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(c) Setbacks for commercial uses may be reduced to 25 feet from any street right-of-way which is 50 feet or greater in width or 50 feet from the centerline of the street where the street right-of-way is less than 50 feet in width with approval of the ~~development review committee~~ *director of planning*.

A site shall not be considered for a setback reduction if it is located on a planned road that is designated for widening improvements. A planned road includes any road or similar transportation facility as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan or any road plan adopted by the board of supervisors. The ~~development review committee~~ *director of planning* will consider a setback reduction only if the setback reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and Tree Preservation Requirements); if the setbacks do not negatively impact adjacent property owners; and if one or more of the following criteria are met:

(1) The site is located on a Community Character Corridor or is designated a Community Character Area on the Comprehensive Plan Land Use Map, and proposed setbacks will better complement the design standards of the Community Character Corridor.

(2) The adjacent properties have setbacks that are non-conforming with this section, and the proposed setbacks will better complement the established setbacks of adjacent properties, where such setbacks help achieve the goals and objectives of the Comprehensive Plan.

(3) The applicant has offered site design which meets or exceeds the Development Standards of the Comprehensive Plan.

(d) In areas where the board of supervisors has adopted specific design guidelines that call for reduction of setbacks in excess of those permitted in sub-section (c), the ~~development review committee~~ *director of planning* can approve reductions upon finding substantial conformance with recommendations from the guidelines and compliance with the criteria from sub-section (c) above.

(e) Appeals. In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the

applicant may appeal the decision of the director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-88, 20-90, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-241, 6-9-09)

Sec. 24-416. Yard regulations.

(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district, or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(c) Accessory structures may be located within the required side or rear yards upon approval of the ~~planning commission~~ *director of planning*; provided, however, that no structure shall be located within ten feet of any property line.

(d) Appeals. In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-88, 20-90.1, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-417. Reserved.

Sec. 24-418. Special provisions for the waiver of area, lot width, yard and yard setback requirements.

The following may be eligible for a waiver from any part of section 24-414 through 24-416:

The subdivision of business/industrial property on which business and industrial units for sale, for sale in condominium, or for lease are both:

(a) Constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development; and

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

In these instances, the ~~planning commission~~ *director of planning* may grant, at its discretion, a waiver from any part of section 24-414 through 24-416 upon finding:

(1) The overall complex or structure, if considered as a single unit, meets all of the requirements of section 24-414 through 24-416;

(2) Adequate parking is provided as per the requirements of this chapter. The ~~planning commission~~ *director of planning* also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;

(3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and

(4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.

(5) Appeals. In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-88, 20-90.3, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-419. Height limits and height limitation waivers.

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

(b) Water towers, church spires, belfries, cupolas, monuments, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.

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

(1) Additional setbacks have been provided as required by section 24-415 and section 24-416; however, the board may waive additional setbacks in excess of 60 feet;

(2) Such structure will not obstruct light from adjacent property;

(3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;

(4) Such structure will not impair property values in the area;

(5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is

reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

(6) Such structure will not be contrary to the public health, safety and general welfare.

(Ord. No. 31A-88, 20-91, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98)

Sec. 24-420. Reserved.

Sec. 24-421. Sign regulations and parking requirements.

(a) To assure an appearance and condition which is consistent with the purposes of the Limited Business/Industrial District, M-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

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

(Ord. No. 31A-88, 20-93, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-422. Utilities.

(a) Unless otherwise specified in this district, all development in the Limited Business/Industrial District, M-1, shall be served by public water and sewer.

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

(Ord. No. 31A-88, 20-92, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-156, 5-16-94)

Sec. 24-423. Site plan review.

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

(Ord. No. 31A-88, 20-94, 4-8-85; Ord. No. 31A-144, 6-1-92)

Secs. 24-424 - 24-434. Reserved.

Chapter 24

ARTICLE V. DISTRICTS

DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2

Sec. 24-435. Statement of intent.

The primary purpose of the General Industrial District, M-2, 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. The specific intent of this district is to accomplish the following:

- (1) Encourage the use of land for industrial purposes;
- (2) Prohibit residential and commercial service developments on land reserved for industrial uses; and
- (3) Establish minimum requirements to protect the health, safety and welfare of the citizens of James City County from the effects of the development of industrial uses.

(Ord. No. 31A-88, 20-95, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-436. Permitted uses.

Reference Section 24-11 for special use permit requirements for certain commercial uses and exemptions. In the General Industrial District, M-2, buildings to be erected or land to be used shall be for one or more of the following or similar uses:

Accessory uses as defined in section 24-2.

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

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

Automobile service stations; if fuel is sold, then in accordance with section 24-38.

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

Boiler shops.

Breweries and other necessary associated activities.

Business, professional and governmental offices.

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

Contractor offices, equipment storage yards, shops and warehouses.

Drop-forge industries, manufacturing, forgings with a power hammer.

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

Fire stations.

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

Heavy equipment sales and service, with major repair limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.

Industrial and technical training schools.

Janitorial service establishments.

Laser technology production.

Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.

Manufacture and bottling of soft drinks and wine.

Manufacture and processing of acrylic and other synthetic fibers.

Manufacture and processing of textiles and textile products.

Manufacture and sale of manufactured homes, mobile homes, modular homes and industrialized housing units.

Manufacture and sale of wood products.

Manufacture and storage of ice, including dry ice.

Manufacture, assembly or fabrication of sheet metal products.

Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, wax, leather, cellophane, canvas, felt, fur, horn, hair, yarn, and stone.

Manufacture, compounding, processing or packaging of cosmetics, *soap*, toiletry and pharmaceutical products.

Manufacture, compounding, processing or packaging of food and food products, but not the slaughter of animals.

Manufacture of batteries.

Manufacture of boats, marine equipment and boat trailers.

Manufacture of cans and other metal products from previously processed metals.

Manufacture of carpets and carpet yarns.

Manufacture of furniture.

Manufacture of glass and glass products.

Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.

Manufacture or assembly of aircraft and aircraft parts.

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

Manufacture or assembly of automobiles, trucks, machinery or equipment.

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

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

Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood *canning, curing, grinding, smoking*, receiving, packing or distribution.

Metal foundry and heavy weight casting.

Off-street parking as required by section 24-53.

Post offices.

Printing and publishing establishments.

Private streets within "qualifying industrial parks" in accordance with section 24-55.

Propane storage, distribution, and sale.

Publicly owned solid waste container sites.

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

Research, development and design facilities or laboratories.

Restaurants as an accessory use to other permitted uses.

Retail sales of products related to the main use, provided floor area for retail sales comprises less than 25 percent of the first floor area of the main use.

Security service offices.

Structural iron and steel fabrication.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Warehouse, storage and distribution centers.

Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

Water well drilling establishments.

Welding and machine shops including punch presses and drop hammers.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(Ord. No. 31A-88, 20-96, 4-8-85; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-128, 12-3-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-150, 4-5-93; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-229, 9-25-07; Ord. No. 31A-236, 8-12-08)

Sec. 24-437. Uses permitted by special use permit only.

In the General Industrial District, M-2, buildings to be erected or land to be used for one or more of the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors *and implementation of the performance standards listed in Section 24-437.1:*

Alcohol refining, manufacturing and storage.

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

Asphalt mixing plants.

Automobile graveyards and scrap metal storage yards.

Crushed stone, sand, gravel, or mineral mining; storage and distribution of same.

Heliports, helistops and accessory uses.

Manufacture and compounding of chemicals.

Manufacture of adhesives or glue.

Manufacturing of fertilizer.

Manufacture and production of paint or shellac.

Manufacturing and storage of fireworks and explosives.

Manufacture, *compounding, processing of asphalt, plaster,* cement, lime, gypsum, bricks and non-previously prepared stone products (i.e., stone and rock used for general erosion control and road construction).

Petroleum refining.

Petroleum storage.

Railroad facilities including tracks, bridges, switching yards, and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Ready mix concrete production.

Resource recovery facilities.

Solid waste transfer stations.

Tanning or curing of animal hides.

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

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

Truck stops; if fuel is sold, then in accordance with section 24-38.

Truck terminals; if fuel is sold, then in accordance with section 24-38.

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

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

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

Wood preserving operations.

(Ord. No. 31A-88, 20-96.1, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-146, 8-3-92; Ord. No. 31A-149, 2-1-93; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-177, 8-18-98; Ord. No. 31A-214, 8-10-04; Ord. No. 31A-236, 8-12-08)

Sec. 24-437.1. Performance Standards for Uses Permitted by Special Use Permit

The following performance standards shall be applicable to any use permitted by Special Use Permit in the Limited Business District, LB:

- (1) ***Archaeology – A Phase I Archaeology Study for the entire property shall be submitted to the director of planning for review and approval prior to land disturbance. A treatment plan shall be submitted and approved by the director of planning for all sites in the Phase I study that are recommended for a Phase II evaluation and/or identified as eligible for inclusion on the National Historic Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the director of planning and a treatment plan for said sites shall be submitted to and approved by the director of planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase III study, a site is determined eligible for nomination to the National Register of Historic***

Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the director of planning prior to land disturbance within the study areas. All Phase I, Phase II, and Phase III studies shall meet Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon.

- (2) Architecture – Prior to final site plan approval, the director of planning shall review and approve the final architectural design of the building. Such building shall be reasonably consistent, as determined by the director of planning, with the architectural elevations submitted with the special use permit application and include the project title, date and name of the person and professional firm submitting the drawings or elevations.*
- (3) Landscaping – Prior to final site plan approval, the director of planning shall review and approve the proposed landscaping plan for the entire property. All required plantings located within the perimeter buffers of the property located along a public right-of-way identified on the Comprehensive Plan as a Community Character Corridor shall be required to meet 125% of size requirements and shall contain a minimum of 50 percent evergreen trees.*
- (4) Lighting – Prior to final site plan approval, a lighting plan shall be submitted to the director of planning for review and approval. All luminaries used shall be recessed fixture with no bulb, lens, or globe extending below the casing. The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side. No glare, defined as 0.1 foot-candle or higher shall occur outside the property lines without prior approval from the director of planning.*
- (5) Water Conservation Standards – The applicant shall be responsible for developing and enforcing water conservation standards to be submitted to and approved by the James City Service Authority General Manager. The standards may include, but shall not be limited to such water conservation measures as limitations on the installation and use of irrigation systems and irrigation wells, the use of approved landscaping materials including the use of drought tolerant plants where appropriate, and the use of water conserving fixtures and appliances to promote water conservation and minimize the use of public water resources.*

Unless otherwise required by this chapter, upon written request by the applicant, the director of planning may waive any performance standards requirement under 24-437.1 (1) – (5) after finding that such information would not be germane to the application.

Sec. 24-438. Outdoor operations and storage.

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors, shall meet the requirements of section 24-41 of this chapter.

(Ord. No. 31A-144, 6-1-92)

Sec. 24-439. Area requirements and minimum lot width.

(a) Minimum lot size shall be 10,000 square feet.

(b) Minimum width of lots shall be 75 feet at the setback line.

(No. 31A-88, 20-97, 20-98, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-440. Setback requirements.

(a) Structures shall be located 50 feet or more from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located 75 feet or more from the center line of the street. The minimum setback of any portion of a structure which is in excess of 35 feet in height shall be increased one foot for each three feet of the structure's height in excess of 35 feet.

(b) The minimum setback shall also be increased to a minimum of 75 feet from any street with a right-of-way 50 feet or greater in width and 100 feet from any street with a right-of-way of less than 50 feet of width when the property immediately across the street is zoned residential. The minimum setback of any portion of a structure across the street from property zoned residential which is in excess of 35 feet in height shall be increased one foot for each two feet of the structure's height in excess of 35 feet.

(Ord. No. 31A-88, 20-98.1, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-441. Yard regulations.

(a) Structures shall be located 20 feet or more from side or rear property lines. The side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each three feet of height in excess of 35 feet.

(b) The minimum side yard shall be increased to 75 feet if the side yard adjoins property in a residential district, or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum rear yard shall be increased to 75 feet if the rear yard adjoins property in a residential district or an agricultural district that is designated for residential use on the Comprehensive Plan. The minimum side and rear yards for any section of a structure in excess of 35 feet in height shall be increased one foot for each two feet of height in excess of 35 feet.

(c) Accessory structures may be located within the required side or rear yards upon approval of the ~~planning commission~~ *director of planning*; provided, however, that no structure shall be located within ten feet of any property line.

(Ord. No. 31A-88, 20-98.2, 4-8-85; Ord. No. 31A-100, 4-6-87; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-442. Reserved.

Sec. 24-443. Special provisions for the waiver of area, lot width, yard and setback requirements.

The following may be eligible for a waiver from any part of section 24-439 through 24-441:

The subdivision of business/industrial property on which business and industrial units for sale, for sale in condominium or for lease are both:

(a) Constructed as part of a multiunit structure in which the units share common walls or as part of a multiple-structure commercial development; and

(b) The entire development has been planned and designed as a comprehensive coordinated unit under a single master plan.

In these instances, the ~~planning commission~~ **director of planning** may grant, at its discretion, a waiver from any part of section 24-439 through 24-441 upon finding:

- (1) The overall complex or structure, if considered as a single unit, meets all of the requirements of sections 24-439 through 24-441;
- (2) Adequate parking is provided as per the requirements of this chapter. The planning commission also may require recordation of adequate easements or other agreements to guarantee access and maintenance of the parking areas and other common areas;
- (3) Adequate provisions are made to assure compliance with the requirements of this chapter with regards to signs. The planning commission also may require the recordation of adequate easements or agreements to allow grouping of signs on one standard sign, placement of signs in common areas or other appropriate arrangements made necessary as a result of the reduced frontage or yard area of the individual units; and
- (4) The complex or structure is adequately designed and serviced from the standpoint of safety. The county fire chief finds that the fire safety equipment to be installed is adequately designed, and the county building official finds that the complex is designed to conform to the Uniform Statewide Building Code, so as to offer adequate protection to life and property.

(5) Appeals. In the event the director of planning disapproves plans submitted under the provisions of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision of the director of planning to the development review committee who shall forward a recommendation to the Planning Commission.

(Ord. No. 31A-88, 20-98.4, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-177, 8-18-98)

Sec. 24-444. Height limits and height limitation waivers.

- (a) Structures may be erected up to 60 feet in height from grade to the top of the structure. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Structures in excess of 60 feet in height from grade to the top of the structure may be erected only upon the granting of a height limitation waiver by the board of supervisors.
- (b) Water towers, chimneys, flues, flagpoles, communication antennae, mechanical penthouse, electrical, plumbing, elevator, parapet walls or other accessory mechanical functions which are part of or on top of a main structure shall be considered part of the structure.
- (c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:
 - (1) Additional setbacks have been provided as required by section 24-440 and section 24-441; however, the Board may waive additional setbacks in excess of 60 feet;
 - (2) Such structure will not obstruct light from adjacent property;
 - (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - (4) Such structure will not impair property values in the area;

(5) Such structure is adequately designed and served from the standpoint of safety and that the county fire chief finds the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and

(6) Such structure will not be contrary to the public health, safety and general welfare.

(Ord. No. 31A-88, 20-99, 4-8-85; Ord. No. 31A-144, 6-1-92; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98)

Sec. 24-445. Reserved.

Sec. 24-446. Sign regulations and parking requirements.

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

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

(Ord. No. 31A-88, 20-100, 4-8-85; Ord. No. 31A-144, 6-1-92)

Sec. 24-447. Utilities.

All development in the General Industrial District, M-2, shall be served by public water and sewer unless this requirement is waived in accordance with section 24-448. The location of all utilities and utility easements shall be shown on the site plans and be approved as per article III, Site Plan, of this chapter. (Ord. No. 31A-88, 20-100.1, 4-8-85; Ord. No. 31A-111, 1-9-89; Ord. No. 31A-144, 6-1-92)

Sec. 24-448. Public utilities waiver.

(a) The board of supervisors may waive the public water and sewer service requirement specified by section 24-447 upon finding:

(1) The development is located in the primary service area as designated by the land use element of the Comprehensive Plan;

(2) The development is located in an area not planned for extension of public water or sewer service as part of the adopted master water or sewer plan; and

(3) The development causes no adverse impact on the water resources of the county.

(b) A condition of such waiver shall be that the development shall connect to public water and sewer at such time that the board of supervisors determines utilities are available.

(c) The board of supervisors may attach additional conditions to any such waiver.

(Ord. No. 31A-111, 1-9-89)

Sec. 24-449. Site plan review.

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

(Ord. No. 31A-88, 20-101, 4-8-85; Ord. No. 31A-144, 6-1-92)

Secs. 24-450 - 24-459. Reserved.

MEMORANDUM

DATE: July 13, 2011
TO: Policy Committee
FROM: Ellen Cook, Senior Planner II
SUBJECT: Draft Green Building Policy

Staff presented a framework for the Green Building Policy to the Policy Committee during Stage I in February 2011. As a reminder, topics discussed included the percent of residential units for which certification would be expected, provisions for use of alternative certification programs (with process for determining equivalency), and allowing some flexibility in the administrative process regarding the timing of submission of the program checklist. Following that meeting, materials were provided to the Board of Supervisors for their March and April 2011 work sessions.

For Stage II of the process, staff has constructed a draft policy which addresses the topics in the staff memo and the topics discussed at the February Policy Committee meeting. In addition, a Green Building density bonus has been included in the draft Cluster Ordinance, which staff recommends discussing as part of that ordinance review.

Staff requests the Policy Committee offer comment on this draft policy prior to the Board of Supervisors work session in September.

DRAFT James City County Sustainable Building Policy for Private or Public-Private Development
[Month, Day], 2011

Purpose

The purpose of this policy is to demonstrate James City County's commitment to environmental, economic, and social stewardship, to reduce energy costs, promote water conservation, to provide healthy work environments for citizens, businesses, and visitors, and to contribute to the County's environmental goals as stated in the Comprehensive Plan. This policy complements the existing Sustainable Building Policy adopted on March 23, 2010 which applies to County departments and agencies and their contractors.

1. Development Affected

Staff will recommend that adherence to this policy be a condition or proffer attached to applicable special use permit and rezoning cases.

2. Definitions

a. **EarthCraft**: A residential green building program that serves as a blueprint for energy- and resource-efficient homes.

b. **LEED**: LEED stands for Leadership in Energy and Environmental Design, and is a voluntary, consensus-based, market-driven green building rating system developed by the U.S. Green Building Council (USGBC).

c. **Sustainable Buildings**: Sustainable buildings incorporate a variety of practices, building materials and methods that promote environmental quality, economic vitality, and social benefit through the design, construction and operation of the built environment. Sustainable buildings merge sound environmentally responsible practices into one discipline that looks at the environmental, economic and social effects of a building or built project as a whole. Sustainable design encompasses the following broad topics: efficient management of energy and water resources, management of material resources and waste, protection of environmental quality, protection of health and indoor environmental quality, reinforcement of natural systems, and integration of the design approach.

3. Policy

a. A comprehensive sustainable building approach is expected for new construction and major renovation projects where the total project square footage or lot number meets the criteria described below (see #4).

b. The comprehensive sustainable building approach in this context will mean achieving a level of LEED "Certified" or EarthCraft "Certified/Level I", or equivalent, at a minimum (see #6). It will also mean designing and building projects to meet Energy Star performance targets, or comparable targets where Energy Star benchmarking has not yet been established.

c. In addition to meeting all the requirements for LEED or EarthCraft Certification, overall goals for the site design shall be:

- Replication and/or enhancement of the natural water cycle;
- Preservation of natural resources on the site;

- Minimization of impervious cover;
- Minimization of irrigated landscape areas and very limited or no use of potable water for irrigation;
- Protection and enhancement of water quality on site and in receiving streams and wetlands; and
- Consistency with the recommendations from adopted watershed management plans.

4. Application of Policy to Different Construction Types: Exemptions and Appropriate Standards

a. Unless exempted by #4b, structures and all units in residential developments should be constructed in accordance with this policy, using the following rating systems for various building types unless the Planning Director or designee determines that a different LEED (or other) rating system is more appropriate, after considering information provided by the applicant.

i. New nonresidential structures, renovations and expansions: LEED for New Construction and Major Renovation (LEED-NC) Rating System.

ii. Residential Structures or Facilities: Projects that are residential, or include a residential component, may use LEED, or the EarthCraft Virginia rating system, as appropriate.

iii. Higher Achievement: Design and project management teams are encouraged to meet higher LEED or EarthCraft rating levels where feasible.

b. The following types of development would be exempt from this policy, but are still encouraged to demonstrate adherence to green building techniques where possible:

- For both new construction and renovation/expansion (commercial, industrial, institutional and apartments) a single structure of less than 10,000 square feet of gross floor area,
- Structures without climate-control systems & structures associated with agricultural operations and storage,
- Residential development projects with a total count of nine or fewer units, and
- Businesses that would be lessees in an existing building (where no renovation is planned – if renovation is planned, see items above)

5. Procedures and Responsibilities

It shall be the responsibility of the applicant to design and construct structures, and to obtain the applicable certification, in accordance with this policy. The following schedule shall apply:

	Single Family Residential	Non-Residential / Multifamily & Apartment
Submission of Green Building Fund deposit	Recommended prior to subdivision plat approval, required prior to building permit approval	Required prior to site plan approval
Submit proof of registration with certification program, using the appropriate standards, as specified in #4b above	Recommended prior to subdivision plat approval, required prior to building permit approval	Required prior to site plan approval
Submit certification program checklist indicating items to be pursued	Recommended prior to subdivision plat approval, required prior to building permit approval	Recommended prior to site plan approval, required prior to building permit approval
Provide proof of program certification	Within one month of issuance of Certificate of Occupancy. If program certification is not achieved, the Green Building Fund deposit may be subject to forfeiture in accordance with the attached Sample Green Building Fund deposit language.	Within twelve months of issuance of Certificate of Occupancy. If certification is not achieved, the Green Building Fund deposit may be subject to forfeiture in accordance with the attached Sample Green Building Fund deposit language.

For any timeline specified in the table above, the applicant may request in writing that a different timeline be substituted. Requests must be made in writing and include an explanation of why the new schedule is necessary. Substitute timelines are subject to written approval by the Planning Director.

6. Equivalent Certifications

As a part of this policy, staff will examine annually sustainable building rating and certification systems and, if appropriate, recommend for inclusion in this policy additional equivalent certification systems that may have been developed. In terms of determining equivalency, considerations will include a certification process, inclusion of multiple standard categories (such as sustainable sites, water efficiency, energy and atmosphere, materials and resources, indoor environmental quality, innovation and design process, etc.), and any available objective analyses of the efficacy of the certification program. In addition, at any time, applicants also have the opportunity to use an equivalent system under this policy, subject to Planning Director consideration and approval of the system in terms of the same set of considerations.

7. Recognition

All projects adhering to this policy shall be highlighted in the Planning Commission's annual report and shall be recognized at a Planning Commission and/or Board of Supervisors meeting. In addition, such projects may also be included on the County's website and/or included in other information or publications.

Attachments

1. Sample Bond Language

Sample Green Building Fund Deposit Language

- a) Prior to the issuance of _____ permit, the developer agrees to provide to the County financial security (in the form of a bond or letter of credit or other form approved by the County Attorney) in the amount of \$ _____ [\$1 per gross square foot] guaranteeing that, within _____ months from the date of issuance of any certificate of occupancy, the developer will have received from the _____ [Certification Program] its _____ [Certified/Silver/Gold/etc.] certification. If the total number of points earned during certification is less than the number of points required to achieve the agreed upon certification level, the developer shall automatically forfeit a percentage of the financial security as follows:

LEED Points missed	EarthCraft Points missed	Percentage of financial security forfeited
1 - 2	1 - 7	25%
3 - 4	8 - 15	50%
5 - 6	16 - 23	75%
7 or more	24 or more	100%

The forfeited amount shall be paid to the County within thirty days of the date of notification from the _____ [Certification Program]. The developer agrees that the County may take any amounts due under the condition out of the financial security as deposited with the County.

- b) The developer agrees that the points referenced in this document refer to the version of _____ [Certification Program] in use on the date of _____, as submitted to the USGBC during application for certification. Any changes to the point valuations incorporated into future updates to the _____ [Certification Program] must equal or exceed the requirements outlined in the version of _____ [Certification Program] in use on the date of _____.
- c) The developer agrees to permit the County Administrator or designee to access the _____ [Certification Program] records for the project, and to provide the County Administrator with such authorization as may be necessary to allow such access. Should there be a dispute between the County and the developer as to whether any sustainable element has properly been included in the development so as to qualify for the applicable number of rating system points, the County and the developer will select a mutually agreeable third-party accredited individual, or other person with substantial experience in the [Certification Program] system as approved by the County Administrator, and accept the determination of that individual as to whether the developer has qualified for those points. Such a determination shall in no way relieve the developer of the obligation to achieve the level of certification called for in this condition.