

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

July 18, 2011 - 4:30 p.m.

A. Roll Call

B. Old Business

C. New Business -

a. Green Building

b. Residential Cluster Overlay Districts zoning ordinance updates

D. Adjournment

POLICY COMMITTEE MEETING

July 18, 2011

4:00 p.m.

County Complex, Building A

1) Roll Call

Present

Mr. Rich Krapf
Mr. Jack Fraley
Mr. Al Woods
Mr. Tim O'Connor

Staff Present

Mr. Allen Murphy
Ms. Ellen Cook
Ms. Tammy Rosario
Ms. Jennifer VanDyke

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

2) Old Business

Mr. Fraley noted there was no old business to discuss and asked Ms. Ellen Cook to speak on Green Building.

3) New Business

A) Green Building

Ms. Cook stated that this is stage two for this item and the first draft of the proposed policy. Ms. Cook stated that the structure of the document is similar to the public green building policy that was adopted by the Board of Supervisors (BOS) in March 2010.

Mr. Rich Krapf made a recommendation to add a goal that includes the use of native and/or drought tolerant plants.

Ms. Cook stated that this would be suitable.

Mr. Fraley stated that he crafted a revised *Purpose* statement for everyone to consider. Mr. Fraley stated that he did not want to have the social component included within the language of the purpose. Mr. Fraley's suggestion is:

"The purpose of this policy is to establish and promote green and sustainable building practices in support of the 2009 Comprehensive Plan sustainability goals. The intent of these practices is to provide environmental benefits, conserve natural resources, increase operational efficiencies and support local economic development."

Ms. Tammy Rosario stated that the Comprehensive Plan did have social components in it, and the wording was intended to reflect that. She stated that in terms of green building, the intended benefits include keeping energy bills down for users, which is a social good.

Mr. Al Woods stated that he thought that Mr. Fraley's suggestion was suitable. He stated that the two texts suggest the same thing. He stated that Mr. Fraley's version offers fewer details; it is broader in context.

Ms. Cook asked if it would be acceptable to reference the public Sustainable Building Policy within Mr. Fraley's newly suggested *Purpose* language.

Mr. Fraley stated that that would be suitable.

Mr. Fraley stated that on page 4, number #4B it states: "For both new construction and renovation/expansion (commercial, industrial, and institutional and apartments) a single structure of less than 10,000 square feet of gross floor area." Mr. Fraley asked if these structures were to be exempt from the construction standards brought forth in this policy.

Ms. Cook stated that this language could be clarified. She stated that those structures would be commercial. She stated that this language is to be applied to commercial and industrial structures. She stated that the chart on the following page also includes commercial and industrial, though under the subheading of "Non-Residential/ Multifamily and Apartment".

Mr. Woods suggested adding a footnote to indicate that non-residential includes these other things.

Mr. Fraley suggested adding a third column.

Ms. Cook stated that these items were grouped this way to be in sync with case review requirements. She stated that single family residential units would not require a site plan.

Mr. Fraley asked for more information on "the Green Building Fund Deposit".

Ms. Cook stated that this involves essentially a bonding procedure. She stated that in stage one there was a discussion regarding a process to ensure that developers get the certification that they committed to doing.

Mr. Fraley stated that he fears hearing criticism regarding more paperwork and more money. Mr. Fraley asked if this would become a new requirement.

Ms. Cook stated that it would.

Mr. Fraley stated that at the previous meeting there had been a discussion regarding requirements versus providing incentives.

Mr. Krapf stated that it would be prudent to talk with other localities that are establishing the same green building goals. He stated that it would be good to know if they have had developers default on green building projects after the application process.

Ms. Cook stated that her inquiries have led her to believe that the rate of default is pretty low. She stated that she spoke with planners in Arlington, Virginia. She stated that they have this fund themselves to safeguard from default, though it has rarely occurred that someone had to forfeit money.

Mr. Krapf asked if there is latitude for a promissory note. He stated that he does want to encourage green building as much as possible but he does not want to put in place additional hurdles.

Mr. Tim O'Connor stated that there are currently letters of credit that are in place. He asked if it would become the County's responsibility to correct the construction standards of the structure if it did not meet these specifications.

Ms. Cook stated that the money would go to other green building projects like education or training, not correcting construction standards.

Mr. Fraley stated that in his own research he has found few jurisdictions that apply a policy like this to private development. He stated that many jurisdictions have this policy applied to public projects. He stated he is fearful of making it more challenging for the business community, unless this was more widely used.

Ms. Cook asked if Mr. Fraley was speaking specifically to the bonding proposal or the policy in general.

Mr. Fraley stated both.

Mr. Allen Murphy stated that it would be a proffered situation, not a requirement within the ordinance.

Mr. Fraley stated that it would still be a requirement for those projects going through the legislative process. He asked if it would be required that applicants make proffers as a result of this policy.

Ms. Cook stated that it would be very similar to the Archeology-policy.

Mr. Fraley stated that it would be a standard condition for a Special Use Permit (SUP) or a proffer for a rezoning.

Ms. Cook stated that the BOS would have the discretion to not apply it to a particular case.

Ms. Rosario stated that the property owner could elect to move forward without including it, with the hope that the BOS would not expect it for a particular case.

Mr. Fraley stated that this would put the BOS in a difficult position.

Ms. Rosario asked what some of the discussions were at the Round Table regarding this matter.

Ms. Cook stated that the commercial component does represent the recommendation that came from the Round Table Report. She stated more specifically, structures less than 10,000 square feet would be exempt from this requirement. She stated that it would not apply to anything less than that. She stated that the recommendation was to apply this to rezoning and SUP cases.

Mr. Fraley stated that there would then be a push to put this in by-right at some point.

Ms. Rosario stated that she was not a part of the Round Table, but she thought there was a discussion regarding the potential burden this would place on business. She stated she had heard in other venues that meeting these certifications could make the property more marketable.

Mr. Woods stated that Mr. Rich Costello of AES had previously offered input on this matter. Mr. Woods stated that Mr. Costello had advised that taking these extra measures did not amount to a great amount of additional effort and the property does become more commercially viable.

Mr. Fraley stated that obtaining LEED certification has become more obtrusive and bureaucratic.

Mr. Woods stated that his understanding of the policy was if you wanted to take advantage of a particular incentive then there is a method in which to guarantee that you will build your structure to the specified standards.

Ms. Cook stated that this policy would be applied to all legislative cases. She stated that staff intends to incentivize the use of obtaining certification for those developments that would not have otherwise fallen under this policy. She stated that in the cluster overlay district draft one of the items you can get a density bonus by exceeding green building standards beyond the basic certified level. She stated that there are other districts coming up that would have similar incentives.

Ms. Rosario stated that the basic expectation is certification for both commercial and residential legislative cases. She stated that that which is incentivized through the residential cluster district is something above the certified level; this may be replicated in other districts.

Mr. Krapf stated that it is not only LEED, it is Earth Craft or the equivalent that is required. He stated that he does not have a problem with the policy. He stated that he is hesitant to initiate the green building fund deposit. He stated that there was wide buy-in from the building and development community that participated in the Round Table.

Mr. Fraley stated that finding a method to ensure that the work was done properly would be a challenge. He stated that incentivizing versus requiring would be preferred. He stated that when he spoke with Mr. Costello of AES, he had a mixed opinion on the proposed policies. He stated that he does not see other localities taking these measures.

Ms. Cook stated that staff did utilize a Planners Advisory Service to poll other localities and found others that have similar policies in place.

Mr. Krapf stated that there should be an effort to take a more aggressive stance in adopting sustainable practices.

Mr. Fraley stated that even if this is a recommendation it will be treated like a requirement. He stated that the business community has already begun taking these measures on their own, for example, the Food Lion presently under construction.

Mr. O'Connor stated that at one dollar per square foot, it is not a big penalty.

Mr. Murphy stated that the proposed penalty is low to ensure that the development community does not take this as harsh enforcement. He stated that the intent is to avoid the practical difficulty of other kinds of enforcement.

Mr. Fraley asked if staff is fully behind this recommendation.

Mr. Murphy stated yes.

Mr. Woods asked if this has been seen by the BOS.

Ms. Rosario stated that Stage One went through the BOS. She stated that some Board members had discussed incentives, while other Board members had spoken of requirements.

Mr. Fraley asked how much the SUP fee comes to.

Mr. Murphy stated that it typically is several thousand dollars.

Mr. Fraley stated that staff tracks SUP conditions; this could be tracked in a similar way.

Ms. Cook stated that the bonding process would serve the purpose of tracking.

Mr. Fraley stated that he does not want the proposed bonding method. He stated that he preferred using a letter of credit.

Mr. O'Connor stated that there would have to be one letter of credit per project.

Ms. Cook stated that the County would permit use of a letter of credit, a bond or any of the financial instruments that the Engineering and Resource Protection Division accepts.

Mr. Woods stated that as a practice this would be just one other item that the applicant would have to submit.

Mr. Fraley stated that he would like to hear what the Economic Development Authority (EDA) would have to say about this proposal.

Mr. Krapf stated that he does not mind hearing further opinions from those entities that can speak to the pros and cons of the proposal but that this input should not be the only factor.

Mr. O'Connor stated that you want to have people comply with the certification. He stated that there are those that will voluntarily comply. He stated that at one dollar per square foot the penalty may not be effective.

Mr. Fraley suggested that there should be a list describing exactly what the County wants to see with proposed plans.

Ms. Cook stated that during Stage 1 staff had text in the memo discussing this option. She stated that staff had not recommended this path, as staff would not have the technical expertise to verify that the green building standards were being followed.

Mr. Fraley stated that this item was not identified as a priority so there is time to further discuss it.

Mr. Krapf stated that he is fine with having the EDA provide input. He stated that he would like to see more incentives to further encourage green building practices.

Mr. Woods stated that he agrees with Mr. Krapf. He stated that he is sensitive to the punitive aspect of the proposal. He stated that he would prefer incentives over requirements.

Mr. O'Connor stated that if there are only incentives they may not achieve the preferred outcome.

Mr. Fraley opened the discussion to the public.

Mr James Peters of AES stated the development community wants additional clarity. He stated when ordinances or policies are clearly spelled out, the community can better adapt.

Mr. Woods suggested adding a definition for Energy Star, since it is mentioned in the document.

B) Residential Cluster Overlay Districts Zoning Ordinance update

Ms. Cook reviewed some of the changes made to the draft ordinance.

Mr. Krapf asked a question regarding Section 24-548 on density. He asked what the reasoning was in making the calculated total developable acreage 125% for those parcels that have more than 25% of non-developable land.

Ms. Cook explained how the calculation in the ordinance was intended to work, such that parcels with a certain amount of nondevelopable land would be allowed to use some of that land in calculating density, but this would never equate to more than 100%.

Mr. Fraley stated that he would like to better understand how the cluster overlay relates to the Transfer of Development Rights (TDR) program. He stated that he would like to reserve any additional density in residential districts for the TDR program. He stated that he does not want to see density in rural lands.

Ms. Rosario stated that staff is having some difficulty since the Cluster Overlay Ordinance and the TDR Feasibility Study are being reviewed concurrently. She stated that if the TDR proposal moves forward, staff will come back and revisit the Cluster Overlay Ordinance.

Mr. Fraley stated that he sees the difficulty in this timeline. He stated that he has a completely different vision for the ordinances if the TDR is adopted.

Mr. Krapf agreed with Mr. Fraley's concern. He stated that it is best not to have competing means of achieving bonus density. He stated that in the state of Virginia there have been two attempts made at achieving a TDR program; they both failed.

Mr. Fraley asked why staff chose not to have the density based on the developable acreage.

Mr. Murphy stated that the BOS directed staff to base density as such in the Economic Opportunity (EO) district but had not provided specific guidance for the other districts. He stated that if you do not give an allowance for non-developable land, then the density numbers will be significantly lower.

Mr. Fraley suggested that everyone read the section on how to calculate density and see if they can determine how to apply the calculations. He stated that it is difficult to understand and an illustration would be helpful.

Ms. Rosario suggested adding an example.

Mr. Fraley stated that he would like to see a by-right cluster overlay option.

Ms. Rosario stated that there is a by-right option.

Ms. Cook stated that there is not much land zoned for it. She stated that up to one dwelling unit per acre in LDR and between four and twelve units per acre in MDR are allowed with Planning Commission approval of a master plan, rather than the full legislative process.

Mr. Fraley stated that staff has listed what can and cannot be counted as open space.

Ms. Cook stated that what can be counted is listed on page 19. She stated that on page 20 the design aspects are discussed.

Mr. Fraley stated that he likes the definition as well as the statement on page 20 starting with, "Open space shall be arranged..." He complemented staff on Section 24-551.

Mr. Krapf pointed out a typo on the top of page 21.

Mr. Woods asked what the rationale was for the affordable housing density bonus discussed on page 17.

Ms. Rosario stated that staff modeled this item against the previously established bonus densities. She stated that the density bonus of 1.5 was meant to give it a stronger emphasis among the list of items as opposed to a credit of one.

Mr. Woods stated that staff elected to weigh it more heavily. He asked will this incentive achieve the intended goal.

Mr. Murphy stated that by giving it greater weight, yes.

Ms. Rosario stated that the County has had success in getting both clusters and affordable units. She stated that the Comprehensive Plan recognized that more had to be done to achieve the intended outcome.

Mr. O'Connor stated that the number of affordable housing units is low. He stated that within most developments the number of affordable housing units averages between three to four percent.

Mr. Fraley stated that this discussion is centered on affordable housing units rather than workforce.

Mr. Woods stated that it is centered on both.

Mr. Fraley stated that there is no definition for workforce housing. He stated that there is a definition for affordable.

Ms. Rosario stated that the Comprehensive Plan laid a foundation for this effort, and that staff is in the process of bringing forward an affordable and workforce housing policy.

Mr. Fraley asked if there were any questions or comments from the public.

Mr. Bob Spencer of the James City County Concerned Citizens (J4Cs) committee stated that he understood the policy to mean that if you have 25% or less of undevelopable land then there is no bonus available to you. He stated that if you have more than 25% of undevelopable land then you get a bonus of 25%. He stated that this system would potentially motivate people to purchase those pieces of property that have more than 25% of undevelopable land for development purposes.

Ms. Cook stated that it is not truly a bonus; it is that you get some incremental allotment back – for the purpose of calculating allowed density - from what you are restricted from developing.

Mr. Spencer asked if there were definitions for workforce housing and affordable housing.

Ms. Rosario stated that there is currently a definition for affordable housing but not workforce housing.

Mr. Peters asked if staff had applied the nondevelopable land formula to existing properties to better forecast the outcome of using the proposed residential cluster development density calculations.

Ms. Cook stated that staff did look at a number of master plans to consider the outcome. She stated that the outcome was more stringent but still aimed to be fair.

Mr. Peters asked for clarity on required design elements, specifically how to handle a mixture of housing models on small sites.

Ms. Rosario stated that she understands that Mr. Peters is concerned with varying the unit types on a small site. She asked if it would be difficult to vary the lots sizes on a smaller parcel.

Mr. Peters stated potentially. Mr. Peters referenced the items seen on page 18 and asked if this was an attempt to tie in the goals of the Comprehensive Plan.

Mr. Fraley stated yes. He stated that this covers workforce housing, special environmental design, open space design principles and other elements.

Mr. Peters stated that the development should be designed to complement existing topography and minimize the need for alteration of the landscape. He stated that if you want the open space design on a small site there is a greater likelihood that you will have to alter the topography.

Mr. Fraley stated that it is beneficial to avoid altering the topography to the best degree possible. He stated that you ideally want to fit the development to the land. He stated that the conceptual plan review will enhance the ability to achieve the elements listed here.

4) Adjournment

Mr. Woods moved to adjourn. The meeting was adjourned at 6:25 p.m.

Jack Fraley, Chair of the Policy Committee

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.

MEMORANDUM

DATE: July 13, 2011
TO: Policy Committee
FROM: Ellen Cook, Senior Planner II
SUBJECT: Draft Revised Cluster Overlay Ordinance

Staff presented a framework for revisions to the Residential Districts, including the Cluster Overlay, to the Policy Committee in February 2011. Staff's memo suggested a number of items, including looking at providing more guidance on desired development and open space design, re-examining the cluster approval process, examining the density bonus items, and re-visiting the developable area definition. At the meeting, the Policy Committee provided a list of items to consider, including making cluster by-right, providing for certain commercial uses as permitted or specially permitted uses, and considering ways to provide density bonuses for a combination of items (see Attachment 1 for information on these listed items).

Following that meeting, materials were provided to the Board of Supervisors for its March and April 2011 work sessions. The Board provided feedback on the residential districts at that meeting, including several comments relevant to the cluster overlay. Board members mentioned examining making the cluster overlay by-right (this topic is discussed in Attachment 1), and discussed re-examining the development density calculations. Staff has adjusted the development density provisions and made an adjustment to the percentage of nondevelopable land (from 35% to 25%) that triggers use of the density formula approach, as shown on page 4 of the draft ordinance.

There is an item that staff would want the Policy Committee to be aware of in reviewing the draft cluster ordinance (Attachment 2). As stated in the memo that went to the February Policy Committee, staff has proceeded with adding Resource Protection Area to the nondevelopable area definition to clarify and make this consistent with Chesapeake Bay Preservation Ordinances. In order to keep the open space requirements comparable to what they had been (which was another subject discussed in staff's memo), some adjustments needed to be made to those sections. Specifically, the previous developable area open space requirement was 40%¹, whereas this draft has a range of between 25-35%, which is linked to the requested development density. Since the amount of RPA varies by property, the ordinance changes to the nondevelopable area definition and adjustments to the required open space amount would result in some situations where less open space is required than previously (typically, a property with little RPA), but also some instances where more open space is required (typically, a property with substantial RPA). Staff has attempted to select percentages that provide a balance and result in requirements that are roughly comparable to what they had been.

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

Attachments

1. Specific Policy Committee comments and staff responses
2. Draft Cluster Overlay Ordinance
3. Parks and Recreation Proffer Guidelines (for reference)

¹ This open space percentage could be reduced to as low as 20% for provision of affordable housing.

Policy Committee Specific Input & Staff Responses

At the February 2011 Policy Committee meeting, a specific list of items to consider was provided to staff. Please find below the items on the list and staff information on how these items were addressed in the draft ordinance process.

1. Make Cluster Overlay by-right.

The current ordinance already allows for by-right Low Density Residential-designated clusters in R-2 at the base density (1 unit per acre or less), and for Moderate Density Residential-designated clusters in R-5 between 4 and 12 units per acre, with DRC/PC approval of a master plan. In practice, there is very little pre-zoned R-1, R-2 or R-5 land, so a legislative action (rezoning to the base district) is typically necessary in any case. Due to this circumstance, staff has not proposed changing the cluster approval process.

2. Require a conceptual plan.

The draft ordinance includes language to strongly encourage submission of a conceptual plan prior to the legislative process.

3. A primary objective is to provide a diversity of housing types.

This idea is included in the development design section as an item that the applicant should demonstrate they considered at the conceptual and/or master plan stage.

4. Establish percentage guidelines for types of dwellings (i.e. semi-detached, multi-family, single family).

The JCC ordinance uses cluster as an overlay within the PSA. The overlay applies to R-1, R-2 and R-5, which are districts oriented to different types of residential development. In R-1, no multifamily/attached units are permitted. Conversely, in R-5, multifamily is the focus and single family dwellings are typically permitted only with a SUP. Given the differences in focus of these underlying districts, specific dwelling type requirements for the overlay would be difficult to develop in a manner that preserved the intended character of the district. Staff has included this idea in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage. Separate from the ordinance language itself, this issue could also be a consideration of the PC or BOS during rezoning of any particular development project.

5. Establish a range of permitted lot sizes and an overall average for the development.

The cluster overlay currently allows for complete flexibility in lot sizes, since there is no minimum lot size as is common in the base (R-1, R-2, R-5) districts. To balance the benefits of this flexibility with the goal of encouraging variety within cluster communities, staff has included the idea of a range of lot sizes in the development design section as an item that the applicant should demonstrate that they considered at the conceptual and/or master plan stage.

6. Establish a base open space percentage requirement.

The open space percentage requirements are listed in the density standards section.

7. Provide a definition of open space following open space design principles.

Staff has included a revised section on open space that lists what can be counted toward the required developable open space. It also has information on what considerations should be made in designing the open space layout.

8. Include illustrated open space design principles.

Staff has included some graphics in the open space and open space development design sections.

9. Include some commercial uses

- **Consider by-right neighborhood commercial uses.**
- **Consider other commercial uses requiring a special use permit.**
- **Establish a maximum percent of acreage permitted for commercial uses.**

Since the cluster is an overlay district, staff has been looking at this in relation to the base districts (R-1, R-2 and R-5) and will offer ideas for the Committee's consideration with the other residential housekeeping items in August.

10. Provide a density bonus on a sliding scale of open space provided based on design principles.

This idea has been addressed in the density standards section.

11. Provide a density bonus for putting open space into a permanent conservation easement.

The current cluster ordinance states that open space should be put in conservation easements, and additionally, applicants get credit through the stormwater management point system for putting land in easements. For these reasons, staff has not proposed to include this as a density bonus item. A number of other environmental measures are included in the density standards bonus items list.

12. Provide a density bonus for providing affordable housing.

This idea is addressed in the density standards section.

13. Structure density bonuses to allow for a combination of approaches.

This idea is addressed in the density standards section.

Chapter 24

Article I. In General

Sec. 24-2. Definitions

Developable Area. Developable area shall consist of the total land area of the site minus Resource Protection Area as defined in the Chesapeake Bay Preservation Ordinance, areas subject to flooding under the 100-year storm event (FEMA zones A and AE), and areas of 1,000 square feet or greater containing slopes exceeding 25 percent gradient.

Non-developable Area. Non-developable areas consist of all Resource Protection Area as defined in the Chesapeake Bay Preservation Ordinance, areas subject to flooding under the 100-year storm event (FEMA zones A and AE), and areas of 1,000 square feet or greater containing slopes exceeding 25 percent gradient

Chapter 24

ARTICLE VI. OVERLAY DISTRICTS

DIVISION 1. RESIDENTIAL CLUSTER DEVELOPMENT

Sec. 24-538. Statement of intent.

The purpose and intent of this article is to achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable housing, minimize environmental impacts, provide for usable and meaningful open space, and provide recreation amenities within a more practical and efficient development. Recognizing that greater variety and affordability are more obtainable with higher densities, developers have the flexibility to provide this product and still provide reasonable amenities within variously priced residential cluster communities. Hand in hand with the opportunities offered in higher density development is the expectation that the development will provide certain benefits to the community. As stated in the comprehensive plan, examples of these benefits include mixed-cost housing, affordable housing, unusual environmental protection or development that adheres to the principles of open space development design. Such design may include maintaining open fields; preserving scenic vistas; protecting wildlife habitats and corridors; retaining natural vegetative buffers around water bodies, wetlands, and along roads; preserving historic sites; creating adequate recreational areas; designing efficient pedestrian circulation to include trail systems; and ensuring that common land adjoins protected open space on adjacent parcels.

Sec. 24-539. Residential cluster development defined.

A "residential cluster development," for purposes of this article, shall be a planned development of land consisting of predominantly residential uses together with its recreational facilities, supporting roads, utilities and other public facilities.

Sec. 24-540. Where permitted.

A residential cluster development is permitted in the R-1, R-2, and R-5 zoning districts *inside the Primary Service Area*. The requirements of this article shall govern where there is a conflict with the requirements of the underlying district.

Sec. 24-541. Minimum site size.

The minimum site size for a residential cluster development is five acres, except that extensions to an existing cluster development may be less than five acres. The planning director may waive the minimum site size requirements for residential cluster developments which provide affordable housing set forth in section 24-549 below. However, in no case shall such development be less than two acres. Such a waiver

may be considered upon the applicant providing a written request to the planning director to waive the minimum acreage requirement demonstrating to the satisfaction of the planning director that:

- (1) The proposed development is consistent with the comprehensive plan; and
- (2) Verification of affordable housing is provided; and
- (3) Evidence that the property can be subdivided as proposed.

Upon receipt of the request, the planning director shall, within thirty days of the request, either grant or deny the waiver with reasons to that effect.

Sec. 24-542. Permitted uses.

Uses permitted in a residential cluster development shall be the same as those permitted in the zoning district in which the residential cluster development is located. In the event that the individual units within attached dwellings are proposed to be sold as separate living units, the attached dwelling may be divided to permit separate deed descriptions for conveyance purposes. A limited amount of commercial development may be allowed within residential clusters as permitted in the zoning district in which the development is located. Commercial uses shall be shown on the master plan and be consistent with the Comprehensive Plan *land use description and development standards*.

Sec. 24-543. Utilities.

Lots in a residential cluster development shall be served by a public sewage disposal system and a public water system.

Sec. 24-544. Buffer requirements.

(a) *Right-of-way buffer.* Within any ~~major subdivision~~ *residential cluster* approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) ~~If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above. The buffer shall be planted in accordance with Section 24-XX, General landscape area standards, and buffers along Community Character Corridor roads shall also adhere to the Community Character Corridor Buffer Designation Map and Buffer Treatment Guidelines.~~

(b) *Perimeter buffers.* Within any ~~major subdivision~~ *residential cluster* approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-XX of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning

~~director~~commission may reduce the buffer depth requirements *specified in (a) and (b)* of this section for residential developments when:

- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning ~~director~~commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

(d) *Modifications to the landscape requirements.* The planning ~~director~~commission may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning ~~director~~commission under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (6) *Stockpiling shall conform with any applicable requirements of the Virginia Erosion and Sediment Control regulations, the Virginia Erosion and Sediment Control Handbook and County Erosion and Sediment Control program policies.*

(f) *Limitations on buffers.* ~~Wet ponds, dry detention basins, and other s~~Structural BMPs *such as wet and dry ponds* shall not generally be permitted in the buffers, except that the planning ~~director~~commission may approve them under the following circumstances:

- (1) The need is necessitated by site conditions rather than economic factors; and
- (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

(g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning ~~director~~commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to

natural drainage channels may be permitted at different angle to the property line upon the recommendation of the environmental director and the approval of the planning director and commission.

(h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning director and commission.

(i) *Appeals.* In the event the planning director disapproves of the items specified in (c), (e), (f), (g), and (h) above or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the Planning Commission.

Sec. 24-545. Setback requirements.

The minimum setback from the right-of-way shall be shown on the plan of development and on the recorded subdivision plat. The minimum setback from external streets shall be the same as that required by the zoning district in which the lot is located, except as superceded by section 24-544. The minimum setback from internal streets may be reduced to zero provided that no building in a residential cluster shall be closer than 3525* feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

(*Note: This amendment is to provide some additional design flexibility and meet sustainability goals, while still largely maintaining buffer and external setback consistency with conventional subdivisions so as to not adversely affect existing adjacent developments.)

Sec. 24-546. Minimum lot width and area requirements.

There are no lot width or area requirements.

Sec. 24-547. Yard regulations.

The rear and side yards may be reduced to zero, provided that easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Reductions of rear or side yards made under this provision shall also be subject to the following conditions:

- (a) The minimum distance between any two buildings within the residential cluster development shall be governed by the State of Virginia Building Code.
- (b) No building in a residential cluster development shall be closer than 3525* feet to the internal edge of perimeter buffers.

(b) *That easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Documents establishing such easements or covenants shall be satisfactory to the county attorney and submitted prior to approval of the development plan.*

(*Note: This amendment is to provide some additional design flexibility and meet sustainability goals, while still largely maintaining buffer and external setback consistency with conventional subdivisions so as to not adversely affect existing adjacent developments.)

Sec. 24-548. Density.

In a residential cluster development, the minimum and maximum number of dwelling units per acre of gross acreage as calculated below shall be as follows:

<i>Comprehensive Plan Designation</i>	<i>Minimum</i>	<i>Maximum</i>
Low-Density Residential	0	4.0
Moderate-Density Residential	4.0	12.0

For the purposes of calculating density, gross acreage shall equal the total area of the parcel when less than 25% of the total site area is non-developable. For parcels where more than 25% of the total site area is non-developable, the gross acreage shall equal the total developable area of the parcel plus 25% of the total parcel acreage.

For the purpose of calculating gross density, gross acreage shall be calculated as shown below:

<i>Gross Acreage</i>	
<i>Percentage of Nondevelopable Area</i>	<i>Gross Acreage Shall Equal:</i>
Less than 35	Total area of parcel
35 or more	Developable land plus 35% of the parcel=s land

Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding under the 100-year storm event, wetlands and areas with slopes exceeding 25 percent gradient. If the cluster development lies in more than one Comprehensive Plan Land Use Designation, the number of dwelling units shall be calculated separately for each designation.

Sec. 24-549. Density Standards.

(a) Low density residential cluster development. Within any low density residential cluster development, the following standards shall apply:

- (1) Residential cluster developments of one unit per acre or less may be permitted in areas designated low density residential on the comprehensive plan land use map upon the approval of a master plan by the planning commission in accordance with section 24-553.*
- (2) Residential cluster developments of more than one unit per acre, but of no more than two units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit from the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24-553. In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:*
 - a. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.*
 - b. Implementation of the county's Archaeological Policy.*
 - c. Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.*
 - d. Provision of recreation facilities as recommended in the county=s Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of*

~~Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~e. Implementation of the county's Natural Resources Policy.~~

~~(3) Residential cluster developments of more than two units per acre, but of no more than three units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit by the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24 553. In addition to items (2)(a) through (e) above, the developer shall make assurances in a master plan or otherwise for the following:~~

~~a. Provision of pedestrian and/or bicycle trails, where topographically feasible, which connect cul-de-sacs throughout the development to each other and to the recreation area; or provision of sidewalks on both sides of all internal streets in the development, including the entrance road; or a combination of trails and sidewalks as stated above. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property.~~

~~b. Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:~~

~~1. The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or~~

~~2. Along those segments of road, including the entrance road, where structures are not planned.~~

~~(4) At its discretion, the board of supervisors may award density bonuses to a gross allowable base density of two dwelling units per acre for the following items, provided that no total density exceeds four dwelling units per acre in areas designated low density residential on the comprehensive plan land use map. In addition, the board of supervisors may waive one or more of the requirements for standards (3)(a) and (b) above in approving these density bonuses; however, standards (2)(a) through (e) shall remain as requirements of the developments.~~

~~a. An additional 0.5 dwelling unit per acre may be awarded for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.~~

~~b. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, protection of wildlife habitat corridors, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program, or the *Sustainable Building Technical Manual* by the United States Department of Energy.~~

~~c. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and~~

~~group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.~~

~~No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.~~

~~(b) Moderate density residential cluster development. Within any moderate density residential cluster development, the following standards shall apply:~~

~~(1) Residential cluster developments of four units per acre but less than nine units per acre may be permitted in areas designated moderate density residential on the comprehensive plan land use map and zoned R-5 upon the approval of a master plan by the planning commission in accordance with section 24-553. In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:~~

~~a. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~

~~b. Implementation of the county's Archaeological Policy.~~

~~c. Provision of sidewalks on both sides of all internal streets and drive aisles in the development, including the entrance road. This requirement may be waived or modified by the planning commission under the following circumstances:~~

- ~~1. The development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property, or~~
- ~~2. The planning director agrees with the applicant that there will be no practical destination point or route connected to the segment of sidewalk now or in the future.~~

~~d. Provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the board of supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~

~~e. Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:~~

- ~~1. The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or~~
- ~~2. Along those segments of road, including the entrance road, where structures are not planned.~~

~~f. Implementation of the county's Natural Resources Policy.~~

~~(2) At its discretion, the planning commission may award density bonuses to a gross allowable base density of nine dwelling units per acre for the following items, provided that no total density exceeds 12 dwelling units per acre in areas designated moderate density residential on the comprehensive plan land use map. Standards (1)(a) through (f) shall remain as requirements of the developments.~~

~~a. An additional 0.5 dwelling unit per acre for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such~~

~~units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.~~

- ~~b. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in *The Sustainable Building Sourcebook* from the City of Austin's Green Building Program, or *The Sustainable Building Technical Manual* by the United States Department of Energy.~~
- ~~c. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.~~
- ~~d. An additional one dwelling unit per acre for land dedicated and accepted by the county for a public use site. The site shall be suitable for the proposed use, and shall be a minimum of five acres.~~

~~No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.~~

The density standards applicable in areas designated Low Density Residential and Moderate Density Residential by the Comprehensive Plan are as listed in the table below. The approval process for cluster development shall be as stated in Section 24-553. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.

Density		Percent of	Required Density
Low Density Residential Designation on the Comprehensive Plan	Moderate Density Residential Designation on the Comprehensive Plan	Developable Acreage as Open Space	Bonus Items from List Below
Up to 1	4	25%	None
More than 1, but no more than 2	More than 4, but no more than 6	25%	2
More than 2, but no more than 3	More than 6, but no more than 9	30%	4
More than 3, but no more than 4	More than 9, but no more than 12	35%	6

Except as specified below, each of the lettered items shall result in a density bonus of 1 point.

	Density Bonus Item Options
A.	For every 10% of the units committed to provision of affordable/workforce housing (starting above the threshold set in the County's Affordable and Workforce Housing Policy*), a density bonus of 1.5 shall be applied. (*Note: This item may need to be adjusted based on development of a Policy)
B.	Design of a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of Better Site Design/Low Impact Development techniques, as approved by the Engineering and Resource Protection Division, shall result in a density bonus of 1.5.

C.	Development of binding design guidelines for Planning Director approval that include superior architectural and design standards shall result in a density bonus of 1.5. Examples include, but are not limited to, rear or side loading garages; style type, materials, height and setback variation; and use of Universal Design concepts.
D.	Meeting a majority of items (a) – (d) listed in Section 24-551, Open Space Development Design, as determined by the planning director, shall result in a density bonus of 1.5.
E.	Retention of one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5% of the developable area of the site. <ul style="list-style-type: none"> • <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer • Retention of <u>soils in hydrologic groups A and B</u> (retain at least 50% of these soils) • Preservation of a <u>Conservation Area as identified by an approved watershed management plan</u> • Preservation of <u>wildlife habitat corridors</u> that: <ul style="list-style-type: none"> ○ Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and ○ Consist of mature forestland
F.	Commitment to either undertake or fund a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the Engineering and Resource Protection Division.
G.	100 foot buffer from the internal edge of a right-of-way and/or perimeter buffer (must constitute at least 5% of the developable area of the site).
H.	Commitment to achieve green building certification beyond the basic certified level using EarthCraft, LEED or equivalent program, in accordance with the County's Green Building for Private Development Policy.
I.	Dedication to the County of a public use site, the developable portion of which is suitable for a public facility, as determined by the County Administrator or designee.
J.	Commitment to construct a greenway trail and dedicate a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the Director of Parks and Recreation or designee.
K.	Use of an infill site (80% of the property's boundaries about previously developed land).
L.	Preservation and rehabilitation of an on-site structure identified in the County's Architectural survey (structure may be re-used as a community clubhouse, private residence with appropriate deed restrictions, etc.) If the proposed cluster is within a designated Community Character Area, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.
M.	Preservation of a single area of healthy, mature, native forestland at least two acres in size.
N.	Retention of a single area of agricultural land of prime or statewide importance at least five acres in size.
O.	Provision of a WATA bus stop that would be within 1,300 feet of 85% of the proposed units, if determined by WATA to be at an appropriate location.
P.	Construction of shared vehicular access between properties (where more than one property owner is involved, evidence of a binding legal agreement between the parties should be provided at the master plan stage to qualify for this density bonus).

Sec. 24-5502. Amount of open space required, *Open Space*

~~(a) Within every residential cluster development approved under this article, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes. It is recommended that the open space be protected by establishing a permanent conservation easement. The amount of such open space shall include not less than 40 percent of the net developable area of the site in low density residential areas and 35 percent of the net developable area in moderate density residential areas. These amounts may be reduced to the following percentages at the discretion of the planning commission if the proposed development dedicates the following percentage of its total units to affordable housing:~~

Percentage of Total Units Dedicated to Affordable Housing	Percentage of Open Space Required in Low Density Residential	Percentage of Open Space Required in Moderate Density Residential
10 to 55	30	25
More than 55 to 100	25	20

~~Golf courses may be counted as open space for the purpose of meeting this requirement to a maximum of 30 percent of the required open space. The developable area of right of way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.~~

~~(b) In addition, all nondevelopable areas consisting of all stream beds, areas subject to flooding under the 100 year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.~~

~~(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the planning commission shall find that:~~

- ~~(1) No land lying within a proposed or existing road right of way, utility easement or drainage facility is counted toward the minimum open space requirement; and~~
- ~~(2) The land is suitable in its size, shape and location for the conservation and recreational purposes for which it is intended, with adequate access for the entire development and served with adequate facilities for such purpose; and~~
- ~~(3) No part of a private yard or area determined by the planning commission to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and~~

~~(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual maintenance of designated open space areas to relieve the county of future maintenance.~~

Within every residential cluster development approved under this article, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

- (a) Non-developable areas shall be maintained as open space. These areas shall not be included on any private lot, and should be protected through a dedicated conservation easement.*

(b) A percentage of the developable area of the site shall also be set aside as open space, as specified in Section 24-549.

1. The developable area open space may include, but is not limited to:

- a. Areas on site necessary to meet County policies pertaining to natural resources, archaeology, and parks and recreation;
- b. Area(s) for which a density bonus is also being proposed, as listed in Section X (i.e. wildlife habitat corridors, watershed management plan conservation areas, etc.);
- c. The following areas, up to the percent specified
 - i. Golf courses – cannot exceed 30% of the developable open space required
 - ii. Required right-of-way and perimeter buffers – cannot exceed 50% of the developable open space required
 - iii. Stormwater management facilities – cannot exceed 20% of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures)

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

1. Area on any individual private lots, or in the case of condominiums, within fifteen feet of the units
2. Land within public road rights-of-way and utility or drainage easements

Conceptual and/or master plans shall include a table with the open space information as follows:

Open Space	
Nondevelopable Open Space, as defined	Acreage
Developable Open Space Required	Acreage
Developable Open Space Provided	Acreage
• Area(s) used to meet County policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable)	
• Area(s) for which a density bonus is also being proposed (provide subtotals if applicable)	
• Area of golf courses	
• Area in required right-of-way and perimeter buffers	
• Area in stormwater management facilities	
• Other qualifying open space area	
Total	

Open space shall be arranged on the site in a manner that coordinates with the open space development design section. While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considerations in designing the open space.

(a) Conservation/general open space:

1. Located to preserve existing significant natural and historic features and scenic viewsheds such as ponds and views to open water, particularly those that can be seen from public roads (See Attached Graphic A – to be inserted as is, if copyright permission is obtained, or with a similar depiction)
2. Located to adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future protected open space (See Attached Graphic B – to be inserted as is, if copyright permission is obtained, or with a similar depiction)
3. Located so as to be interconnected and contiguous to the extent possible, and located so as to benefit and be accessible to the maximum number of units
4. Prominently located within the development (for example, at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within the residential area).

(b) Recreation

1. Cluster developments shall adhere to the Parks and Recreation Master Plan Proffer Guidelines. Any additional land intended for recreation shall be useable for the purpose intended, and also follow the design specifications in the Parks and Recreation Master Plan Proffer Guidelines.

Section 24-551. Open Space Development Design

While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the development. These considerations shall be coordinated with the open space design.

- a. The design should take advantage of the compact design by clustering development into a walkable scale neighborhood and preserving significant open space and natural features;
- b. The development should be designed to complement existing topography and minimize the need for alteration of the landscape;
- c. The development should use a mixture of diverse unit types, lot sizes, and/or unit prices*;
- d. The design should use a creative layout. Examples could include:
 1. Fronting on open space
 2. Constructed with one side exterior wall along the side property line to allow side or rear yard garages
 3. Detached or attached homes on loop lanes, such as in Figure 1.

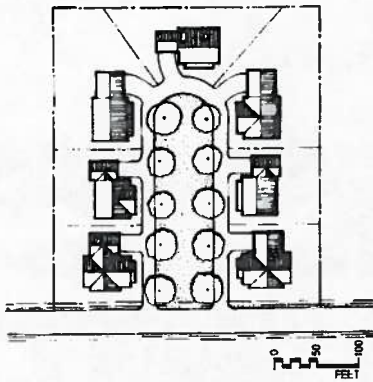


Figure 1. Example of homes on loop lanes.

4. The development should use Better Site Design Techniques such as group or shared parking, and shared driveways
5. The development design should have clear access from the units to the open space by abutting it, or via sidewalks or trails

*(This item may need to be adjusted based on the content of a possible Affordable Housing Policy)

Sec. 24-5523. Ownership of open space. Establishment of homeowners association

A homeowners association shall be established in accordance with Section 19-68 of the Subdivision Ordinance.

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

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

The homeowner's association documents shall set forth the nature (recreation or conservation) and location of the open space(s) either through illustration or through incorporation by reference of the development's master plan. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan.

Sec. 24-5530. BMP requirements.

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

Sec. 24-5541. Performance assurance.

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

Sec. 555. Pedestrian Accommodation.

Pedestrian accommodation shall be provided in accordance with Section 24-35.

Sec. 24-5564. Review and approval process.

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

- (1) Where a bonus density above the base density is sought, depiction and/or documentation of the items that the applicant plans to pursue;*
- (2) Conceptual development design, including required setbacks and buffers, and illustration of the features listed above in the open space and open space development design sections;*
- (3) Marginal data and depiction which shows the gross acreage of the site, the nondevelopable area, the total number of dwelling units and/or lots, and, in the table format specified above, the amount of open space required by section, and the amount of open space provided; and*
- (4) Conceptual stormwater design, illustrating use of better site design and low impact development techniques, where possible.*

(b) Approval Process.

- (1) In instances where a special use permit is not required by the residential district, a master plan shall be filed with the planning director who shall recommend action on the plan to the development review committee. The development review committee shall approve the master plan upon finding that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable Residential Designation Description of the Comprehensive Plan of James City County.*
- (2) In instances where a special use permit is required by the residential district:*
 - i. Prior to submission of a master plan for legislative action, the applicant is strongly encouraged to file a conceptual plan for review by the development review committee. The development review committee shall provide a recommendation on the conceptual plan based upon their findings regarding the extent that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable Residential Designation Description of the Comprehensive Plan of James City County.*
 - ii. A master plan in accordance with Section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the Planning Commission.*

~~A master plan for a residential cluster development proposed under this article shall be filed with the planning director, who shall submit it to the planning commission and board of supervisors in instances where a special use permit is required or to the development review committee in cases where a special use permit is not required. The planning director shall recommend action on the plan to the planning commission, and to the board of supervisors in instances where a special use permit is required. The planning commission and board of supervisors, where applicable, shall approve the master plan upon finding that:~~

- ~~(1) Such cluster development will preserve the environmental integrity of the site by protecting features such as wetlands, steep slopes, stream valleys, or natural vegetation; and~~
- ~~(2) The cluster development will not impair the character of the area or create unacceptable adverse off-site infrastructure impacts; and~~
- ~~(3) The proposed project is in accordance with the Comprehensive Plan of James City County; and~~

~~(4) The structures within the residential cluster development are sited in a way that preserves prominent open space features which are within or adjoin the site, such as open fields or farmland, scenic vistas, sight lines to historic areas or structures, and archaeological sites.~~

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

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

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

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

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

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

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

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

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

~~(h) *Sectional plans Action.* Sectional plans submitted in accordance with subsection (d) shall be reviewed in accordance with and shall meet the requirements of, article III of this chapter or the county's subdivision ordinance, whichever is appropriate. However, all sectional plans submitted for moderate density cluster development shall be reviewed in accordance with and meet the requirements of article III of this chapter.~~

Secs. 24-5575 - 24-563. Reserved.

James City County Comprehensive Parks and Recreation Master Plan **Proffer Guidelines**

Introduction

Mini parks/neighborhood parks and recreational amenities provide opportunities for physical activity, improved health, improved community interactions, and personal enjoyment to residents. Neighborhoods are residential subdivisions with or without other associated land uses in the subdivision. The number of housing units and their type are used to evaluate how the proffer guidelines apply and standards are based on the 2008 Parks and Recreation Master Plan or other appropriate and professionally recognized guidelines or standards. The requirements for parks will be reviewed and applied for all phases of a development together or to the total of contiguous parcels subdivided by the same developer. These guidelines are divided into three sections: I. recommended proffer elements, II. design specifications, and III. cash contribution indexing. All three sections should be referenced in development of any master plan and proffer set.

I. Recommended Proffer Elements

Recreational programming for neighborhood recreation area shall include facilities in each of the following major categories:

- Playground with 5 activities minimum or, in age-restricted communities, an age-appropriate alternative facility (for example: lawn bowling, community gardening, bocce area, picnic shelters and grills, horseshoe pit, or wildlife observation platform)
- Sport court or competitive pool
- Graded athletic field
- Paved multiuse trails located either within the recreation area or providing connections from residences to recreation areas or adjacent trails and developments

The Director of Planning or his designee can modify pool design standards if necessary, provided that the overall design gives equivalent benefit to the desired population as a 25 meter competitive pool. Any major category of recreational amenity not provided is to be met by providing cash in lieu in accordance with the amounts recommended in section II of this document. See Exhibit 1 at the end of this document for an example arrangement to meet these Guidelines.

Other types of activities may be included in addition to but not in lieu of the above listed major category activities. Activities selected for a neighborhood park should be appropriate to the anticipated resident population with age appropriate activity programming for the space. For more information, see design specifications in section III of this document.

II. Cash Contributions

Costs listed in the following recommended proffers shall be updated annually on January 1 by applying the Marshall-Swift Index for that year. James City County reserves the right to adjust the costs listed between anniversaries should a construction material, such as asphalt, undergo a significant price increase in excess of 8% per annum.

A. Recommended Proffers for Single Family Detached Developments (2.58 persons/unit)¹

Single family detached units average 2.58 persons per unit and therefore 388 units would house approximately 1000 persons.

Park land

Pocket Parks / Neighborhood Parks = 1.5 acres/1000 population. Pocket Parks / Neighborhood Parks are required for all developments; cash in lieu is not acceptable.

Analysis:	1.5 acres/1000 pop. = 1.5 acres/388 units = 0.0039 acres per unit
Recommended Proffer:	1-77 units 1 park (minimum 0.3 acres)
	78 or more units 0.0039 acres/unit

Biking/Jogging Trails

Analysis:	Hard surface multiuse	0.4 miles/1000 pop. = 0.4 miles/388 units = 0.001 miles/unit
	Soft surface gravel	0.4 miles/1000 pop. = 0.4 miles/388 units = 0.001 miles/unit
		0.001 miles/unit x 5280 FT/mile = 5.28 LF/unit
	Gravel trail	\$28/LF x 5.28LF/unit = \$147.84
	Paved trail	\$105/LF x 5.28LF/unit = \$554.40
	Average cost	\$67/LF x 5.28LF/unit = \$353.76

Recommended Proffer:

If a trail is not provided, the average cost to construct a trail shall be used to calculate the appropriate cash in lieu.

Playgrounds

Analysis:	1 playground/2500 pop. = 1 playground/969 units = 0.001 playground/unit
	Approximate cost per neighborhood playground is \$29,000.
Recommended Proffer:	1-74 units 0.001 x \$29,000/playground = \$29.00/unit
	OR 1 playground
	OR alternative age-appropriate activity
	75-969 units 1 playground
	970 or more units 1 playground plus \$29.00/unit for each unit
	above 970 or the equivalent in playgrounds.

Courts or Pool

Analysis:	Basketball 1 court/2500 pop. = 0.40 court/1000 = 1 court/969 units = 0.001 court/unit
	Tennis 1 court/5000 pop. = 0.20 court/1000 = 1 court/1938 units = 0.0005 court/unit
	Approximate cost per basketball court is \$33,350.

¹ Methodology for determination of average household size located in Appendix A

Approximate cost per tennis court is \$54,500.

Recommended Proffer: Basketball- 1-969 units $0.001 \times \$33,350 = \$33.35/\text{unit}$ OR 1 court

970 or more units 1 basketball court plus \$33.35/unit above 970 units or the equivalent in courts.

Tennis- 1-1938 units $0.0005 \text{ court/unit} = \$27.25/\text{unit}$ OR 1 court

1939 or more units 1 tennis court plus \$27.25/ unit above 1939 units or the equivalent in courts.

Average Cost: \$30.30/per unit

If a hard surface sport court or pool is not provided, the average cost to construct a sport court shall be used to calculate the appropriate cash in lieu.

Fields, Multiuse rectangular/soccer

Analysis: $1 \text{ field}/4000 = 0.25 \text{ field}/1000 = 1 \text{ field}/1550 \text{ units} = 0.00065 \text{ fields/unit}$

Approximate cost per field is \$100,000.

Recommended Proffer: 1-1549 units $0.00065 \times \$100,000 = \$64.52/\text{unit}$ OR 1 field

1550 or more units 1 field plus \$64.52/unit above 1550 units or the equivalent in fields.

B. Recommended Proffers for Single Family Attached and Multifamily Developments (1.52 persons/unit)²

Townhouse and multi-family units average 1.52 persons per unit and therefore 658 units would house approximately 1000 persons.

Park land

Pocket Parks / Neighborhood Parks = 1.5 acres/1000 population. Pocket Parks / Neighborhood Parks are required for all developments; cash in lieu is not acceptable. Due to the higher density of townhouses and multi-family developments there is a greater need for pocket parks / neighborhood parks as shared open space.

Analysis: $1.5 \text{ acres}/1000 \text{ pop.} = 1.5 \text{ acres}/658 \text{ units} = 0.0023 \text{ acres per unit}$

Recommended Proffer: 1-130 units 1 park (minimum 0.3 acres)

131 or more units 0.0023 acres/unit

Biking/Jogging Trails

Analysis: Hard surface multiuse $0.4 \text{ miles}/1000 \text{ pop.} = 0.4 \text{ miles}/658 \text{ units} = 0.00061 \text{ miles/unit}$

Soft surface gravel $0.4 \text{ miles}/1000 \text{ pop.} = 0.4 \text{ miles}/658 \text{ units} = 0.00061 \text{ miles/unit}$

² Methodology for determination of average household size located in Appendix A

0.00061 miles/unit x 5280 FT/mile = 3.21 LF/unit

Gravel trail \$28/LF x 3.21 LF/unit = \$89.87

Paved trail \$105/LF x 3.21 LF/unit = \$337.05

Average cost \$67/LF x 3.21 LF/unit = \$215.07

Recommended Proffer: If a trail is not provided, the average cost to construct a trail shall be used to calculate the appropriate cash in lieu.

Playgrounds

Analysis: 1 playground/2500 pop. = 1 playground/1645 units = 0.00061 playground/unit

Approximate cost per neighborhood playground is \$29,000.

Recommended Proffer: 1-50 units 0.00061 x \$29,000/playground = \$17.63/unit
OR 1 playground

OR alternative age-appropriate activity

51-1645 units 1 playground

1645 or more units 1 playground plus \$17.63/unit for each unit above 1645 or the equivalent in playgrounds.

Courts or Pool

Analysis: Basketball 1 court/2500 pop. = 0.40 court/1000 = 1 court/1645 units = 0.00061 court/unit

Tennis 1 court/5000 pop. = 0.20 court/1000 = 1 court/3290 units = 0.00030 court/unit

Approximate cost per basketball court is \$33,350.

Approximate cost per tennis court is \$54,500.

Recommended Proffer: Basketball-1-1645 units 0.00061 x \$33,350 = \$20.27/unit OR 1 court

1646 or more units 1 basketball court plus \$20.27/unit above 1645 units or the equivalent in courts.

Tennis- 1-3289 units 0.00030 x \$54,500 = \$16.35/unit OR 1 court

3290 or more units 1 tennis court plus \$16.35/ unit above 3290 units or the equivalent in courts.

Average Cost: \$18.31/per unit

If a hard surface sport court or pool is not provided, the average cost to construct a sport court shall be used to calculate the appropriate cash in lieu.

Multi-use Fields (rectangular/soccer)

Analysis: 1 field/4000 = 0.25 field/1000 = 1 field/2632 units = 0.00038 fields/unit

Approximate cost per field is \$100,000.

Recommended Proffer: 1-2631 units 0.00038 x \$100,000 = \$38.00/unit OR 1 field

2632 or more units 1 field plus \$38.00/unit above 2632 units or the equivalent in fields.

III. Design Specifications

In general, facilities should be built according to James City County standards as set forth in the 2002 JCC Greenways Master Plan, or other appropriate and professionally recognized standards or guidelines for technical information on size, details, and orientation, and in compliance with all applicable local, state, and national codes and regulations. Minimum size of fields/courts is to be high school level of play to be suitable for the widest range of users.

Mini Park / Neighborhood Park

Minimum mini park / neighborhood park size is 13,068 SF or 0.3 acres of relatively level, non-flood plain land outside the RPA, minimum 70% groomed space and the balance may be in existing natural tree cover. Goals for retaining existing trees are to reduce wind speeds in recreational space, provide shade and shelter for visitors and especially parents supervising children, reduce local air temperature, provide space for unprogrammed play, and improve environmental stewardship. The land should be centrally located within the neighborhood or development with no less than 0.25 acres in a single contiguous piece of land not less than 60 feet in width. In larger developments, dispersion of neighborhood park areas and amenities should be considered to ensure adequate access to all residents. Section 4.1.1.1 suggests neighborhood parks should be within a half mile of the residents they are intended to serve.

Groomed space is to have the majority of the ground cover in grass cover appropriate to this region and may include trees, shrubs, or perennial planting beds with mulch cover. Neighborhood parks are to be maintained and owned by the developer or by the Homeowner's Association and should be open to all residents of the development or to the public. The area included as recreational space may not include streets, medians or parking islands, landscape buffers (exception may be granted by the Director of Planning or his designee for location of trails only), or built improvements such as pools or pool houses.

Water Access

Blueways are an important recreational goal for James City County. Whenever a development site or parcel has frontage on a river or creek capable of floating a canoe or larger craft year round, then the recreational space offered should provide community access to that water with parking where practical as determined by the Director of the Environmental Division.

Playgrounds

Playgrounds should include a minimum of 2,500 SF including the fall zone and safety space as required by all applicable local, state, and national regulations and codes. Possible activities include swings, slides, climbing nets, climbers (rock, balance step, etc.), overhead events (monkey bars, rings, zip, etc.), suspension bridges, ramps, and others. Activities to be age appropriate for the neighborhood population.

Sport Courts and Pools

Sport courts should be tennis, basketball, or paved multi-purpose courts with court markings painted in compliance with the Virginia High School League dimensions or other appropriate and professionally recognized standards or guidelines as well as the goals or other court equipment necessary for play. Pools should be a minimum length of 25 meters, or an alternative design appropriate for the neighborhood population as approved by the Director of Planning or his designee.

Multi-Use Fields

Multi-use fields with dimensions compatible with middle school soccer should be grass, and they would include a backstop for softball/baseball use, goals for soccer, lacrosse to facilitate use by the widest range of sport players. Refer to Virginia High School League design standards for technical information on size, details, equipment such as goals, and orientation. Fields are to be maintained by the developer or HOA in safe playable condition with grass cover for safe play and for resistance to erosion. Any fencing, goals, or other equipment shall also be kept in safe playable condition.

Trails

Trails will be considered to meet the recommended proffer where:

- 1) The trail is a planned route or provides connections with a planned route in the 2002 JCC Greenway Master Plan, or
- 2) Connectivity to existing trails, sidewalk systems, or adjacent neighborhoods is made with a length of new hard surface trail or internally looped hard-surface trail not less than 0.3 miles which is located outside of sensitive environmental areas, as determined by the Director of the Environmental Division, or
- 3) If neither of the above can be met, the recommended cash-in-lieu should be contributed.

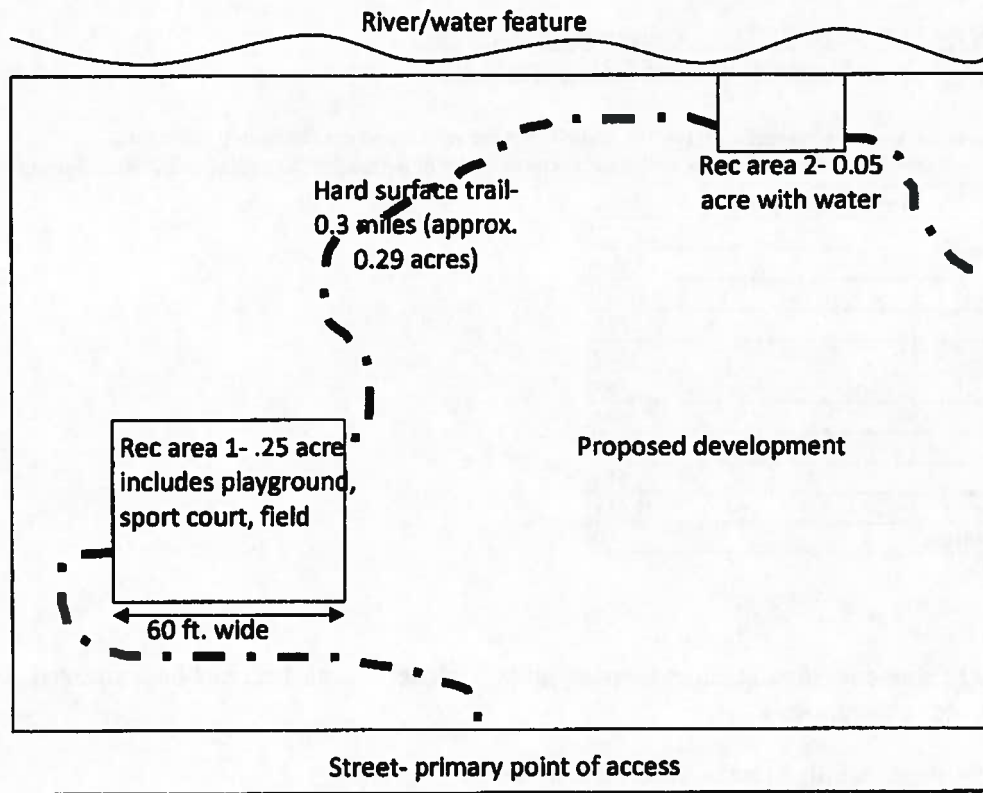
Greenway Master Plan Trails:

Provision of trails that complete or connect to trails included in the Greenway Master Plan shall be the priority. Primary trails with the potential to connect to schools and/or parks in the 2002 JCC Greenway Master Plan are to be 10 feet wide and paved. Easements for trails should be a minimum of 20 feet wide to allow for designing alignments with minimal environmental impacts, optimal slopes for accessibility, and vegetated shoulders. Trails should be located outside the RPA and RPA buffers wherever possible or use perpendicular crossings when necessary. Any trails within the RPA should have a minimum 20 foot easement proffered outside delineated wetlands, wherever possible, to allow for the greater environmental restrictions in the design and final alignment is subject to approval by the Director of the Environmental Division. Refer to 2002 Greenway Master Plan for surface standards consistent with the level of traffic and modes of travel. Trail easements shall be clearly labeled on plans stating width and indicated with dashed lines at the limits of easement. Trail easements are to be dedicated and recorded to James City County.

Private Trails:

Biking or multi-use trails within a development are to be asphalt (preferred) or concrete of a minimum of 8 feet width or wider. Mulch trails are not acceptable due to short maintenance life cycle and erosion risk. Trails that are internal to a neighborhood or subdivision are to be maintained by the developer or HOA. Trails to be constructed shall be clearly labeled on the master plan and development plans with a cross section of the construction specifications (including surface material) and indicated with solid lines at edges. Trails should be located outside the RPA and RPA buffers wherever possible or use perpendicular crossings when necessary. Final alignment and design is subject to the approval of the Director of the Environmental Division.

Exhibit 1: Example arrangement to meet Guidelines



Appendix A: Methodology for determining household size for the purposes of the Parks and Recreation Proffer Guidelines³

1. Determining the number of certain types of housing units:

H30. UNITS IN STRUCTURE [11] - Universe: Housing units

Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data

NOTE: Data based on a sample except in P3, P4, H3, and H4. For information on confidentiality protection, sampling error, nonsampling error, definitions, and count corrections see <http://factfinder.census.gov/home/en/datanotes/expsf3.htm>.

	James City County, Virginia
Total:	20,772
1, detached	13,899
1, attached	2,536
2	238
3 or 4	520
5 to 9	784
10 to 19	694
20 to 49	166
50 or more	512
Mobile home	1,413
Boat, RV, van, etc.	10

U.S. Census
Bureau
Census 2000

- 15,322 single family detached housing units (includes 1, detached, mobile home, and boat, RV, van, etc... categories⁴)
- 5,450 single family attached/multifamily units.

2. Determining the number of people in each type of housing unit:

H33. TOTAL POPULATION IN OCCUPIED HOUSING UNITS BY TENURE BY UNITS IN STRUCTURE [23] - Universe: Population in occupied housing units

Data Set: Census 2000 Summary File 3 (SF 3) - Sample Data

NOTE: Data based on a sample except in P3, P4, H3, and H4. For information on confidentiality protection, sampling error, nonsampling error, definitions, and count corrections see <http://factfinder.census.gov/home/en/datanotes/expsf3.htm>.

	James City County, Virginia
Total population in occupied housing units:	46,857
Owner occupied:	38,201
1, detached	32,899
1, attached	2,384
2	100
3 or 4	111

³ All data taken from the 2000 Decennial Census, American FactFinder, Summary File 3 (SF 3)- Sample Data http://factfinder.census.gov/home/saff/main.html?_lang=en

⁴ Unit types were assigned to categories based on James City County Real Estate Assessment classifications.

	James City County, Virginia
5 to 9	87
10 to 19	107
20 to 49	16
50 or more	37
Mobile home	2,460
Boat, RV, van, etc.	0
Renter occupied:	8,656
1, detached	2,637
1, attached	1,020
2	300
3 or 4	752
5 to 9	1,240
10 to 19	1,236
20 to 49	303
50 or more	590
Mobile home	543
Boat, RV, van, etc.	35

U.S. Census
Bureau
Census 2000

Total population in housing units...

- Single family detached (includes 1, detached, mobile home, and boat, RV, van, etc categories):
35,359 owners in SFD + 3,215 renters in SFD = **38,574 people**
- Single family attached/multi-family (includes all other categories):
2,842 owners in SFA/MF + 5,441 renters in SFA/MF = **8,283 people**

3. Adjusting the numbers based on revision of overall population data provided in the 2000 Census...

- James City County challenged the overall population figure provided by the Census and had it changed from 46,857 to 48,102 people, but the breakdowns of the data do not reflect the change.
- Based on percentages, 76.28% of County residents live in single family detached homes, so:

48,102 (revised Census population) – 46,857 (original Census population) = 1,245 people

1,245 x 0.7628 = 949.68 (so 950 additional residents live in single family detached for a total of **39,524 people**)

1,245 – 950 = 295 additional residents live in single family attached/multi-family for a total of **8,578 people**

Average SFD household size = 39,524 (# people in SFD) / 15,322 (# SFD) = **2.58 people/unit**

Average SFA/MF household size = 8,283 (# people in SFA/MF) / 5,450 (# SFA/MF) = **1.52 people/unit**