

A G E N D A
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
October 12, 2017
4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. September 14, 2017 Meeting Minutes

D. OLD BUSINESS

E. NEW BUSINESS

1. Consideration of Amendments to the Zoning Ordinance, Division 3. Floodplain Area Regulations

F. ADJOURNMENT

ITEM SUMMARY

DATE: 10/12/2017
TO: The Policy Committee
FROM: Paul D. Holt, III, Secretary
SUBJECT: September 14, 2017 Meeting Minutes

ATTACHMENTS:

	Description	Type
▣	September 14, 2017 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	10/5/2017 - 3:01 PM
Policy	Holt, Paul	Approved	10/6/2017 - 9:42 AM
Publication Management	Trautman, Gayle	Approved	10/6/2017 - 9:59 AM
Policy Secretary	Secretary, Policy	Approved	10/6/2017 - 11:20 AM

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
September 14, 2017
4:00 PM

A. CALL TO ORDER

Ms. Robin Bledsoe called the meeting to order at approximately 4 p.m.

B. ROLL CALL

Present:

Robin Bledsoe, Chair
Rich Krapf
Jack Haldeman
Heath Richardson
Danny Schmidt

Staff:

Paul Holt, Planning Director
Ellen Cook, Principal Planner
Tammy Rosario, Principal Planner
Christy Parrish, Zoning Administrator
Scott Whyte, Senior Planner II
Jose Ribeiro, Senior Planner II
Lauren White, Planner
Roberta Sulouff, Planner
Alex Baruch, Planner
Tom Leininger, Community Development Assistant
Maxwell Hlavin, Assistant County Attorney

C. MINUTES

1. August 10, 2017 Meeting Minutes

Mr. Jack Haldeman made a motion to Approve the August 10, 2017, meeting minutes.

The motion passed 5-0.

D. OLD BUSINESS

1. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II

Ms. Bledsoe opened the discussion.

Ms. Sulouff stated that at the July Policy Committee meeting the Committee directed staff to come up with an approach addressing short-term residential rentals. She stated

that the Committee expressed interest in pursuing a hybrid approach which would create a system in which short-term residential rental uses would be subject to permitting and performance standards based on the intensity of the application. She stated that there are some by-right processes as well as an SUP process. She stated that staff proposes definitions to homestay, rental of rooms and tourist homes. She stated that staff have also included a proposed use list and a matrix which shows what is permitted by-right depending on the zoning district and intensity of the application. Ms. Sulouff stated that staff recommends performance standards. She stated that staff is seeking Policy Committee guidance on the draft language and the performance standards and that staff will make changes to the draft ordinance based on the feedback of the Policy Committee. She asked if there were any questions.

Mr. Richardson asked how the 180-day limit for 12 months was decided.

Ms. White stated that the 180-day mark would help keep the home's primary use as a residential property.

Ms. Sulouff stated that guidance from Building Safety and Permits suggested that 180 days is part of their requirements for a single-family home.

Mr. Schmidt asked if the homestay fees would be equitable and fair to the current bed and breakfast and hotels.

Ms. Sulouff stated that the administrative permit was designed for an application process, low in intensity and residential in character. She stated that the idea was to create a spectrum from mostly residential in use to mostly commercial in use.

Mr. Schmidt asked if there would be an annual reapplication.

Ms. Sulouff stated that this could be a provision. She stated that applicants would have to pay the transient occupancy tax.

Ms. Bledsoe stated that shared economy is happening and there are rentals already available. She stated that her concern would be if it was fair to hotels and paying of taxes. She stated that the General Assembly has given the County the ability to begin a database.

Mr. Haldeman stated that he was still unclear regarding the existing and proposed definitions.

Ms. Sulouff stated she would be able to describe each definition.

Mr. Haldeman asked why there are three different types of short-term rentals.

Ms. Sulouff stated that currently there are two uses: rental of rooms and tourist homes. She stated that under this proposal rental of rooms would be taken out of the transient category. She stated that rental of rooms would only address long-term rentals over and above the family definition. She stated that rental of rooms includes a landlord and tenant relationship. Ms. Sulouff stated that homestays depend on the intensity of the application and require a permanent resident and the renter cannot exceed 180 days a year. She stated that the tourist home does not require a permanent resident at the home. She stated that tourist home allows for commercial entities such as bed and breakfasts.

Mr. Haldeman asked which definition would require an administrative process.

Ms. Sulouff stated that a homestay would be permitted by-right with an administrative permit in all districts for one bedroom. She stated that homestays would be permitted by-right for any number of rooms for R-8, R-4 and A-1 districts.

Mr. Krapf stated that if a homeowner wants to rent out more than one room, depending on the zoning district, an SUP would be required.

Ms. Sulouff confirmed and stated that A-1, R-4 and R-8 do not require an SUP. She stated that for R-4 and MU, the amended ordinance is to remain consistent with the way that short-term rentals are permitted currently.

Mr. Schmidt asked how fire safety was included in the new ordinance.

Ms. Sulouff stated that the issue for fire safety is the ability to enforce it.

Ms. Rosario stated that the best route would be for staff to reconnect with Building Safety and Permits.

Ms. Sulouff stated that some other localities do enforce fire safety and require a yearly inspection. She stated that a complaint from another citizen could also require an inspection.

Mr. Richardson stated that hotels are required to have fire inspections and safety standards.

Ms. Bledsoe stated that sites like Airbnb require inspections; however, other advertising sites may not.

Mr. Schmidt asked if there would be any legal issues with the County if there would be a fire or accident.

Ms. Bledsoe stated that she believes the issues would fall on the homeowner.

Mr. Hlavin concurred that the County would not be accountable.

Mr. Schmidt stated that there could be a way to enforce fines on homestays if applicants do not comply.

Ms. Sulouff stated that the Homeowners Association (HOA) still overrides the policy of the County.

Mr. Richardson stated the policy of the County will help HOAs establish their policy.

2. Potential Amendments to the R-8, Rural Residential and Cluster Overlay Districts - Stage I

Ms. Robin Bledsoe opened the discussion.

Mr. Alex Baruch stated that on April 11, 2017, the Board of Supervisors (BOS)

adopted an initiating resolution. He stated that the BOS initiated amendments of the R-8, Rural Residential District and Residential Cluster Development, in order to address the provision of age-restricted housing, independent living facilities and specially permitted density bonuses. He stated that the memorandum provides background information about age-restricted housing, independent living facilities, the R-8 District and the Cluster Overlay District. He stated that the memorandum provides information about the potential amendments that could result from the language of the initiating resolution. He stated that staff would appreciate feedback from the Policy Committee in preparation for the November Policy Committee meeting.

Ms. Bledsoe asked Committee members if they had any questions.

Mr. Jack Haldeman stated that he was unsure on how he would quantify the need for age-restricted housing. He stated that the Comprehensive Plan detailed the growth of older aged people. He stated that there were not any figures that would quantify the need. He stated that many residents would prefer to age in place.

Ms. Bledsoe asked Mr. Haldeman to clarify if he was unsure of the need of 55 and older age-restrictive housing or the need for Continuing Care Retirement Community (CCRC) facilities.

Mr. Haldeman stated that he does not know what the need is for either of them. He stated that there is a difference between the people that already live here and want to stay here and the other group that are looking to move to James City County later in life and want a place that can take care of them. He asked if the residents of James City County see a need for more age-restrictive housing and if James City County believes more age-restrictive housing is needed.

Ms. Bledsoe stated that the need is already there with the variety of living facilities located around the County. She stated that this need is a product of the Baby Boomers and that many of them wish to reside here.

Mr. Haldeman asked how many more units would be needed and how do we encourage more facilities.

Mr. Heath Richardson stated that there is not a matrix showing the need compared to the population. He stated that the Parks & Recreation Department has done a lot of studies on the aging demographic. He stated that he did not know if other communities had a matrix on the need for assisted living facilities based on population.

Mr. Baruch stated that he was not aware of localities having such matrices; however, many of the adjacent localities discuss the need of age-restrictive living facilities in their Comprehensive Plans.

Mr. Richardson stated that Williamsburg Landing started the conversation. He stated that it would help if Mr. Baruch walked him through the Williamsburg Landing application process.

Mr. Baruch stated that the amendment would affect the County as a whole and that the initiating resolution asked staff to investigate R-8, Rural Residential, Residential Cluster Development, independent living facilities age-restricted housing and specially permitted density bonuses. He stated that by examining the items in the initiating resolution, staff

put together a list of amendments and implications in the memorandum. Mr. Baruch stated that the changes would impact properties in the R-8, Rural Residential Zoning District within the Primary Service Area (PSA) that are over two acres in size. Mr. Baruch stated that if a property met those criteria, under the new Ordinance they could apply for an age-restricted independent living facility. Mr. Baruch stated that he wanted to make it clear that the Williamsburg Landing Proposal and the initiating resolution are separate items with different directives.

Mr. Baruch stated that the Williamsburg Landing rezoning and Special Use Permit (SUP) proposal would add 135 independent living facility units to a 15.5-acre parcel of land. He stated that the units are split between apartments and duplexes. Mr. Baruch stated that the applicant came to the Development Review Committee (DRC) to gather insight about the proposal from the Planning Commission sub-committee. Mr. Baruch stated that independent living facilities are considered a residential use and proffers could not be accepted because of state legislation and direction from the BOS. Mr. Baruch stated that the applicant had moved through the Master Plan and SUP process up to Planning Commission consideration; however, some impacts could not be addressed via SUP conditions that would have been addressed by proffers. He stated that one of the impacts the application could not address without proffers include age restriction of the residents of the independent-dwelling units. Mr. Baruch stated that the applicant had met all of the submittal requirements and was ready to move forward to the Planning Commission, but decided to defer the case indefinitely when the initiating resolution was presented to the BOS.

Ms. Bledsoe stated the subject property is separate from the current Williamsburg Landing property.

Mr. Baruch stated the new parcel was not shown on the existing current Williamsburg Landing Master Plan.

Mr. Haldeman stated that the BOS approved the new mixed-use zoning ordinance. He asked if there is still a need to change the ordinance of other zoning districts since mixed-use allows age-restrictive housing and independent living facilities.

Mr. Baruch stated that the properties would still need to be rezoned to mixed-use and be fewer than five acres to take advantage of the ordinance amendment.

Mr. Haldeman stated that the mixed-use ordinance change increases the potential supply of properties that could be used for an independent living facility.

Mr. Krapf stated that proposals for this particular use will be market-driven. He stated that the Policy Committee's role is from a land use standpoint. He stated that the Comprehensive Plan has the demographics and that the County is an aging community.

Mr. Haldeman asked if the changes to the uses for the zoning district are aligned with the residents.

Ms. Bledsoe stated that the parcel that Williamsburg Landing wants to expand on is unique from the ordinance changes presented. Ms. Bledsoe asked how the Cluster Overlay District was added.

Mr. Krapf stated that it was an effort to increase density.

Mr. Baruch stated that the cluster overlay could allow 1-4 units per acre.

Ms. Bledsoe asked to skip to the potential amendments.

Mr. Baruch stated that the definition of independent living facilities could be amended to add an age restriction to the definition. He stated that the definition could be re-examined to make sure the definition is up-to-date.

Mr. Richardson asked how the age restriction would replace a proffer.

Mr. Baruch stated that a proffer for an independent living facility would state that an affidavit to verify the age of the residents of the facility would be required to be kept on file. Additionally, he stated that by amending the definition other classifications, such as disabilities, would be included.

Mr. Baruch stated that the next amendment would be to include specific details on the services that needed to be done at the facility.

Ms. Bledsoe asked why the first change would not include the services.

Mr. Baruch stated that the current definition does not specifically state that services are required.

Mr. Baruch stated that the third amendment would include a clarification of the types of units allowed on the parcel.

Ms. Cook stated that the type of unit for the independent living facility must be one of the unit types currently allowed in the zoning district.

Mr. Haldeman asked if the changes would affect the definition of independent living facility in all of the residential zoning districts that allow the use.

Mr. Baruch confirmed.

Mr. Krapf asked if the cluster overlay overrides the zoning district.

Mr. Baruch confirmed.

Mr. Krapf asked if the changes to independent living facility would be overridden by the cluster overlay.

Mr. Baruch stated that the definition would extend across the zoning ordinance whenever independent living facilities were addressed.

Ms. Bledsoe stated that she had a concern as to why the cluster overlay was included in the initiating resolution.

Mr. Danny Schmidt stated that the density would increase.

Mr. Krapf stated that the tradeoff is higher density for more open space and other amenities. He stated that the cluster overlay removes some of the sprawl effect.

Mr. Baruch asked if the Policy Committee would like staff to continue with drafting the amendment.

Ms. Bledsoe confirmed.

Mr. Baruch stated that the next amendment would include the independent living facility contained within residential cluster development to the R-8 Residential District use list.

Mr. Baruch stated that the next change would be to allow for the independent living facility use to utilize cluster overlay in the R-8 Zoning District.

Mr. Schmidt asked if there were any parcels zoned R-8 outside the PSA.

Mr. Baruch stated that there are parcels outside the PSA. He stated that the cluster overlay states that the parcel must be two acres or more and within the PSA.

Ms. Bledsoe stated that she would like staff to move forward.

Mr. Baruch stated that the table regarding the differences between the current R-8 ordinance and the potential R-8 ordinance with cluster overlay is included in the memorandum along with the previously discussed changes.

Ms. Bledsoe asked if another facility similar to Williamsburg Landing could potentially be built.

Mr. Baruch stated that there are several factors to whether or not a facility like Williamsburg Landing would be built in other parts of the County. He stated that the R-8 Zoning District is intended to be rural and low density. He stated that the 1-4 units per acre would limit the density of the parcel.

Mr. Krapf asked for a summary of the final paragraph of the memorandum.

Mr. Baruch stated that the intent of the final paragraph was to ask the Policy Committee if they would like staff to go through the use list and bring the list up-to-date for the uses related to age-restricted living facilities.

Ms. Bledsoe stated that staff can go forward with the list.

Mr. Baruch stated that staff would do a strike-through version to allow Policy Committee members to see the changes.

Mr. Haldeman asked if uses such as grocery stores and pharmacies would be added to the use list as well.

Mr. Baruch stated that they would not be added to the use list because the initiating resolution did not ask staff to look into those.

Ms. Bledsoe asked if there were any questions.

E. NEW BUSINESS

1. Adoption of a Revised Policy for Remote Participation in Meetings by Commission Members

Ms. Bledsoe opened the floor for discussion.

Mr. Hlavin stated that state law has changed regarding the participation policy. He stated that the new law is two meetings per year for remote participation.

Mr. Richardson asked if it was calendar year or fiscal year.

Mr. Hlavin stated that it is for the calendar year.

Mr. Paul Holt stated that the new law includes two remote participations for Policy Committee, two for DRC and two for Planning Commission.

Ms. Bledsoe asked if there were any questions. There were none.

Ms. Bledsoe asked the Policy Committee members if they were okay with forwarding the revised policy to the Planning Commission.

The Committee members concurred.

2. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Cover Memo - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Hlavin stated that these potential amendments were previously covered by proffers. He stated that he is trying to get the amendments into the zoning ordinance.

Ms. Cook stated that the cover memorandum summarizes the topics and sets the stage for items that were previously covered by proffers. She stated that four topics are presented today. She stated that the water conservation topic would be handled by the James City Service Authority.

3. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Streetscape Policy - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Whyte stated that the streetscape policy has been in place since 1999. He stated that the policy was created based on the 1997 Comprehensive Plan recommendations. He stated that the policy was amended in 2004 and 2010. He stated that the goal was to preserve a tree canopy along residential streets and to achieve a 20% canopy coverage within a 20-year period. He stated that the policy has worked well for the past 18 years. He stated that the policy has been applied to a countless number of cases. He stated that the policy has been reinforced by the Community Appearance Guide. Mr. Whyte stated that staff recommends two revisions. He stated that staff recommends amending the subdivision section of the zoning ordinance by drafting new streetscape ordinance language and requiring all new subdivisions to plant street trees on both sides of the street. He stated that staff recommends modeling the ordinance after York County's street tree ordinance and that the previous streetscape policy was also modeled after

York County. He stated that staff recommends keeping the existing streetscape policy in place to cover the approved subdivisions that have not been built out.

Mr. Haldeman asked if the marked-up version of the ordinance is the new streetscape guidelines policy.

Mr. Whyte stated that it was not the new policy and he will have an amended version for the Committee for the next meeting.

Ms. Bledsoe asked if the Committee wants staff to move forward.

Mr. Krapf confirmed and the rest of the committee agreed.

4. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Bicycle and Pedestrian Accommodations and Transportation Impact Analysis - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Baruch stated that at the BOS and Planning Commission work session they asked staff to research the ability to add transportation, bicycle and pedestrian accommodations as binding master plan elements as well as reviewing and amending the zoning ordinance if necessary. He stated that transportation impacts created by developments requiring legislative approval are addressed by three administrative policies and corresponding submittal requirements. He stated that the first accommodation is the Pedestrian Accommodation Master Plan, which was implemented as a binding resource in determining pedestrian accommodation requirements external to a development unless required by the pedestrian accommodation section of the zoning ordinance. He stated that the second is the Regional Bikeways Plan, which encourages the coordinated development of a comprehensive system of bikeways throughout the region. He stated that the third policy is the Traffic Impact Analysis Submittal Requirements Policy, which provides guidance to applicants regarding the minimum content required for a traffic impact analysis. Mr. Baruch stated that some examples are multi-use paths, turn lanes and traffic lights. He stated that these improvements are limited without the use of proffers. He stated that the staff suggests the Policy Committee consider including the language in Section 24-35 Pedestrian Accommodation to extend the requirements of the section to bicycle facilities per the adopted Regional Bikeway Plan. He stated that unlike bicycle and pedestrian accommodations, general traffic impact improvements cannot be addressed through submittal or master plan requirements because there is no ability through state code to do so. He stated that staff can look into how other localities handle traffic improvements. He stated that staff would take any feedback to bring to the Stage II meeting.

Mr. Richardson stated that in the past members of the public have expressed concern with bicycle improvements.

Mr. Krapf stated that the bikeway plan is a regional bikeway plan requiring other localities to partner in as well.

Mr. Holt stated that without proffers, there is no way to implement the Regional Bikeway Plan.

Mr. Schmidt asked if York County and the City of Williamsburg are doing the same.

Ms. Sulouff stated that the City of Williamsburg did not accept proffers before; however, they put more funding towards bike and pedestrian impacts.

Mr. Baruch stated that York County does have certain aspects of the bike plan in their ordinance. He stated that staff can bring some additional benchmarks to show how other localities are handling bikeways. He stated that many localities have pedestrian accommodations.

Mr. Holt stated that the City of Williamsburg maintains its own right-of-ways. He stated that they do not go through the Virginia Department of Transportation (VDOT).

Mr. Krapf asked if the Committee would like staff to look at traffic impacts.

Ms. Bledsoe confirmed.

Mr. Baruch stated that submittal requirements could be a way to get the impacts upfront; however, there is not any enabling legislation to allow that change. He stated that staff will look at other localities for examples. He stated that off-site improvements cannot be achieved unless VDOT requires the improvement.

Mr. Holt stated that staff may not be able to come up with a solution to mitigate traffic impacts. He stated that VDOT cannot require off-site traffic improvements.

Ms. Sulouff stated that a traffic impact analysis can still be required for any case that reaches 100 peak hour trips. She stated as examples of off-site improvements, that there is no way to compensate for turn lanes or traffic signals.

Mr. Krapf asked if an applicant states they will build turn lanes would that be like a proffer.

Mr. Holt stated that staff would have to go by the applicant's word as no proffers for residential rezoning can be accepted.

Mr. Haldeman asked if these are minimal changes to the County.

Mr. Holt stated that the changes are worth it in staff's recommendation.

Ms. Sulouff stated that off-site changes cannot be included on a master plan.

Mr. Baruch stated that adding bike lane requirements to the pedestrian accommodation section of the zoning ordinance would mandate that any new major subdivision or site plan would be reviewed in accordance with the pedestrian accommodations section.

5. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Archaeological Policy - Stage I

Ms. Bledsoe opened the floor for discussion.

Ms. White stated that the Archaeological Policy was adopted in 1998. She stated that

the policy seeks to identify and protect areas where significant archaeological potential exists. She stated that according to the submittal requirements, the submission of a Phase 1A Archaeological Study is required for all sites identified as ultra- or highly-sensitive on the Comprehensive Plan. She stated that for all legislative cases, the Archaeological Policy suggests adding a condition or a proffer that requires a Phase 1 study prior to land disturbance. She stated that a Phase 1 study identifies and defines the actual site boundaries for any identified archaeological resources. She stated that the policy also lays forth any procedures and guidelines to follow when staff interpret the condition or proffer. She stated that staff suggests including the contents of the current Archaeological Policy into a zoning ordinance.

Mr. Schmidt stated that he did not have any questions and that he agreed.

Ms. Bledsoe stated that she did not have any questions.

6. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Natural Resource Policy - Stage I

Ms. Bledsoe opened the floor for discussion.

Mr. Ribeiro stated that the Natural Resource Policy was modeled after the Archaeological Policy and was adopted in 1999. He stated that James City County is part of the Chesapeake Bay ecosystem. He stated that the policy applies to SUP applications and rezoning applications. He stated that a submittal requirement for a legislative case is that a natural resource inventory is submitted. He stated that if the inventory confirms that a natural resource exists, then further steps are taken. He stated that a management plan and/or mitigation plan would then be required. He stated that York County has a requirement for submittal of a natural resource inventory as part of their submittal requirements. He stated that staff recommends adding the Natural Resource Policy to the zoning ordinance.

Ms. Bledsoe stated that she supports the change.

Mr. Krapf asked if the current policy includes the Biological and Conservation Data system to identify natural resources.

Mr. Ribeiro stated that there was a study called the Conservation Planning for the Natural Areas of the Lower Peninsula of Virginia. He stated that the study identifies areas of importance.

Mr. Krapf asked if new provisions need to be added to the new ordinance.

Mr. Ribeiro stated that staff will make sure to capture all aspects of the Natural Resource Policy.

Ms. Bledsoe asked if there are any questions. There were none.

F. ADJOURNMENT

Mr. Krapf made a motion to Adjourn. The motion passed unanimously.

Ms. Bledsoe adjourned the meeting at approximately 5:45 p.m.

ITEM SUMMARY

DATE: 10/12/2017

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Consideration of Amendments to the Zoning Ordinance, Division 3. Floodplain Area Regulations

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Draft Ordinance Revision	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	10/5/2017 - 3:04 PM
Policy	Holt, Paul	Approved	10/6/2017 - 9:45 AM
Publication Management	Trautman, Gayle	Approved	10/6/2017 - 10:02 AM
Policy Secretary	Secretary, Policy	Approved	10/6/2017 - 11:20 AM

MEMORANDUM

DATE: October 12, 2017

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: Consideration of Amendments to the Zoning Ordinance, Division 3. Floodplain Area Regulations

In response to recent guidance from the Federal Emergency Management Agency Region III (“FEMA”) and the Department of Conservation and Recreation (“DCR”), staff has identified the need to update the Floodplain Ordinance to address the construction regulations of small accessory structures in the special flood hazard area.

The current regulations only permit the construction of nonresidential structures in the floodplain when the lowest floor of that structure is either elevated or watertight flood-proofed up to the level of two feet above the base flood elevation. All structures that are not used for dwelling purposes are considered nonresidential, which include residential detached garages and sheds.

As a result of the recent FEMA determinations, DCR guidance and model, regulations have been recently updated to address wet-proofing construction standards for small accessory structures in the floodplain. If adopted locally, it would provide a lower construction cost option for property owners.

The model regulations suggest the following two options that address this issue:

1. *Accessory structures of any size shall be prohibited within the Special Flood Hazard Area (SFHA) (also known as the 1% annual chance flood risk) and no variance shall be granted for accessory structures.*

Or

2. *Accessory structures in the Special Flood Hazard Area (SFHA) (also known as the 1% annual chance flood risk) shall comply with the elevation requirements or, if not elevated or dry flood-proofed, shall:*
 - a. *Not be used for human habitation;*
 - b. *Be limited to no more than 600 square feet in total floor area;*
 - c. *Be usable only for parking of vehicles or limited storage;*
 - d. *Be constructed with flood damage-resistant material below the base flood elevation;*
 - e. *Be constructed and placed to offer the minimum resistance to the flow of floodwaters;*
 - f. *Be anchored to prevent flotation;*
 - g. *Have electrical service and mechanical equipment elevated to or above the base flood elevation;*

h. Shall be provided with flood openings which shall meet the following criteria:

- (1) There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls.*
- (2) The total net area of all flood openings shall be at least one square inch for each square foot of enclosed area (non-engineered flood opening), or the flood opening shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.**
- (3) The bottom of each flood opening shall be 1 foot or less above the higher of the interior floor or grade, or the exterior grade, immediately below the opening.*
- (4) Any louvers, screens or other covers for the flood opening shall allow the automatic flow of floodwaters into and out of the enclosed area.*

i. A signed Declaration of Land Restriction (Non-Conversion Agreement) shall be recorded on the property deed. (Optional higher standard.)

*ICC Evaluation Service Inc. (<http://www.icc-es.org>) is a nonprofit, limited liability company that does technical evaluations of building products, components, methods and materials. Agencies use evaluation reports to help determine code compliance and enforce building regulations; manufacturers use reports as evidence that their products (and this is especially important if the products are new and innovative) meet code requirements and warrant regulatory approval).

Staff recommends incorporating option two (items a-h) with a couple of minor changes to ensure consistency with other ordinance sections. Suggested changes include:

- No accessory structure shall be constructed in a floodway;
- All utilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be elevated or floodproofed up to the level of two feet freeboard above the 1% annual chance (100-year) base flood elevation.

Lastly, staff has used this opportunity to consult with DCR to re-review all sections of the Floodplain Area Regulations to ensure compliance with the National Flood Insurance Program. Staff has not received any feedback at the time this memorandum was written. However, staff will report any suggested changes or feedback from DCR at the meeting.

Recommendation

Staff looks forward to discussing this item with the Policy Committee. Staff recommends the Policy Committee recommend approval of these changes and forward its recommendation to the Planning Commission.

CHP/gt
FloodplainReg-mem

Attachment: Draft Ordinance Revision

Sec. 24-595. - Regulations for construction.

- (a) The construction or placement of any structure or obstruction, filling or changing the cross-section or flow characteristics within the one percent annual chance (100-year) flood shall not be permitted unless the project is in conformance with the following requirements:
 - (1) All construction shall use methods that minimize flood damage and which are in accordance with the Virginia Uniform Statewide Building Code. Structures shall be constructed with materials and equipment resistant to flood damage and shall be anchored to prevent floatation, collapse, or lateral movement.
 - (2) The finished elevation of the lowest floor, including the basement or cellar of any building, shall have at least two feet freeboard above the one percent annual chance (100-year) flood elevation. For nonresidential structures, *excluding accessory structures which conform to 24-595 (9)*, watertight floodproofing up to the level of two feet freeboard in accordance with the Virginia Uniform Statewide Building Code may be provided in lieu of the finished grade requirement described herein.
 - (3) Utility and sanitary facilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation.
 - (4) Encroachments, including fill, new construction, substantial improvements and other development are prohibited within the floodway or any floodplain district unless it has been demonstrated through hydrologic and hydraulic analyses that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge. Hydrologic and hydraulic analyses shall be undertaken by a professional engineer and shall be submitted in sufficient detail to allow a thorough review by the director of community development or his designee. Hydrologic and hydraulic analyses shall not be required for properties affected only by coastal (tidal) flooding.
 - (5) All new construction and substantial improved structures in Zone AO shall meet the following requirements:
 - a. The lowest floor, including basements, shall be at or above the highest adjacent grade and two feet above the FIRM's depth number.
 - b. Nonresidential structures may use watertight floodproofing in accordance with the Virginia Uniform Statewide Building Code in lieu of the finished grade requirement described herein.
 - c. Adequate drainage paths around structures on slopes shall be provided to guide floodwaters around and away from proposed structures.
 - (6) All new construction and substantial improvements in Zones V, VE, and Coastal A shall meet the following requirements:
 - a. The structure shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated at least two feet above the base flood level. The pile of column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to effects of wind and water loads acting simultaneously on all building components. A registered design professional engineer or architect shall develop and seal the structural design, specifications and plans for the construction, and shall certify the design and methods of construction.
 - b. The space below the lowest floor shall be either free of obstruction or constructed with nonsupporting breakaway walls, open wood-lattice work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

Breakaway walls shall collapse from water loads that are less than that which would occur during the base flood.

- c. New construction shall be landward of reach of mean high tide.
 - d. Fill for structural support and alterations of sand dunes are prohibited.
- (7) The enclosed space below the lowest floor shall be used solely for parking of vehicles, building access or storage, have permanent openings designed to allow the exit of floodwaters in accordance with the Virginia Statewide Building Code and Federal Code 44CRF Section 60.3 approved by the director of building safety and permits.
- (8) Prior to issuance of a certificate of occupancy, the owner of any structure located in a floodplain district shall submit a completed elevation certificate or floodproofing certificate from a registered professional engineer or architect, as appropriate, to the director of building safety and permits
- (9) *Accessory structures shall comply with elevation or floodproofing requirements in 24-595 (2) or shall conform to the following standards:*
- a) *Not located in a floodway;*
 - b) *Not be used for human habitation;*
 - c) *Be limited to no more than 600 square feet in total floor area;*
 - d) *Be usable only for parking of vehicles or limited storage;*
 - e) *Be constructed with flood damage-resistant material below the base flood elevation;*
 - f) *Be constructed and placed to offer the minimum resistance to the flow of floodwaters;*
 - g) *Be anchored to prevent flotation;*
 - h) *All utilities, including but not limited to mechanical, plumbing and electrical systems and gas lines, shall be elevated or floodproofed up to the level of two feet freeboard above the one percent annual chance (100-year) base flood elevation;*
 - i) *Shall be provided with flood openings which shall meet the following criteria:*
 - 1. *There shall be a minimum of two flood openings on different sides of each enclosed area; if a building has more than one enclosure below the lowest floor, each such enclosure shall have flood openings on exterior walls;*
 - 2. *The total net area of all flood opening shall be at least one square inch for each square foot of enclosed area (non-engineered flood opening), or the flood opening shall be engineered flood openings that are designed and certified by a licensed professional engineer to automatically allow entry and exit of floodwaters; the certification requirement may be satisfied by an individual certification or an Evaluation Report issued by the ICC Evaluation Service, Inc.;*
 - 3. *Any louvers, screens or other covers for the flood opening shall allow the automatic flow of floodwaters into and out of the enclosed area*
- (9)10 All other federal and state permits shall be obtained by the applicant before a building permit can be issued.
- (b) It shall be the responsibility of the applicant to provide this data, certified by a licensed surveyor or engineer or other source acceptable to the director of building safety and permits.