

Policy Committee Government Center Complex Large Conference Room, Building A

February 23, 2011 - 7:00 p.m.

A. Roll Call

B. Minutes

1. January 24, 2011

2. January 31, 2011

C. Old Business

D. New Business

1. Administrative Procedures Zoning Ordinance Updates

- Environmental Constraints Analysis Attachment
- Environmental Constraints Memorandum
- Fiscal Impact Memorandum
- Fiscal Impact Attachment 1
- Procedure and Administrative Items - Memorandum
- Procedure and Administrative Items - Attachment 1
- Procedure and Administrative Items - Attachment 2
- Procedure and Administrative Items - Attachment 3
- Procedure and Administrative Items - Attachment 4

2. Subdivision Ordinance updates

- Subdivision Ordinance Memorandum
- Subdivision Ordinance - Attachment 1

3. Nonconformities Zoning Ordinance Updates

- Nonconformities Memorandum
- Nonconformities - Attachment 1

E. Adjournment

MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Sarah Propst, Planner
SUBJECT: Submittal Requirements-Environmental

I. Environmental Submittal Requirements

- A. An environmental analysis submittal should accompany legislative case or site plan submittals. A thorough environmental analysis will ensure that development is not planned for areas which may not be able to accommodate it due to environmental constraints. The Planning Director could waive the requirement for smaller projects or those which will not have an environmental impact.
- B. According to the scope of work for the Zoning Ordinance update, current submittal procedures should be examined for both administrative and legislative cases and a document should be developed that outlines information needed to evaluate the environmental impacts of development. This guidance document should address the goals of the Comprehensive Plan and provide specific requirements to increase predictability.

II. Discussion Items

- A. **Topic One** – Legislative case submissions do not include uniform information needed to ensure that the proposed development is appropriate for the conditions of the site.
1. Description of issue/problem
 - An area proposed for development that is located within a floodplain, RPA, contains steep slopes, contains lots that won't perk but are planned to have septic, or contain a rare or threatened species, etc. should be identified early in the process.
 - Applicants do not have a standardized form for environmental requirements. The County receives incomplete information for legislative cases and Staff is unable to make an assessment of the environmental viability of plan. Knowledge of environmental constraints ensures that a realistic estimate of buildable area, number of lots, or access can be presented to the Board of Supervisors. This will increase predictability at the site plan level.
 2. History
 - A section was added to the Zoning Ordinance (Sec. 24-148 d, e) in 2010 for enhanced conceptual plans, which includes environmental, traffic, infrastructure, and other analysis. However, enhanced conceptual plans are voluntary.

- Peleg's Point and Michelle Point are examples of cases which could have been more predictable if a complete environmental analysis had been submitted during the legislative process.
 - Mason Park and Stonehouse were much more predictable because of the more complete analyses which were submitted during the legislative process.
3. Comprehensive Plan GSAs, public input, and PC and BOS direction
- LU 1.5.2 Expect developments subject to zoning or special use permit review to mitigate their impacts through the following means:
 - 1.5.2.1 Requiring sufficient documentation to determine the impacts of a proposed development including, but not limited to, studies of traffic impact, capacity of public schools, historic or archaeological resources, **water quality and quantity, other environmental considerations**, and fiscal impact. Develop clear guidelines for the content and methodology to be used to develop the traffic impact (to include upcoming development on adjacent corridors), fiscal impacts (to focus on "as developed" revenues versus costs), and environmental inventory documents.
 - ENV1.2 Promote the use of Better Site Design, Low Impact Development (LID), and effective Best Management Practices (BMPs). Promote these techniques by:
 - 1.2.5 Promoting early submission of environmental inventories in order to protect trees, County wetlands, and highly erodible soils; and to limit impervious cover.
 - Additionally, many actions in the Environmental section of the Comprehensive Plan seek to ensure that developments protect sensitive ecosystems and features.
4. Solutions and policy options
- Many localities have requirements for environmental inventories but they are contained within a variety of ordinance sections such as Tree Preservation or Stormwater ordinances. Several components of an environmental inventory are located in the James City County Chesapeake Bay Preservation Ordinance.
 - Some localities allow exemptions for developments of less than a certain size that do not contain conservation or preservation areas. These are defined by features such as floodplains, wetlands, waterbodies, high quality forests, steep slopes, species of special concern, or areas of environmental significance.
 - A policy could be created for environmental inventory requirements for legislative cases and referenced in section 24-23 Submittal Requirements.
 - Please see the attached Environmental Constraints Analysis for an example of the inventory requirements.
 - One minor correction needs to be made to Sec 24-23(1)b 2 "An environmental inventory in accordance with the James City County Natural Areas Resource Policy;" The policy is called the Natural Resource Policy, not Natural Areas Policy.

5. Staff recommendation

- Staff recommends that an environmental inventory requirement be adopted for legislative cases. All requirements would be presented to applicants in a checklist format to increase predictability, eliminate confusion, and identify potential problems early in the review process.
- Exemptions could be provided for small sites, redevelopment, or sites lacking environmentally sensitive features.
- The minor text change to Sec 24-23(1)b2 should be adopted.

B. **Topic Two-** The Zoning Ordinance should include a set of environmental requirements for administrative site plans and subdivisions. Uniform environmental information is critical in determining whether a development is appropriate for the site on which it is being proposed.

1. Description of issue/problem

- Environmental information received with administrative cases is not always consistent and can delay approval.
- In order to ensure that applicants are able to move through the site plan or subdivision process in a predictable manner, environmental inventory requirements should be created that will explain specifically what environmental information is needed.
- The environmental requirements for a site plan are currently found in Sec. 24-145 and include: streams and bodies of water, topography, woodline before site preparation.
- Submittal requirements for preliminary plans for subdivisions are included in Sec. 19-27 and 19-28. Section 19-27 includes: topography, and a soils map
- The Chesapeake Bay Preservation Ordinance Sec. 23-10 already requires some of the additional information which would be included in an environmental inventory. Putting it in the Zoning Ordinance would make it more understandable to applicants as to what is required for a site plan.

2. History

- A section was added to the Zoning Ordinance (Sec. 24-148 d, e) in 2010 for enhanced conceptual plans, which includes environmental, traffic, infrastructure, and other analysis. This is a voluntary process recommended for legislative cases.
- Other localities provide a list of the specific information needed when an application is submitted. If a plan is turned in without the necessary information an application may be denied.
- The Chesapeake Bay Preservation Ordinance already requires some of the additional information which would be included in an environmental inventory. Putting these requirements in the Zoning Ordinance would clarify, in one location, what is required with a site plan or subdivision submission.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction
 - ENV1.2 Promote the use of Better Site Design, Low Impact Development (LID), and effective Best Management Practices (BMPs). Promote these techniques by:
 - 1.2.5 Promoting early submission of environmental inventories in order to protect trees, County wetlands, and highly erodible soils; and to limit impervious cover.

4. Solutions and policy options
 - Include a list of the information to be included in the environmental inventory and require that it is completed by a qualified professional.
 - Requirements could be listed, for site plans in Sec. 24-145 and for subdivisions in Sec 19-27. The checklist items are already in the Zoning, Subdivision, or Chesapeake Bay Protection Ordinance and would be listed in one location for clarity. The following environmental components would be included in Sec. 24-145 and Sec. 19-27:
 - o All existing easements
 - o Disturbed area, impervious cover, and percent impervious estimate
 - o Flood zone designation
 - o Resource Protection Areas
 - o Soils (highly erodible, hydric, permeable, hydrologic soils group A & B)
 - o Full environmental inventory consistent with section 23-10(2) of the County's Chesapeake Bay Preservation Ordinance (perennial stream assessment, delineated wetlands, limits of work)
 - o Demonstration that the project complies with section 23-9(b)(1), (2), & (3) of the County's Chesapeake Bay Preservation Ordinance (how disturbance is being minimized, indigenous vegetation preserved, and impervious cover minimized)
 - o County watershed
 - o Steep slopes (grade 25% or more and covering an area of 5,000 sq ft or more)
 - o Sites known for populations of rare or threatened species
 - o Locations of existing conservation easements
 - o Wooded areas and wildlife habitat
 - o Description of Better Site Design or Low Impact Development (LID) techniques being used

5. Staff recommendation
 - Staff recommends that the Policy Committee support the inclusion of an environmental inventory requirement in the Zoning Ordinance and the Subdivision Ordinance.

III. Conclusion

Staff recommends that the Policy Committee support the adoption of an environmental inventory checklist for legislative cases and the inclusion of environmental inventory requirements for administrative site plan and subdivision applications.

Environmental Constraints Analysis for legislative cases

<p style="text-align: center;"><u>Hydrologic</u></p> <ul style="list-style-type: none"> • Location of streams and other water bodies (lakes, ponds, impoundments, etc.) • Which watershed (e.g. Powhatan, Yarmouth, Gordon, Skiff, Ware) • Approximate location of perennial and intermittent streams • Description of the receiving stream • Approximate location of tidal and non-tidal wetlands (sinkholes, wetland, springs, seeps, etc.) • Floodplain delineation for 100 and 500 year storm events including tidal flooding if applicable <p style="text-align: center;"><u>Context</u></p> <ul style="list-style-type: none"> • Nature of existing and granted, but not yet built, surrounding properties and neighborhoods – Reference JCC plan number 	<p style="text-align: center;"><u>Prohibited or Restricted Development Areas</u></p> <ul style="list-style-type: none"> • Required buffers • Sites with known populations of rare, threatened or endangered species of plants or animals • Preservation of trees according to Chesapeake Bay Ordinance • Preliminary locations of Resource Protection Areas • Preliminary locations of jurisdictional wetlands • Locations of existing conservation easements <p style="text-align: center;"><u>Land Features or Characteristics</u></p> <ul style="list-style-type: none"> • Approximate locations of steep slopes greater than 25 % based on County GIS or better (list source). The scale for which this shall be provided is at the discretion of the County Environmental Division Director • Soils, especially prime agricultural lands and HSG A&B soils based on the County soil survey • Soils erodability based on the County soil survey • Pre-development topography based on County GIS or better (list source) • Areas of forest, woodland cover and wildlife corridors 	<p style="text-align: center;"><u>Proposed Site Changes</u></p> <ul style="list-style-type: none"> • Proposed limit of disturbance • Estimate of impervious cover area and percent impervious area (preliminary or conceptual), including all parking, roads, sidewalks, buildings, etc. • Description of Better site design or low impact development techniques (pervious pavement, walks, infiltration areas, etc.) if they are used • Proposed conceptual stormwater management plan, including preliminary pre and post-development discharge analysis • Description of how disturbance is being minimized, indigenous vegetation is preserved, and impervious cover is minimized
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MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Brian Elmore, Jose Ribeiro
SUBJECT: Submittal Requirements- Fiscal Impact Study Guidelines

I. Introduction to Memo

The methodology for the ordinance update process includes the development of a fiscal impact study worksheet. Currently, a fiscal impact study is required to be submitted by applicants for residential/mixed use rezoning requests. These studies are often difficult to review, validate, and compare to other studies. To address the problem, staff has created a fiscal impact worksheet (attachment No. 1) which standardizes information and simplifies the review of a fiscal impact study. Staff has also developed an excel spreadsheet designed to perform most of the calculations for applicants. Approximately 400 employee hours have been dedicated to researching, designing, and testing the worksheet. Also, the County's financial manager reviewed and cooperated with the creation of the document. No additional funds have been allocated to the project.

II. Discussion Items

A. **Fiscal Impact Study Worksheet**

1. Description of Element

-The County has no guidelines for fiscal impact studies. As a result, the studies submitted for review do vary considerably in content, readability, data sources, and assumptions.

2. History/Background

-Currently, the County requests fiscal impact studies from rezoning applicants. These studies are often tailored to accentuate development positives while minimizing fiscal negatives; focusing on employment and economic activity generated by the development rather than the marginal effect on the County's bottom line. Other problems identified by staff in the review of previous submitted fiscal impacts are: above market rate selling prices, questionable housing absorption rates, increases in fees remitted to the County without corresponding costs, and data generally being difficult to find or validate.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic. However, development of fiscal impact study guidelines is identified and supported by the 2009

Comprehensive Plan. The Economic Development Goals, Strategies, and Actions (GSA) Section offers the following recommendation:

LU 5.2.1 – Require sufficient documentation to determine the impacts of a proposed development, including but not limited to studies of traffic impact, capacity of public schools, historic and archaeological resources, water quality and quantity, other environmental considerations, and fiscal impact. Develop clear guidelines for the content and methodology to be used to develop the traffic impact (to include upcoming developments on adjacent corridors), fiscal impact (to focus on “as developed” revenues versus costs), and environmental inventory documents.

4. Solution and Policy Options

- Staff has developed a fiscal impact worksheet that stresses both consistency and simplicity. The worksheet uses County data and assumptions to measure how a given project directly affects the County’s budget. The worksheet’s simplicity allows both applicants and staff to quickly create and review the document. Accompanying the worksheet will be an Excel file calculating numbers except a few variables provided by the applicant.

5. Staff recommendation

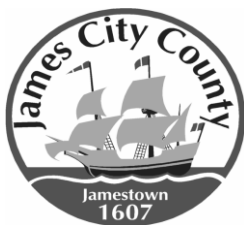
- Staff recommends that the fiscal impact study guidelines be included into the submittal requirements for legislative cases in the zoning ordinance. Once approved, this document will be made available to applicants at no cost.

III. Conclusion

Staff recommends that the Policy Committee review and provide feedback on the proposed fiscal impact study guidelines. These guidelines would ultimately be adopted by the Board of Supervisors and referenced in the Zoning Ordinance.

Attachments:

1. Fiscal Impact Study Guidelines Worksheet



Please make sure to use the accompanying Excel Spreadsheet to calculate the numbers below.

Version 2.10.11

FISCAL IMPACT ANALYSIS WORKSHEET AND ASSUMPTIONS

Please fill out all *applicable* sections. Please use the provided spreadsheet to perform calculations. If space provided is insufficient, please feel free to include additional pages. If you have any questions, please contact the Planning Office at (757) 253-6685 or planning@james-city.va.us

- 1a) PROPOSAL NAME _____
- 1b) Does this project propose residential units? Yes _____ No _____ (if no, skip Sec. 2)
- 1c) Does this project include commercial or industrial uses? Yes ___ No ___ (If no, skip Sec. 3)

Fiscal Impact Analysis Worksheet Section 2: Residential Developments

2a) TOTAL NEW DWELLING UNITS. Please indicate the total number of each type of proposed dwelling unit. Then, *add* the total number of new dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Are any units affordable? Yes _____ No _____ (If yes, how many?) _____

Residential Expenses – School Expenses

2b) TOTAL NEW STUDENTS CREATED. *Multiply* the number of each type of proposed unit from (2a) its corresponding Student Generation Rate below. Then, *add* the total number of students created by the proposal.

Unit Type	Number of Proposed Units (from 2a)	Student Generation Rate	Students Created
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total			

2c). TOTAL SCHOOL EXPENSES. *Multiply* the total number of students created from (2b) by the Per-Student Total Expenses below.

Total Students Generated	Per-Student Operating Expenses	Per-Student Capital Expenses	Per-Student Total Expenses	Total School Expenses
	\$5920.16	\$2176.06	\$8096.22	\$

Residential Expenses - Non-School Expenses

2d) TOTAL POPULATION CREATED. *Multiply* the number of proposed units from (2a) and multiply by the Average Household Size number below.

Total Units Proposed	Average Household Size	Total Population Created
	2.08	

2e) TOTAL NON-SCHOOL EXPENSES. *Multiply* the population created from (2d) by the Per-Capita Non-School Expenses below.

Total Population Created	Per-Capita Non-School Expenses	Total Non-School Expenses
	\$762.14	\$

2f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (2c) and non-school expenses (2e) to determine total residential expenses.

Total School Expenses	Non-School Expenses	Total Residential Expenses
\$	\$	\$

Residential Revenues

2g) TOTAL REAL ESTATE EXPECTED MARKET VALUE. Write the number of each type of units proposed from (2a). Then *determine the average* expected market value for each type of unit. Then, *multiply* the number of unit proposed by their average expected market value. Finally, *add* the total expected market value of the proposed units.

Unit Type:	Number of Units:	Average Expected Market Value:	Total Expected Market Value:
Single Family Detached		\$	\$
Townhome/Condo/Multifamily		\$	\$
Total:		N/A	\$

2h) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total market value from (2g) by the real estate tax rate below.

Total Market Value	Real Estate Tax Rate	Total Real Estate Taxes Paid
\$	0.0077	\$

2i) TOTAL PERSONAL PROPERTY TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Taxes Paid
\$	0.15	\$

2j) TOTAL SALES & MEALS TAXES PAID. *Multiply* the total real estate taxes paid (2h) by the sales and meals tax average below:

Real Estate Tax Paid	Sales and Meals Tax Average	Total Sales & Meals Taxes Paid
\$.09	\$

2k) TOTAL CONSERVATION EASEMENT TAXES PAID. If the proposal contains a conservation easement, *multiply* the size of the proposed conservation easement by the conservation easement assessment rate.

Proposed Conservation Easement Size	Assessment Rate	Conservation Easement Taxes Paid
	\$2000/acre (prorated)	\$

2l) TOTAL HOA TAXES PAID. If the HOA will own any property that will be rented to non-HOA members, *multiply* the expected assessed value of those rentable facilities by the real estate tax rate below.

HOA Property Type	Total Assessed Value	Real Estate Tax Rate	Total HOA Taxes Paid
		.0077	\$

2m) TOTAL RESIDENTIAL REVENUES. *Add* all residential taxes paid to the County from (2h) through (2l).

Total Residential Revenues	\$
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2n) RESIDENTIAL FISCAL IMPACT. Subtract total residential revenues (2m) from total residential expenses (2f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

Fiscal Impact Analysis Worksheet Section 3: Commercial and Industrial Developments

Commercial and Industrial Expenses

3a) TOTAL NEW BUSINESSES. How many new businesses are proposed? _____
(include all businesses that will rent or lease space at the location as part of the proposal, including probable tenants of an office park or strip mall).

3b) TOTAL COMMERCIAL EXPENSES. *Multiply* the total business real estate expected assessment value from (3c) below by the Commercial Expenses Rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

Commercial & Industrial Revenues

3c) TOTAL REAL ESTATE EXPECTED ASSESSMENT VALUE. *Estimate* the expected real estate assessment value, at buildout, of all proposed commercial element properties below.

Proposed Business Properties (by use and location)	Expected Assessment Value
Total:	\$

3d) TOTAL REAL ESTATE TAXES PAID. *Multiply* the total expected market property value from (3c) by the real estate tax rate below.

Expected Market Value	Real Estate Tax Rate	Real Estate Taxes Paid
	0.0077	\$

3e) TOTAL BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each proposed commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Proposed Business	Total Business Capitalization	Personal Property Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3f) TOTAL BUSINESS MACHINERY AND TOOLS TAXES PAID. If any manufacturing is proposed, *multiply* the total business capitalization for each proposed manufacturing element by the business machinery and tools tax rate below. Then, *add* the machinery and tools tax paid.

Proposed Business	Total Business Capitalization	Machinery and Tools Tax Rate	Total Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

3g) TOTAL SALES TAXES PAID. *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel room sales for proposal's commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Tax Type	Projected Gross Sales	Sales Tax Rates	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

3h) TOTAL BUSINESS LICENSES FEES PAID. Estimate each business element's total gross sales. *Multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid.

Business Type* (see exhibit sheet)	Projected Total Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		0.0058	
Retail Services		0.0020	
Contractors		0.0016	
Wholesalers		0.0005	
Exempt*		No fee due	
Other Services		0.0036	
Total	N/A	N/A	\$

3i) TOTAL COMMERCIAL AND INDUSTRIAL REVENUES. *Add* the total taxes and fees paid by all of the business elements from (3d) through (3h).

Total Commercial and Industrial Revenues	\$
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3j) COMMERCIAL FISCAL IMPACT. *Subtract* total commercial and industrial revenues (3i) from total commercial and industrial expenses (3b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

3k) TOTAL PROPOSED FISCAL IMPACT. *Add* residential fiscal impacts (2n) and commercial fiscal impacts (3j).

Residential Fiscal Impact	Commercial Fiscal Impact	Total Proposed Fiscal Impact
		\$

Fiscal Impact Analysis Worksheet Section 4: Current Land Use

Current Residential Use (If there are no existing residential units, skip to (4g)).

4a) TOTAL CURRENT DWELLING UNITS. Please indicate the total number of each type of existing dwelling unit. Then, *add* the total number of existing dwelling units.

Single Family Detached		Apartment	
Townhome/Condominium/Single Family Attached		Manufactured Home	
Total Dwelling Units			

Residential Expenses - School Expenses

4b) TOTAL CURRENT STUDENTS. *Multiply* the number of existing units from (4a) by its corresponding Student Generation Rate below. Then, *add* the total number of existing students.

Unit Type	Number of Existing Units	Student Generation Rate	Existing Students
Single Family Detached		0.40	
Townhome/Condo/Attached		0.17	
Apartment		0.31	
Manufactured Home		0.46	
Total		N/A	

4c) TOTAL CURRENT SCHOOL EXPENSES. *Multiply* the total number of current students from (4b) by the per-student school cost below.

Number of Existing Students	Per-Student School Cost	Current School Expenses
	\$8096.22	\$

Residential Expenses - Non-School Expenses

4d) TOTAL CURRENT POPULATION. *Multiply* the total number of existing units from (4a) by average household size below.

Total Existing Units	Average Household Size	Total Current Population
	2.08	\$

4e) TOTAL CURRENT NON-SCHOOL EXPENSES. *Multiply* the current population from (4d) by per-capita non-school expenses below.

Total Current Population	Per-Capita Non-School Expenses	Current Non-School Expenses
	\$762.14	\$

4f) TOTAL RESIDENTIAL EXPENSES. *Add* school expenses from (4c) and non-school expenses from (4e).

School Expenses	Non-School Expenses	Residential Expenses
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\$	\$	\$
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Residential Revenues

4g) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each residential property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Property Address and Description	Assessment Value
	\$
	\$
	\$
Total:	\$

4h) TOTAL CURRENT REAL ESTATE TAXES PAID. *Multiply* the total assessment value from (4g) by the real estate tax rate below.

Total Assessment Value	Real Estate Tax Rate	Real Estate Taxes Paid
	.0077	\$

4i) TOTAL CURRENT PERSONAL PROPERTY TAXES PAID. *Multiply* total real estate taxes paid from (4h) by the personal property tax average below.

Real Estate Tax Paid	Personal Property Tax Average	Personal Property Paid
	0.15	\$

4j) TOTAL CURRENT SALES AND MEALS TAXES PAID. *Multiply* the total real estate taxes paid from (4h) by the sales and meals tax average below.

Real Estate Tax Paid	Sales and Meals Tax Average	Average Excise Tax Paid
	.09	\$

4k) TOTAL CURRENT RESIDENTIAL REVENUES. *Add* all current residential taxes paid to the County from (4h) through (4j).

Total Current Residential Revenues	\$
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4l) CURRENT RESIDENTIAL FISCAL IMPACT. *Subtract* total residential revenues (4k) from total residential expenses (4f).

Total Residential Expenses	Total Residential Revenues	Total Residential Fiscal Impact
		\$

4m) FINAL RESIDENTIAL FISCAL IMPACT. *Subtract* current residential fiscal impact from (4l) from proposed residential fiscal impact from (2n).

Proposed Residential Impact	Current Residential Impact	Final Residential Fiscal Impact
		\$

Current Commercial Use

Current Commercial Expenses (if there are no current businesses or commercial properties, skip to (5k).

5a) TOTAL CURRENT BUSINESSES. How many businesses exist on the proposal properties?
_____ (include all businesses that rent or lease space at the location).

5b) TOTAL CURRENT COMMERCIAL EXPENSES. *Multiply* the current number of businesses operating on the proposal properties by the per-business expense rate below.

Total Expected Assessment Value	Commercial Expense Rate	Total Commercial Expenses
	0.0045	\$

Current Commercial Revenues

5c) TOTAL CURRENT ASSESSMENT VALUE. *Search* for each commercial property included in the proposal on the Parcel Viewer at <http://property.iccegov.com/parcelviewer/Search.aspx>. *Indicate* each property's total assessment value below. Then, *add* total assessment values.

Addresses	Assessment Value	Real Estate Tax Rate	Real Estate Tax Paid
		.0077	
		.0077	
Total:			\$

5d) TOTAL CURRENT BUSINESS PERSONAL PROPERTY TAXES PAID. *Multiply* the total business capitalization for each current commercial element by the business personal property tax rate below. Then *add* the total personal property taxes paid.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Business Property Taxes Paid
		0.01	
		0.01	
		0.01	
Total:		N/A	\$

5e) TOTAL CURRENT MACHINERY AND TOOLS TAX PAID. If any manufacturing exists, *multiply* the total capitalization for manufacturing equipment by the business machinery and tools tax rate below.

Current Business	Total Business Capitalization	Personal Property Tax Rate	Machinery and Tools Tax Paid
		0.01	\$

• Businesses will paying tools tax will pay it instead business personal property.

5f) **TOTAL CURRENT SALES TAXES PAID.** *Estimate* the applicable total gross retail sales, prepared meals sales, and hotel/motel sales for existing commercial elements below. Then, *multiply* the projected commercial gross sales by the applicable sales tax rates. Then, *add* the total sales taxes paid.

Activity	Projected Gross Sales	Tax Rate	Sales Taxes Paid
Retail Sales		0.01 of Gross Retail Sales	
Prepared Meals		0.04 of Prepared Sales	
Hotel, Motel		0.02 of Gross Sales*	
Total:	N/A	N/A	\$

*Actual Occupancy Tax is 5% of Gross Sales, however, 60% of those funds are targeted to tourism.

5g) **TOTAL CURRENT BUSINESS LICENSES FEES PAID.** *Estimate* each current business element's total gross sales. Then, *multiply* each business element's projected gross sales by the Annual Business License rate to determine annual business licenses fee paid. Then, *add* the total business license fees paid.

Business Type	Gross Sales	Business License Rate	Annual Business License Fees Paid
Professional Services		\$0.0058	
Retail Sales		\$0.0020	
Contractors		\$0.0016	
Wholesalers		\$0.0005	
Manufacturers		No tax	
Other Services		\$0.0036	
Total:	N/A	N/A	\$

5h) **TOTAL CURRENT COMMERCIAL REVENUES.** *Add* all current commercial revenues paid by existing businesses from (5c) through (5g).

Total Current Commercial Revenues	\$
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5i) **CURRENT COMMERCIAL FISCAL IMPACT.** *Subtract* total commercial revenues (5h) from total residential expenses (5b).

Total Commercial Expenses	Total Commercial Revenues	Total Commercial Fiscal Impact
		\$

5j) **FINAL COMMERCIAL FISCAL IMPACT.** *Subtract* current commercial fiscal impact from (5i) from proposed commercial fiscal impact from (3j).

Proposed Commercial Impact	Current Commercial Impact	Final Commercial Fiscal Impact
		\$

5k) FINAL FISCAL IMPACT. *Subtract* the final commercial fiscal impact from (5i) from final residential fiscal impact from (4m).

Final Residential Impact	Final Commercial Impact	Final Fiscal Impact
		\$

Fiscal Impact Worksheet Section 6: Phasing

Residential Phasing

6a) *Copy and paste* the residential phasing template from the accompanying Excel sheet to the page below.

Commercial Phasing

6b) *Copy and paste* the commercial phasing template from the accompanying Excel sheet to the page below.

Final Phasing Projections

6c) *Copy and paste* the final phasing projection from the accompanying Excel sheet to the page below.

Fiscal Impact Worksheet Section 7: Employment

7a) *Copy and paste* the employment projections from the accompanying Excel sheet to the page below.

DEFINITIONS AND ASSUMPTIONS

Apartment – a building used, or intended to be used as the residence of three or more families living independently of each other. (JCC Code 24-1-2). Tenants have no equity in the dwelling.

Assessment Value – assessment value is assumed to be within 1% of market value. Market value drives assessment value.

Buildout – all data and assumptions reflect the fiscal impact of the proposal at buildout.

Commercial Expense Rate – The commercial expense rate uses the proportional valuation method (see below) to determine individual business expenses. Under that method, businesses are collectively responsible for contributing 15% of the non-school budget (\$ 10,391,694). Dividing this portion of the budget by the total commercial real estate in the County (\$2,060,690,000) gives a commercial expense rate of 0.005. This rate assumes that the costs of providing County services to a business are directly correlated with that businesses' property assessment. This assumes more valuable properties have generally more intense uses, incurring greater County expenses.

Condomium – a building, or group of buildings, in which units are owned individually and the structure, common areas and common facilities are owned by all the owners on a proportional, undivided basis. (JCC Code 24-1-4)

Contractor - any person, firm or corporation accepting or offering to accept orders or contracts for doing any work on or in any building or structure, any paving, curbing or other work on sidewalks, streets, alleys, or highways, any excavation of earth, rock, or other materials, any construction of sewers, and any installation of interior building components. (Code of Virginia § 58.1-3714)

Direct Impact – The worksheet only calculates direct financial impacts on the County budget. The worksheet is only one of many development management tools, and, as such, does not make a determination whether any type of development 'should' happen based solely on that proposal's fiscal impact. The tool is not designed to measure non-budget impacts, such as increased traffic, or non-budget benefits, such as forwarding the goals of the Comprehensive Plan. Costs incurred by other entities, such as other localities or the State, remain uncounted.

Dwelling – any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses, and tourist cabins. (JCC Code 24-1-4.1)

Exempt – certain types of business activities or products are exempted from annual County business licenses. These include manufacturers, insurance agencies, apartment complexes, and gasoline sales.

Fees & Licenses – all fees collected by the County, including business & professional licenses, planning fees, building permit fees, stormwater fees, environmental inspection fees, septic tank fees, dog licenses, and motor vehicle licenses, are deducted from the per- capita and per-business budgetary costs of each department that collects them.

Fiscal Impact Analysis – the County has created a set of standardized data and assumptions to streamline both the creation and review of fiscal impact studies. The County had no itemized list of questions for fiscal impact study creators to answer, resulting in portions of fiscal impact studies with no bearing on the County’s budgetary bottom line. The guesswork is removed from the creation of these documents. The data used by fiscal impact study authors also came from a myriad of sources, often within the County, which were difficult to verify. The fiscal impact analysis worksheet allows consistency across multiple fiscal impact studies, as well.

Fiscal Impact Analysis Worksheet – The worksheet helps the applicant present relevant data to the County, using data verified by the County. The worksheet provides consistency across all fiscal impact analyses.

Non-School Expenses – Non-school expenses includes all FY10 non-school budget spending. Non-School expenses are calculated using the Proportional Variation method. Using the Proportional Variation method, residents and businesses are assumed to be responsible for differing percentages of the County’s non-school spending.

Manufacturing – assembly of components, pieces, or subassemblies, or the process of converting raw, unfinished materials into different products, substances, or purposes.

Market Value – market value is assumed to be within 1% of assessment value. Market value drives assessment value.

Manufactured Home – A Manufactured Home is a structure not meeting the specifications or requirements or a manufactured home, designed for transportation, after fabrication. (JCC Code 24-1-8.1) The only Manufactured Homes counted in the Student Generation figure are those in designated Manufactured Home parks. Manufactured Homes on individual lots are indistinguishable from single-family detached dwellings for the purposes of the worksheet.

Phasing – all residential developments are assumed to have an absorption rate of 20% per annum. All commercial development are assumed to have an absorption rate of 20% per annum. The date stamp Year 1 in the phasing template represents 365 days after Board of Supervisors approval.

Professional Services - work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. Professional services shall also include the services of an economist procured by the State Corporation Commission. (Code of Virginia_§ 2.2-4301)

Proportional Valuation Impact – proportional valuation impact assumes that a proposed residential or commercial project’s fiscal impact is proportional to the percentage of the total tax base that is either residential or commercial.

James City’s proportional valuation is calculated using the County’s Real Estate Mapping GIS program. The program calculated a aggregate property assessment value of \$13,763,228,800 for the entire County. The program calculated an aggregate commercial and industrial assessment value of \$2,060,690,000. Dividing the commercial value by the total value shows that commercial and industrial properties compose 15% of the total property tax base, and are responsible for 15% of County non-school expenses. This results in residential development being responsible for Schools impacts and 85% of non-school County operations. The proportional valuation method does not factor other assorted residential and commercial taxes, fees, and licenses into account. As 15% of the tax base, businesses contribute 15% for all County non-school expenses. As 85% of the tax base, residents contribute 85% for all County non-school expenses.

Furthermore, individual business expenses to the County are calculated using the proportional valuation impact method. (See Commercial Expense Rate)

Per-Business Expense Rate – the per-business expense rate assumes that the County incurs non-school expenses equal to 0.04% of the commercial real estate assessment of any given business.

Per Capita Evaluation Method – this worksheet uses the Per Capita Evaluation method to assign per-capita and per-business costs to non-school expenses. This method assumes that current per-capita and per-business expenditures and service levels are consistent with future per-capita and per-business expenditures and service levels.

Per Capita – per capita calculations divide each department’s spending, minus fees and State contributions, by the current County population. This number excludes institutional residents in detention at correctional facilities and mental institutions. Total population is determined from James City County Planning Division figures.

JCC Population 2010	Dwelling Units 2010
62879*	30221**

*JCC Planning Division Population Count Minus Institutional Population

**JCC Codes Compliance Division Housing Unit Count + Apartment Count

Per Student – per student calculations divide County contributions to WJCC Schools, minus State educational contributions, by the total number of K-12 students living in James City and also attending WJCC Schools. Total students are determined from Williamsburg James City County Schools 2009-2010 School Year enrollment reports.

Per Business – per business calculations divide each departments spending, minus fees and State contributions, by the total number of County businesses. Total businesses are determined by the number of business licenses issued.

Total Number of JCC Businesses	5400*
Percentage of Property Tax Assessments	15%**

*James City County Commissioner of the Revenue

**Commercial impacts are calculated on a proportional variation process

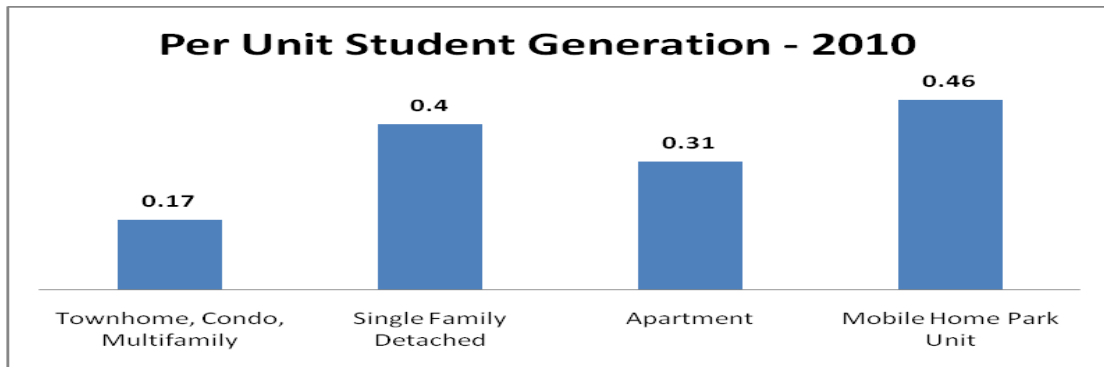
Proffer – proffers paid for schools can only be applied toward the capital expense portion of per-student school expenses. (See Board of Supervisors’ Proffer Policy).

Retail Services – display and sale of merchandise at retail or the rendering of personal services, such as food, drugs, clothing, furniture, hardware, appliances, barber and beauty, antiques, and household uses, and other uses. (JCC Code 24-1-10)

Single Family Detached Dwelling – A detached structure arranged or designed to be occupied by one family, the structure only having one dwelling unit. (JCC Code 24-1-4.1)

State Contributions – The State contributes both targeted and unspecified funds to the James City County budget. Funds for specific departments were subtracted from the budget totals of those departments. Unspecified state fund amounts were compiled, then evenly subtracted (7.75% of each department total) across all non-school departments.

Student Generation Rate - The student generation rate the number of students produced by a individual dwelling unit per year. Different domestic units produce students are different rates. Using WJCC enrollment figures, an address was found for WJCC student residing in James City County. Using the James City County Real Estate Division’s Property Information map on the James City County website, the number of students from each subdivision was determined. Using the Real Estate Division’s Real Estate Parcel Count, the number of improved lots in each neighborhood was determined. Total students from each neighborhood were divided by the total number of units from that neighborhood to determine the average number of students per housing unit. The student generation numbers for 256 subdivisions was determined this way, along with the same method for counting students from apartments and Manufactured Home parks.



Townhome – in a structure containing three or more dwelling units, a dwelling unit for single family occupancy, not more than three stories in height, attached by one or more vertical party walls extending to the roof sheathing without passageway openings to one or more additional such dwelling units, each of which is served by an individual exterior entrance or entrances. (Sec. 24-1-12.1)

Annual Update Methodology – The Williamsburg-James City County school enrollment spreadsheet is the trigger for the Fiscal Impact Worksheet’s annual update. All other data will be available when the enrollment Excel file becomes available in September. To ensure the validity of County data and assumptions, the Fiscal Impact Worksheet should be updated annually. Some data will merely be updated, while other data, such as the school Student Generation Rate, will be used to create long-term averages.

Data Required for Update

1. Real Estate Assessment (REA)’s Parcel Count sheet. The Parcel Count sheet is a constantly updated file showing developed parcels and assessment values by subdivision.
2. The Property Information Network (PIN) is always available from at <http://property.jccgov.com/parcelviewer/Search.aspx> . The PIN will be used to reconcile WJCC subdivision classifications with those approved by Planning.
3. Acquire the most recent population estimate from the Planning office. Estimates are updated quarterly.
4. Acquire the most current number of building permits from Codes Compliance. Their records will show the net change in living units (residential C.O.’s minus demolitions) in the County for the year.
5. Call local apartment complexes and determine how many units each has for rental. This information will be used to update apartment student enrollment data.
6. The GIS program is constantly updated by REA Mapping staff. The GIS program will be used to sum total residential and commercial property value in the County.

7. Financial and Management Services (FMS) will have a copy of the most recent fiscal year budget. The budget will be used to determine the per-student, per-capita, and per-business costs of County services.

Reference

Burchell, Robert and David Listokin. (1978). *The Fiscal Impact Handbook*.
New Jersey: Rutgers Center for Urban Policy Research.

MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Melissa Brown
SUBJECT: Article VII. Nonconformities

Introduction

The current zoning ordinance references Nonconformities in Sections 24-628 through 24-637. The intent of these sections is to regulate nonconforming uses in a manner consistent with sound planning and zoning principles. Generally, over time, nonconforming uses should be discontinued or altered in favor of conforming uses with the understanding that such uses need not be entirely static and may change under certain circumstances.

Discussion Items

1. Clearly identify type of nonconformity at issue
 - The ordinance defines nonconforming use as any activity using land, building, sign lot, and/or structure for purposes which were legally established prior to the effective date of this chapter or subsequent amendment to it, and which would not be permitted to be established in a zoning district in which it is located by the currently adopted regulations. The ordinance does not clearly address nonconforming signage or structures.
2. History
 - March 1, 1969 - Zoning Ordinance adopted with Nonconformities reference
 - May 18, 1987 – Expansion of section adopted dealing with alterations and verifications.
 - April 13, 1999 – Ordinance takes current form and two year time limit is added for expiration of a nonconforming use.
 - November 12, 2002 – Addresses replacement of nonconforming mobile homes.
3. Comprehensive Plan GSAs, public input, and PC and BOS direction
 - There was no specific PC or BOS direction regarding this topic. The County Attorney's Office requested the amendments in order to address issues arising from recent cases such as Season's Trace and Autumn West.
4. Solutions and policy options
 - Based on research and commentary from the attorney's staff recommends addressing nonconforming signs, structures and uses in three separate sections.
 - Attached is the Caroline County Code recommended by the attorneys. For reference, other examples are included in the packet.
5. Staff recommendation
 - Staff recommends amending the ordinance to address the various types of nonconformities in separate sections

Conclusion

Staff recommends that the Policy Committee support the revisions proposed to Article VII. Nonconformities.

Attachments

1. Caroline County Ordinance

Article XVI
Nonconforming Lots, Uses, and Structures

(Repeated and Replaced March 28, 2006)

Section 1 - Intent

The purpose of this Article is to regulate nonconforming uses in a manner consistent with good planning practices and sound zoning principles. It is the intent that over time, nonconforming uses will be discontinued in favor of uses conforming to this Ordinance and the zoning map. It is also recognized that under certain circumstances, nonconforming uses may change so as to become less non-conforming according to law and the provisions of this Ordinance.

A change in title or possession, or renewal of a lease, of any such nonconforming land, lot, building, or structure does not constitute a change affecting the continuance of the use.

Section 2 - CONTINUATION OF NONCONFORMING USES

A nonconforming use may continue as it existed when it became nonconforming. A nonconforming use shall not be changed, altered, repaired, restored, replaced, relocated or expanded in any manner, including the addition of new accessory or incidental uses, except as provided for in this Article.

Section 3 - DISCONTINUANCE OR ABANDONMENT OF A NONCONFORMING USE

If any nonconforming use is discontinued for a period of two (2) years, it shall lose its nonconforming status, and any further use shall conform to the provisions of this Ordinance.

Section 4 - PERMITTED CHANGES OF NONCONFORMING USES

A nonconforming use may only be changed, altered, repaired, restored, replaced, relocated or expanded only as follows:

- A. A nonconforming use may change to a conforming use.
- B. A nonconforming use may change to a more restrictive nonconforming use in accordance with the following provisions:
 1. A nonconforming use may only be changed to a more restrictive nonconforming use upon approval by the zoning administrator. The zoning administrator's approval, which shall not be given until the nonconforming status of the use has been verified in accordance with Section 8 of this Article, shall include a determination in writing that the proposed use is "more restrictive" than the existing nonconforming use. If the zoning administrator determines the proposed use is not "more restrictive" than the existing nonconforming use, the application for a change to a more restrictive nonconforming use shall be denied. An appeal of such a determination may be made to the Board of Zoning Appeals as provided for in this Ordinance.
 2. In determining whether a proposed use is a "more restrictive" nonconforming use, the administrator shall consider, among other things, the following factors:
 - a. Whether the proposed use will change the size and scope of the existing use, and the magnitude of such change; and
 - b. Whether the proposed use will increase the intensity of the nonconforming use, including hours of operation, traffic, noise, and similar impacts; and,
 - c. Whether the proposed use will have a more or less detrimental effect on conforming uses in the neighborhood.

3. Upon approval of the change to a more restrictive nonconforming use, site plan approval, as set forth in this Ordinance, shall be required.
- C. Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses may be permitted subject to the following standards:
1. The change(s) shall not increase the physical area occupied by any component of the nonconforming use, and shall not increase the gross floor area of any nonconforming structure; and
 2. The construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located, or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict.
- D. A nonconforming use may be repaired so long as the repair constitutes only routine maintenance necessary to keep the structure in the same general condition it was in when it originally became nonconforming.
- E. A nonconforming use may be restored or replaced as follows:
1. A nonconforming use that is damaged by any cause to any extent not exceeding fifty (50) percent of its current appraised value according to the records of the Commissioner of Revenue may be restored to its condition prior to such damage, provided such restoration is begun within twelve (12) months of the date of the damage and completed within eighteen (18) months of the date of the damage.
 2. Restoration shall not include any minor alterations, cosmetic modifications, interior renovations or similar changes except as permitted in subsection C of this Section, nor shall such restoration include any expansion unless approved under the provisions of subsection F of this Section. Restoration may include changes that make the use less nonconforming provided a determination that the use is less nonconforming is made in accordance with subsection B of this Section.
 3. Prior to any restoration permitted by this Section, the nonconforming status of the structure shall be verified as set forth in Section 8 of this Article.
 4. Restoration of nonconforming structures, except for single family detached dwellings, shall require site plan approval as set forth in this Ordinance.
 5. Nonconforming uses other than signs and buildings (such as, but not limited to, underground storage tanks, private sewage disposal systems, and parking lots) may be restored or replaced when such structures become unsafe or unsound.
 - a. A relocation of the use on the same lot may be approved by the administrator provided the new location is less nonconforming than the original location, and further provided that the new location shall not cause a greater detrimental impact on conforming uses in the neighborhood.
 - b. Nonconforming signs may be repaired or replaced in accordance with the provisions of Section 5 of this Article.
- F. A nonconforming use may be expanded as follows:
1. Nonconforming structures occupied by, or used as a part of, a conforming use may be expanded, provided the expansion meets all current zoning regulations for the zoning district in which the structure is located.

2. A nonconforming use may be extended throughout any part of a structure originally arranged or designed for that activity, provided that current parking standards as set forth in this Ordinance are met.
 3. No structure used as a part of a nonconforming use shall be moved to any other lot unless the lot is zoned to permit the use, nor shall the structure be moved within the lot on which it exists, unless a relocation is specifically provided for in this Section.
 4. Whenever a percentage limitation is placed on expansion, that limitation shall be the total expansion allowed, whether in increments of any size that add up to the total, or all at once.
 5. No area of any lot not originally devoted to the nonconforming use may be utilized for an expansion, except when it would result in a conforming use.
 6. Any permitted expansion of a use and/or new or expanded accessory structures and uses shall meet all zoning ordinance requirements, including height, yard and setbacks, for the zoning district in which located.
 7. In no case shall a nonconforming single family dwelling be modified to accommodate additional dwelling units.
 8. Prior to the approval of expansion of a nonconforming use under this Section, the nonconforming use shall be verified as set forth in Section 8 of this Article.
- G. All changes to nonconforming uses as set forth herein are subject to verification of the nonconforming use and obtaining all appropriate permits and approvals including, site plan approval, building permit approval and zoning approval.

SECTION 5 - NONCONFORMING SIGNS

Nonconforming signs shall be governed by the regulations set forth elsewhere in this Article, except where such regulations conflict with the following provisions:

- A. Nonconforming signs shall not be expanded.
- B. Nonconforming signs may be changed to reduce any nonconformity as to the number of signs permitted on a lot, sign height, sign size and sign type.
- C. Signs that are nonconforming as to location may be relocated to be less nonconforming.
- D. The message or copy on a nonconforming sign may be changed, provided such change does not alter the sign type, unless the new sign type will result in a conforming sign in all respects.
- E. A sign permit, as required by this Ordinance, shall be required for any changes permitted by subsections B through D of this Section.

Section 6 - USE OF NONCONFORMING LOTS

- A. Any unimproved lot of record, located in any preservation district, that is nonconforming with respect to the lot area, lot width, or lot depth, or any combination thereof, as required in the zoning district in which the lot is located may be used for any permitted use in such zoning district, provided all other standards of the zoning district are met.
- B. Any unimproved lot of record existing on the effective date of this Article that could have been used for a single-family dwelling use under the zoning ordinance in effect immediately prior to the adoption of this Article may be used for a single-family dwelling use, provided all other standards

of the zoning district in which the lot is located are met, except that for nonconforming lots in the RP zoning district, the minimum lot area and lot width standards do not have to be met.

- C. In addition to the changes that may be allowed to nonconforming lots by Section 4 of this Article, nonconforming lots may change as follows:
1. A nonconforming lot may be increased in lot size, lot width, or both, to make the lot less nonconforming.
 2. The boundaries of a lot that is nonconforming as to lot size or lot width, or both, may be adjusted along with the boundaries of any contiguous conforming lot, provided such adjustment does not make the conforming lot nonconforming and does not make the nonconforming lot more nonconforming.
 3. A boundary adjustment between two (2) nonconforming lots, or among three (3) or more nonconforming lots, shall be permitted provided that no new lot is created, that lot width is not decreased to less than the required front setback line, as set forth in this Ordinance, and that, in the RP zoning district, lot size is not decreased to less than one acre.
 4. When a building a structure or a structure is expanded and said structure is located on more than one nonconforming lot, a boundary adjustment shall be required to consolidate the lots to make them less nonconforming.
 5. A subdivision plat shall be filed, approved and recorded in accordance with law, whenever any nonconforming lot is modified as set forth in this Section.

SECTION 7 - SPECIAL PROVISIONS REGARDING NONCONFORMING USES AND STRUCTURES IN FLOOD HAZARD OVERLAY DISTRICT

A structure, or the use of a structure or premises, which was lawful prior to August, 1989, but which is not in conformity with the provisions of this Section, may be continued subject to the following conditions:

- A. No structural alteration, addition or repair, singularly or cumulatively, to any nonconforming structure shall exceed fifty (50) percent of its appraised value as shown in the assessment records of Caroline County at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use; provided, however, that if any such alteration, addition or repair exceeds twenty (20) percent of the aforementioned value such alterations shall be in compliance with this Ordinance.
- B. Existing structures located in a floodway area shall not be expanded or enlarged below the level of the one hundred (100) year flood elevation. A certification of elevation prepared by an engineer or surveyor, licensed by the Commonwealth of Virginia shall be required to be submitted as part of the permit application.
- C. If such use is discontinued for twenty-four (24) consecutive months, any subsequent use of the subject property shall conform to Section 2 of this Article notwithstanding the intention of the landowner to continue such use.
- D. If any nonconforming use or structure is damaged or destroyed by any cause whatsoever, to an extent of fifty (50) percent or more of its fair market value, it shall be reconstructed only in conformity with the requirement of this Ordinance and all rights as a nonconforming use are terminated.
- E. Notwithstanding any of the above regulations, structures designated on the National Register or the Virginia Registry of Historic Structures shall be exempt from the provisions of this Section.

Section 8 - VERIFICATION OF NONCONFORMING USES

Prior to approval of any change in a nonconforming use permitted by Section 5 of this Article, the zoning administrator shall verify the lawful status of the use. The zoning administrator may also verify the lawful status of a nonconforming use not proposed to change, upon the request.

- A. In verifying the status of a nonconforming use, the zoning administrator shall determine the following:
 1. Whether the use is in fact a lawful nonconforming use as defined by this Ordinance, and if so, then,
 2. The location and gross floor area (in square feet) of all buildings associated with the nonconforming use; and
 3. The location, use and size of all structures other than buildings associated with the nonconforming use; and
 4. The area of land (in square feet) devoted to all aspects of the nonconforming use (including buildings, parking, outside storage, travel ways, open spaces, etc.); and
 5. A description of the principal use(s) and all accessory uses that make up the lawful nonconforming use as a whole.
- B. If the determination verifies the use, or any portion, as a lawful nonconforming use, the zoning administrator shall classify the overall nonconforming use based on the zoning district in which the use would be a permitted use. If the use would be permitted in more than one zoning district, the assigned classification shall be based on the zoning district that is the least intense of all districts where the use would be permitted. The assignment of such a zoning classification shall not operate to change the zoning of the property on which the nonconforming use is located, but shall be used only in determining the applicable criteria for change of the nonconforming use under Section 4 of this Article.
- C. The decision of the zoning administrator under subsections A and B shall be final after thirty (30) days unless an appeal is filed to the Board of Zoning Appeals in accordance with this Ordinance.
- D. The decision of the zoning administrator shall be based on information provided by the owner of the property on which the nonconforming use is located, on information provided by other persons with knowledge of the property, and on any other information available to the zoning administrator as public record. Information may include, but shall not be limited to, permits, licenses, tax records, receipts, business records, photographs, plats, plans, bills, utility information, assessment information, and sworn affidavits from individuals with personal knowledge of the use and/or the property on which the use is located.
- E. The zoning administrator shall keep a record of all verified nonconforming uses. Not less than every two (2) years after the original date of verification, the owner or operator of a verified nonconforming use shall file a report with the zoning administrator, on forms available from the Department of Planning & Community Development, showing that the nonconforming use has not ceased for a two (2) year period, or been abandoned, and that the use is being operated in accordance with the decision rendered as a part of the nonconforming use verification process, and any subsequent changes approved.

MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Jose Ribeiro
SUBJECT: Procedural Descriptions, Submittal Requirements and Administrative Items

I. Introduction

The zoning ordinance provides a broad range of information related to procedures, submittal requirements and administrative items. This information is mostly found under Article I (General), Article III (Site Plan), Article VII (Nonconformities), and Article VIII (Appeals) of the ordinance. As part of the zoning ordinance update process, staff has been tasked to research this broad topic; identify issues where revisions may be recommended, evaluate solutions, and introduce new concepts and ideas for consideration.

This memorandum focuses on revisions to the language and identification of issues under Article I (General) and Article III (Site Plan) only. Staff has identified and proposes the following sections/items for revisions: (1) Section 24-143-Site plan submittal requirements; (2) Section 24-7-Administrative fees; (3) Section 24-2-Definitions; (4) Section 24-23-Submittal requirement for legislative cases; and (5) illustrations. The first attachment to this report, Table A, provides a summary of all revisions proposed by staff to the language and content under Article I and III of the ordinance. Proposed revisions related to Article VII is discussed under a separate memorandum.

Also, as part of this researched topic, the ordinance update methodology identifies 3 subjects (under Section 24-23-Submittal requirements for legislative cases) as areas for potential research: development of guidelines for traffic studies, fiscal impact studies, and environmental impact. These are also discussed by staff, in details, under separate memorandums.

II. Discussion Items

A. **When Site Plans are required (Section 24-143)**

1. Description of Issue

- Site plans are necessary to ensure that development is evaluated, reviewed, and properly documented by staff. This section of the ordinance provides a comprehensive list of uses which require submittal of site plans for review and approval prior to development. The ordinance also identifies a few instances where submittal of a site plan is not required: single-family dwelling units, construction of individual private decks and fences accessory to multiple-family dwellings, townhouses and condominiums. Staff proposes to expand the list of uses exempt from the site plan submittal requirement to also include minor additions and alterations to approved site plans.

2. History/Background

- In certain instances, a project proposing small structures to be built internally on a site and not visible from a public right-of-way or adjacent properties, could be considered for exemption from the site plan submittal process. For Example, staff receives site plan amendments every year for the construction of food carts, small sheds and other accessory structures at Busch Gardens Williamsburg. Generally, these structures are proposed to be located far from public right-of-ways and adjacent properties. In many of the projects, there are no impacts to the environment, as most of the improvements are small in scale, and issuance of a Land Disturbing Permit is not required. Another recent example, the request to build a small storage building internally to the Go-Kart Plus Site. The proposed building storage cannot be seen from the public right-of-way or adjacent properties. There were no impacts to the environment, local traffic, landscape areas or to utilities. Due to the current ordinance requirements, a site plan amendment was submitted for review or approval.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic. However, revisions to procedures are identified and supported by the 2009 Comprehensive Plan. The Economic Development Goals, Strategies, and Actions (GSA) Section offers the following recommendations:

ED1.5-Continue to analyze County regulations, policies, and procedures to ensure that they do not unnecessarily inhibit commercial and industrial development; and

ED 1.6-Support the recommendations of the Business Climate Task Force as determined by the Board of Supervisors.

-Staff researched other localities ordinances¹ to evaluate different site plan submittal regulations. While the measures for submitting plans are expectedly different between localities, the majority of the ordinances provide for exemptions. The nature of these exemptions varies, from the scale of the construction footprint, redevelopment of existing sites, to impacts to the environment and traffic.

- In the first of the two Planning Commission Public Forums held on August of 2010, the Director of Designing and Engineering for Busch Gardens Williamsburg requested a modification to the submittal process for minor amendments to previously approved site plans. Staff investigated the site plan submittal process for amusement parks in other localities and found that the majority of localities researched did not require a site plan amendment for smaller additions and alterations.

4. Solution and Policy Options

-Based on staff's research and the input received from the Planning Commission Forum, staff recommends that a section listing exemptions to the site plan submittal requirement be included into the Zoning Ordinance. Staff is currently working to identify criteria to be used in order to exempt a particular use from the site plan requirement. Examples of potential criteria to be considered may include the size and scale of a proposed development, impacts to traffic, adjacent properties, and whether a proposed development can be visible from a public right-of-way.

5. Staff recommendation

- Staff recommends amending Section 24-143 of the Zoning Ordinance to include the above criteria for exempting certain types of development from the site plan submittal requirement.

B. Administrative Fees (Section 24-7 and Section 19-15)

1. Description of Issue

-With the support of County Attorney's Office and the Financial and Management Services Department, staff proposes to remove the sections pertaining to administrative fees from the zoning and subdivision ordinance.

2. History and Background

- The Administrative Fees section was first introduced into the Zoning Ordinance in 1974. This section of the ordinance was later amended in 1985; the major revision to this section was the removal of an enumerated fee schedule and introduction of specific language referencing that all fees would be established by resolution of the

¹ A list of all localities researched is located in the reference section of this memorandum.

Board of Supervisors. In 1991, this section was amended and a fee schedule was once again introduced into the ordinance. Since then, this section of the ordinance has been revised 9 times. An enumerated fee schedule was first introduced into the Subdivision Ordinance in 1989. Since then, the Fee Section of the Subdivision Ordinance has been amended 8 times.

-Staff researched other localities' ordinances to investigate whether a fee schedule was enumerated or found in other document besides the ordinance. Of the 10 localities researched, staff found that half had a fee schedule enumerated in their ordinances while the other half did not enumerate their fee schedule but made reference to a separate document established by the Board of Supervisors/City Council.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic.

4. Solutions and Policy options

-Removing the enumerated fee schedule from the ordinance streamlines the process of updating costs associated with planning and zoning administrative processes. Should the fees section be removed from the ordinance, there would not be a need for a public hearing every instance when fees require adjustment; rather, revisions to fees would be presented directly to the Board of Supervisors for consideration during each annual budget cycle.

5. Staff recommendation

-Staff recommends that Section 24-7 of the Zoning Ordinance and Section 19-15 of the Subdivision ordinance be amended to remove the fee schedule and replace it with language referencing a separate fee schedule document approved by the James City County Board of Supervisors.

C. Definitions (Section 24-2)

1. Description of Issue

-There are 174 terms defined under this section of the Zoning Ordinance. Definitions are important tools which help to clarify meaning of planning, zoning, and land use related issues. Staff proposes to amend terms currently defined in the ordinance (refer to attachment No. 2) and introduce definitions as new text and concepts are considered for inclusion as part of the ordinance update process.

2. History and Background

- The criteria used by staff to revise current definitions was based on whether or not a definition of a particular term has been called into question in the past, if it's meaning

required further clarification, or if it needed to be updated to comply with current or proposed regulations and/or State Code.

-Staff is currently working to identify new terms to be included into this section of the ordinance. Staff researched the definition section of 10 other localities' ordinances. Over 1,500 definitions were catalogued. The purpose of this research was to identify terms which are defined in other ordinances but not in the James City County Zoning Ordinance. This research will help staff evaluate the need for new terms to be defined in the ordinance.

3. Comprehensive Plan GSAs, public input, and PC and BOS direction

- There was no specific PC or BOS direction provided regarding this topic.

4. Solutions and Policy options

- As different sections of the ordinance are revised, and new language is considered for inclusion, staff will identify new terms and their definitions and present them for Policy Committee consideration toward the end of the Zoning Ordinance Update process.

- Staff also proposes to insert the definition of terms which are currently not in the Zoning Ordinance but are found in the Chesapeake Bay Preservation Ordinance (refer to Table C). The reason for this inclusion is that many terms currently defined in the Chesapeake Bay Preservation Ordinance are related to issues presented by the Zoning Ordinance.

D. Submittal Requirements for Legislative Cases (Section 24-23)

1. Description of Issue

I. -The methodology for the ordinance update identifies three major areas for potential research under this section: development of guidelines for traffic studies, environmental impact, and fiscal impacts studies (discussed in separate memorandums). The purpose for the development of these guidelines is to standardize different types of information submitted for staff's review and to facilitate the submittal requirements for the applicant (e.g. a template for fiscal impacts guidelines will be available to applicants at no cost.)

II – Sub article (a)(2) of this section of the ordinance indicates that master plans should be prepared in accordance with the requirements of section 24-484(b) (1)-(5), Planned Unit Development District. In fact, master plan submittal requirements for other districts such as Residential Planned Community, R-4 (Section 24-276), Research and Technology, RT (Section 24-464), and Mixed Use, MU (Section 24-515) are very similar.

2. Solutions and Policy Options

-Staff proposes to remove the master plan preparation requirements from the above sections and include all as a sub action under Submittal Requirements for Legislative cases. The purpose of this revision is to organize this information and to avoid repetition throughout the ordinance.

E. **Illustrations**

1. Description of Element

-Clarity of information and a more user-friendly ordinance is one of the goals identified by staff as part of the update process. With that in mind, staff proposes to add illustrations to the ordinance in order to aid the understanding of zoning/planning subject and concepts which can be, at times, complex to understand. At this stage of the update, staff is working to identify the types of information which would benefit from illustrations. Staff finds that illustrations such as the examples provided in attachment No. 3 can be helpful teaching aid tools.

III. Conclusion

Staff recommends that the Policy Committee support the revisions proposed to the procedural descriptions, submittal requirements and administrative items found under Article I and Article III of the zoning ordinance.

ATTACHMENTS:

1. Table A-Summary of changes to Articles I and III,
2. Table B-Preliminary list of definitions to be amended, Table C-Chesapeake Bay Preservation Ordinance definitions
3. Table D- Example of Illustrations
4. Table E-References

Table A-Summary of proposed changes to Chapter 24, Article I-In General

Ordinance Section	Proposed changes	Reason
Section 24-1. Short Title	N/A	N/A
Section 24-2. Definitions	Revise existing definitions and introduce new definitions	Refer to memorandum for discussion.
Section 24-3. Purpose of chapter; zoning map	(b)(1)-“To provide for adequate light, air, convenience of access and safety from fire, flood, <i>impounding structure failure</i> , and other dangers.	Amend this section of the ordinance in accordance with State Code.
Section 24-4. Exclusive nature of the chapter	N/A	
Section 24-5. Zoning administrator; administration and enforcement of chapter	N/A	
Section 24-6. Duty of those authorized to issue licenses and permits to conform to chapter	N/A	
Section 24-7. Administrative fees	Remove all sections pertaining to fees from the ordinance.	Refer to memorandum discussion.
Section 24-8. Certificate of occupancy	Substitute “ zoning administrator ” for “ <i>building official</i> ”	The building official is the agent responsible for issuance of certificate of occupancies in James City County.
Section 24-9. Special use permits	N/A	
Section 24-10. Public hearing required	N/A	
Section 24-11. Special use permit requirements for certain commercial uses; exemptions	Refer to Commercial Districts	N/A
Section 24-12. Revocation of special use permits	N/A	N/A
Section 24-13. Amendment of chapter	Update text	Amend this section of the ordinance in accordance with State Code
Section 24-14. Construction and severability of provisions	N/A	N/A

Ordinance Section	Proposed changes	Reason
Section 24-15. Purpose of this article	N/A	N/A
Section 24-16. Proffer of conditions	N/A	N/A
Section 24-17. Enforcement and guarantees as to conditions	N/A	N/A
Section 24-18. Records	N/A	N/A
Section 24-19. Petition for review of decision	N/A	N/A
Section 24-20. Amendments and variations of conflicts	N/A	N/A
Section 24-21. Relation of section to other laws	N/A	N/A
Section 24-22. Penalties; sanctions, injunctive relief, fines	N/A	N/A
Section 24-23. Submittal requirements	(a)(2) " A water and sewer impact study for all projects with and anticipated average daily flow greater than 30,000 gallons , <i>15,050 gallons</i> and/or for proposed residential projects containing 100 <i>50</i> lots or more."	Per the request of JCSA staff in order to comply with current JCSA regulations.
Section 24-23. Submittal requirements	(b)(2) Include master plan submittal requirements for all sections of the ordinance, including R-4, PUD, R&T, MU, and EO	This change is proposed in order to better organize information which is similar but currently found under separate sections of the ordinance.

Table A -Summary of proposed changes to Chapter 24, Article III-Site Plan

Ordinance Section	Proposed changes	Reason
Section 24-142. Statement of intent	N/A	N/A
Section 24-143. When site plans required	Include an exemption to when site plans are required to be submitted	Refer to memorandum for discussion
Section 24-144. Pre application conference and submission of conceptual plan	N/A	N/A
Section 24-145. Site Plan submittal requirements	(d) Delete “ If the submitted site plan does not have an approved conceptual plan, as set forth in section 24-144, then the site plan shall be reviewed by the commission under the requirements of section 24-148”	Submittal of a conceptual plan is not a requirement prior to submittal of a site plan. Staff proposes to delete sub article d of Section 24-145.
Section 24-146. Public access to site plan	N/A	N/A
Section 24-147. Criteria for review	N/A	N/A
Section 24-148. Procedure for commission review of site plans	N/A	N/A
Section 24-149. Procedure for review of site plans by the commission’s designee (s)	N/A	N/A
Section 24-150. Procedures for administrative review of site plans	N/A	N/A
Section 24-151. Review criteria generally	N/A	N/A

Ordinance Section	Proposed changes	Reason
Section 24-152. Term of validity for preliminary approval	N/A	N/A
Section 24-153. Submittal of revised site plan generally	N/A	N/A
Section 24-154. Reserved	N/A	N/A
Section 24-155. Action upon completion of review of revised site plan	N/A	N/A
Section 24-156. Term of validity of final approval	N/A	N/A
Section 24-257. Amendment of approved site plans	N/A	N/A
Section 24-158. Final “as-built” plans required	N/A	N/A
Section 24-159. Compliance with site plan required	N/A	N/A
Section 24-160. Administrative review fees	Delete reference to section 24.7 Administrative Fees	Removal of Section 24-7 from the Zoning Ordinance

Table B-Preliminary list of definitions to be amended

Term(s)	Current Definition	History	Reason for Revision
Adult Day Care Center	A facility that provides care to adults during part of the day only and which includes personal supervision of the adults and promotes social, physical and emotional well-being through companionship, self education and leisure time activities.	Introduced to the ordinance in 1997.	Similar definitions. Research these definitions to eliminate redundancies. Look at the State Code for update definitions. staff proposes the inclusion of new terms which are relatively similar to these but have their own specifications (E.g. Assisted Living Facility and Continuing Care Retirement Community-CCRC's)
Home care facility	A residential facility for the care of four or more persons who require the protection of a supervised group setting or nine or more persons who are mentally ill, intellectually disabled, or developmentally disabled	Introduced in 1991 and revised in 2009	
Rest home	Any place, establishment or institution, public or private, including any day care center for adults, operated or maintained for the maintenance or care of four or more adults who are aged, infirm or disabled, except the home or residence of any individual who cares for or maintains only persons related to him by blood or marriage. The term "rest home" shall include facilities known by varying nomenclature such as home for adults and domiciliary	Introduced to the ordinance in 1985	
Affordable Housing	Units with sales prices targeted to low-and moderate-income households, as defined by the U.S. Department of Housing and Urban Development (HUD). Such sales prices shall be those endorsed annually by the board of supervisors after receiving recommendation from	Introduced to the ordinance in 1999 and revised in 2007.	This definition will be updated in conjunction with the Housing and Community Development staff. The Board of Supervisors have not endorsed sales prices targeted to low-and moderate-income households on an annually basis for some

	the James City County Office of Housing and Community Development based on the then-current HUD area-wide income limits and identified local needs.		time.
Camouflaged Structure	Any WCF disguised or hidden so that all of its components are unnoticeable to the casual observer, or otherwise not have the appearance of an antenna or a tower, and which meets at least one of the following: (1) the structure has the appearance, scale and height of other structure that are generally permitted in the district in which is to be located; (2) the structure has the appearance of vegetation native to eastern Virginia; or (3) the structure is completely surrounded by a minimum of a 100-foot, undisturbed buffer of mature trees, or a buffer consisting of other elements such as evergreen trees, other structures or topography that provide at least the equivalent visual effect of a 100-foot undisturbed buffer of mature deciduous trees, that in combination with the design and color of the structure, renders the structure unnoticeable to the casual observer.	Introduced to the ordinance in 1998 under the definition of "Support Structure"	Staff proposes to evaluate the need to introduce differences between a "camouflages structure" and a "concealed structure." Expect revisions or introduction of terms related to Wireless Communication.
Timbering	Tree harvesting, cutting, or removal where the total amount of land in which tree cutting occurs exceeds 10,000 square feet. However, timbering shall not include: (1) Harvesting, cutting, removal or other clearing of trees in accordance with an approved site plan, subdivision plan, or building permit; or (2) Removal of dead, diseased, dying, or insect damage trees.	Introduced to the ordinance in 1996.	The definition of timbering has been revised according to staff's research in collaboration with the Virginia Department of Forestry (VDOF) representative (please refer to the memorandum on the Timbering section (Development Standards) as part of Zoning and Subdivision Ordinance Update.

Structure	Anything constructed or erected, the use of which required permanent location on the ground or attachment to something having a permanent location on the ground.	Introduced to the ordinance in 1985	Provide examples of what structures are and what structures are not.
Dwelling	<p>Any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging and tourist cabins,</p> <p>(1) Single-family detached. A detached structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.</p> <p>(2) Two-family. A structure containing two dwelling units separated from one another by a solid wall or floor. For the purposes of this chapter, the term “two-family dwelling” shall not apply to a single-family dwelling containing an accessory apartment.</p> <p>3) Multiple Family. A structure arranged or designed to be occupied by more than two families.</p>	Introduced to the ordinance in 1985 and revised in 1989 and 1999, respectively.	Staff proposes to amend this definition by adding the following terms to be defined under “dwelling”: single-family attached, duplex, triplex, and quadplex. These are terms which are not currently defined by the Zoning Ordinance; however, these are frequently used by staff and by applicants in the evaluation of residential and mixed use projects.
Flood or flooding	<p>(1) A general or temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or the unusual and rapid accumulation or runoff of surface water from any source.</p> <p>(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature such as a flash</p>	Introduced into the ordinance on 2007	Staff proposes to update this definition to comply with the Department of Conservation and Recreation (DCR) most recent Virginia Model Floodplain Zoning Ordinance. Please also refer to memorandum pertaining to Floodplains under the Development Standards section.

flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1 of this definition

Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height

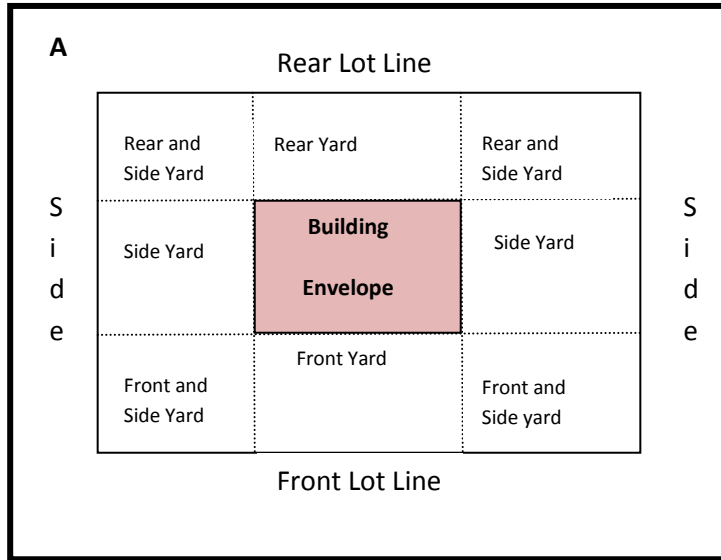
Definition added on 1988 and revised on 2007

Staff proposes to update this definition to comply with the Department of Conservation and Recreation (DCR) most recent Virginia Model Floodplain Zoning Ordinance. Please also refer to memorandum pertaining to Floodplains under the Development Standards section.

Table C- Chesapeake Bay Preservation Ordinance definitions

Term(s)	Definition
Best management practice (BMP)	A practice, or combination of practices, that is determined by a state, local or regional agency to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.
Development	The construction or substantial alteration of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures.
Redevelopment	The process of developing land that is or has been previously developed.
Resource Protection Area (RPA)	<p>That component of a Chesapeake Bay Preservation Area (CBPA) comprised of land adjacent to water bodies with perennial flow that have an intrinsic water quality value due to the ecological and biological processes they perform or are sensitive to impacts which may result in significant degradation to the quality of state waters. RPAs shall include:</p> <ul style="list-style-type: none"> • <i>Tidal wetlands;</i> • <i>Nontidal wetlands connected by surface flow and contiguous to vital wetlands or water bodies with perennial flow;</i> • <i>Tidal Shores;</i> • <i>A buffer area not less than 100 feet in width located adjacent to and landward of the components listed in subdivision 1 through 3 above, and along both sides of any water body whith pererrnial flow</i>
Impervious cover	A surface composed of any material that significantly impedes or prevents natural infiltration of water into the soil. Impervious surfaces include, but are not limited to, roofs, buildings, streets, parking areas, and any concrete, asphalt or compacted aggregate surface. Pervious pavement surfaces will not be considered as totally impervious but will be given partial credit based on the open area and runoff characteristics of the paver structure and the proposed installation.
Runoff	That portion of precipitation that is discharged across the land surface through conveyances to one or more waterway

Table D. Example of illustrations:



A. Yard. An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward except as otherwise provided herein:

(1) Front. An open space on the same lot as a building and located between the front building line and the front lot or street line and extending across the full width of the lot.

(2) Rear. An open, unoccupied space on the same lot as a building between the rear building line and rear line of the lot and extending the full width of the lot.

(3) Side. An open, unoccupied space on the same lot as a building between the side building line and the side line of the lot and extending from the front yard line to the rear yard line

B. Flag Lot. A lot not fronting on or abutting a public road and where access to the public road is by a narrow, private right-of-way not less than 25 feet in width.

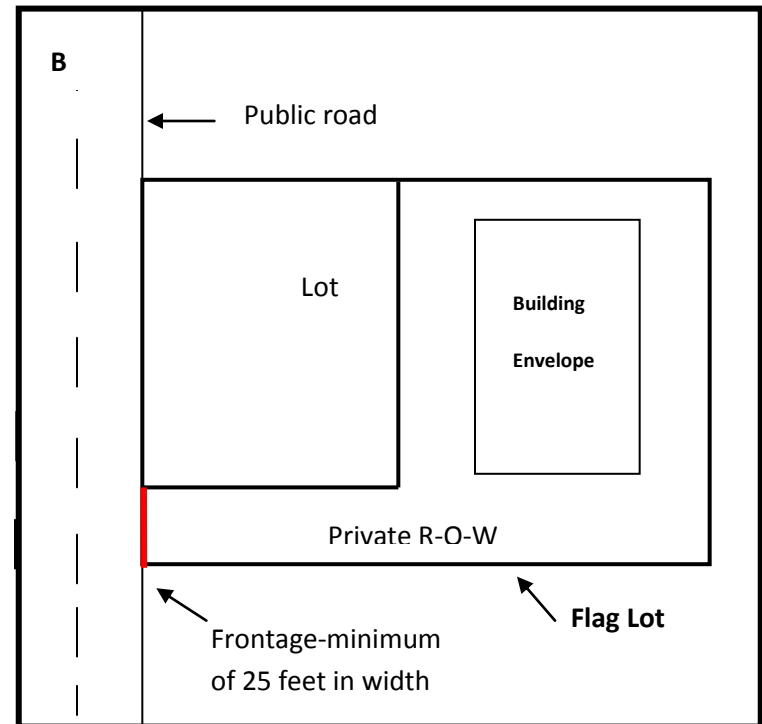




Table E- References

A-When are site plans required	Source	Website
Charlottesville, VA	Ordinance	http://www.charlottesville.org/
Chesapeake, VA	Ordinance	http://cityofchesapeake.net/
Chesterfield County, VA	Ordinance	http://www.chesterfield.gov/
Virginia Beach, VA	Ordinance	http://www.vbgov.com/
York County, VA	Ordinance	http://www.yorkcounty.gov/
Henrico County, VA	Ordinance	http://www.co.henrico.va.us/
Williamsburg, VA	Ordinance	http://www.williamsburgva.gov/
A-When are site plans required-Theme Parks	Source	Website
Henrico, VA	Phone	N/A
Tampa, FL	Phone	N/A
Arlington, TX	Phone	N/A
Cobb County, GA	Phone	N/A
York County, VA	Ordinance	http://www.yorkcounty.gov/
Eureka, MO	Phone	N/A
San Antonio, TX	Phone	N/A
B-Administrative Fees	Source	Website
Charlottesville, VA	Ordinance	http://www.charlottesville.org/
Chesapeake, VA	Ordinance	http://cityofchesapeake.net/
Chesterfield County, VA	Ordinance	http://www.chesterfield.gov/
Virginia Beach, VA	Ordinance	http://www.vbgov.com/
York County, VA	Ordinance	http://www.yorkcounty.gov/
Henrico County, VA	Ordinance	http://www.co.henrico.va.us/
Williamsburg, VA	Ordinance	http://www.williamsburgva.gov/
Elk River, MN	ordinance	http://www.ci.elk-river.mn.us/
Wheat Ridge, CO	Ordinance	http://www.ci.wheatridge.co.us/
C-Definitions	Source	Website
Henrico, VA	Ordinance	http://www.co.henrico.va.us/
Chesapeake, VA	Ordinance	http://cityofchesapeake.net
Charlottesville, VA	Ordinance	http://www.charlottesville.org
Chesterfield, VA	Ordinance	http://www.chesterfield.gov
York County, VA	Ordinance	http://www.yorkcounty.gov/

Virginia Beach, VA	Ordinance	http://www.vbgov.com
Williamsburg, VA	Ordinance	http://www.williamsburgva.gov
Elk River, MN	ordinance	http://www.ci.elk-river.mn.us/
Wheat Ridge, CO	Ordinance	http://www.ci.wheatridge.co.us/

MEMORANDUM

DATE: February 23, 2011
TO: Policy Committee
FROM: Ellen Cook and Sarah Propst
SUBJECT: Subdivision Ordinance

I. Introduction to Memo

The following memo discusses possible amendments to the County's subdivision ordinance. The primary item discussed is the Alternative Onsite Sewage Systems issue, as was specified in the ordinance update methodology document. The memo also discusses several issues identified by staff including family subdivision provisions and a number of other possible amendments generally linked to reviewing agency (such as JCSA or VDOT) documents and standards.

II. Discussion Items

- A. As noted in the methodology, the primary item that staff identified as needing to be addressed in the subdivision ordinance is the new Alternative Onsite Sewage Systems (AOSS) regulations.
1. Description of issue/problem
 - State code regulations regarding AOSS have changed in the past few years, necessitating an examination of whether the existing subdivision ordinance provisions need to be amended accordingly.
 2. History
 - The existing subdivision ordinance language already allows use of alternative onsite sewage systems (note that as defined in state code, AOSS are not direct discharge systems). Alternative systems were first permitted in the subdivision ordinance with an exception starting in 1999. In 2004, the ordinance was amended to allow alternative systems generally, with the requirement that lots with these systems be noted on the plat as potentially entailing additional expense.
 - The Board adopted an amendment to Section 19-29 of article II to require a note on subdivision plats with septic systems. The note states that septic systems must be pumped out at least every five years. This note addresses a compliance issue identified by the Virginia DCR's Chesapeake Bay Local Assistance.
 3. Comprehensive Plan GSAs, public input, and PC and BOS direction
 - The Comprehensive Plan recognizes the need to maintain current regulations. ENV 1.10 states "Protect water resources from on-site waste disposal system failure by: ENV 1.10.1 Requiring Health Department approval for all subdivisions making use of on-site waste disposal systems; and ENV 1.10.5 Monitoring non-traditional on-site sewage disposal trends."
 4. Solutions and policy options
 - Staff spoke extensively with Health Department personnel and reviewed the existing subdivision ordinance language pertaining to sewage system. The changes to on-site sewage regulations allow the Health Department to permit alternative on-site waste

disposal system designs that have been stamped by a Professional Engineer. This could potentially impact the need to show primary and reserve drainfields on subdivided parcels, however Chapter 23 of our ordinance, the Chesapeake Bay Prosevation Ordinance requires that all subdivision plats which will not be served by public sewer must include a primary and reserve drainfield. While the AOSS regulation changes will not significantly affect the subdivision ordinance Health Department personnel did suggest amended language to better match terminology used in state code and Health Department regulations. For example, the use of the term “onsite sewage disposal system” rather than “septic tank system”. To better inform applicants about the approval process, Health Department personnel also recommended adding language to the County’s ordinance requiring certain topographic and other information be shown on the subdivision plat. Finally, to better inform applicants and future homeowners, they recommended adding a notation to the subdivision plat stating that alternative systems may entail additional operations and maintenance implications, in addition to additional cost.

5. Staff recommendation

Staff recommends making changes to the following sections: definitions, final plan – submittal requirements, and individual sewer. Overall, staff would note that the effect of the state code changes on James City County’s ordinance are fairly minimal. Some of the state code provisions, such as the requirement that owners of AOSS have a formalized relationship with a licensed AOSS operator, have more implications from a process standpoint for the Department of Health, but generally do not affect the actual subdivision ordinance language.

B. Based on discussion by the Board of Supervisors during past family subdivision special use permit cases, staff re-examined the family subdivision provisions in the subdivision ordinance.

1. Description of Issue/History

In the subdivision ordinance, a provision is included that allows subdivision of lots for members of an owner’s immediate family member (defined in the ordinance as any person who is a natural or legally defined offspring, 18 years of age or older or an emancipated minor, or parent of the owner) who must hold title to the lot for a minimum of three years after subdivision. The provision allows for two relaxations of the ordinance that are not otherwise permitted. First, in combination with language in the A-1 section of the zoning ordinance, a family subdivision allows for a minimum 1 acre lot size instead of the typical 3 acre minimum. This lot size reduction does require approval of a special use permit by the Board of Supervisors. Second, for all districts, pursuing a family subdivision allows for creation of a lot without the typically required road frontage. Instead, a family subdivision lot can gain access through a private drive. Over the years, concerns have sometimes been expressed that certain proposals verge on circumvention of the subdivision ordinance or may not be completely in accord with the intentions behind the family subdivision provision. Based on analysis of cases between 2003 and March of 2009, family subdivision lots accounted for about 15% of new minor subdivision lots created in the County’s designated Rural Lands.

2. Comprehensive Plan GSAs, public input, and PC and BOS direction

This issue was identified during the Comprehensive Plan update process, and was stated in LU 6.2.4 as follows: “Revise the Zoning Ordinance and Subdivision Ordinance to place appropriate restrictions, such as a minimum number of years of property ownership, on family subdivisions. Such restrictions would be intended to further the strategy of

preserving agricultural and forestall uses in the Rural Lands and are already enabled by the Code of Virginia.”

3. Solutions and policy options

Based on the family subdivision provision in state code that applies to James City County, it is permissible to place restrictions on the use of the family subdivisions.

Examples of possible options could include:

- Requiring a minimum number of years of ownership of a parcel prior to pursuing a family subdivision. Over the years, this has been one of the primary possibilities suggested by members of the Board of Supervisors. In 2006 a family subdivision proposal was denied by the Board of Supervisors because the applicant had owned the property less than 6 months prior to applying for the family subdivision. Staff has been more cognizant of this concern by the Board since that case and has asked applicants to provide ownership information for inclusion in the staff report. This would seem to fit well with the intent of families passing down significant working lands through multiple generations while allowing children to establish a separate residence on the property. In research of several other localities in Virginia, there were two examples with this type of standard (New Kent and Chesterfield).
- Extending the amount of time that the family member must hold title to the property after subdivision. As noted above, this is currently set at 3 years. Extending the time period would help ensure that the intent of passing land down within a family (rather than subdividing the land in order to subsequently sell the parcel), but might prove to be a hardship should unforeseen events occur within a family.
- Specifying a “parent parcel” minimum size after subdivision. This could be another option that would seem to fit with the main intent of passing down working lands of significant size, rather than using the provision to simply allow subdivision where parcel size or road frontage would otherwise not allow it.
- Limiting use of family subdivisions to certain zoning districts, such as A-1 General Agricultural and/or R-8, Rural Residential. This would provide a closer tie to working agricultural or forestall land, although there is a modest amount of agricultural and forestall land inside the Primary Service Area with other zoning.
- Changes to the family definition, either to broaden or restrict. Should there be support for including more restrictions such as length of ownership, a concurrent lifting of restrictions could be contemplated as compensation. One example of this could be to include siblings in the list of family members qualifying for the family subdivision provision.

4. Staff recommendation

Of the options listed above, staff recommends pursuing the minimum ownership length option, such as five years, and limiting the use of family subdivisions to A-1 and R-8 zoning districts. These two options seem to provide good linkages between use of this provision and the intent of having the provision in the ordinance. Should there be support for other options, staff could include one or more of them.

C. Other Possible Amendments Listed in the Attached Table

A large portion of the subdivision ordinance is strongly linked to other reviewing agencies, either

through the submittal requirements section, which lists the information that needs to be shown on plan sets, or through the sections that describe the requirements for design and minimum improvements. Staff sought feedback from agencies to determine whether current ordinance provisions clearly convey information related to their review area and whether the information is up to date. Staff received a number of comments, some of which were very specific, and some of which will need to be coordinated with the agency further during the drafting process, should their pursuit be supported. In addition, staff reviewed the ordinance with an eye toward clarifying the language in those sections which have frequently elicited questions from citizens and homeowners. Where it seemed reasonable, ideas for providing greater language clarity are also listed in the table. Due to the number and relatively limited policy implications of these items, staff has listed them in a table format. Staff would be happy to answer questions or provide more information on any of these items, if desired.

III. **Conclusion**

Staff is seeking Policy Committee input on items A, B and C as discussed above.

Attachment

1. Possible Amendments Table

Section	Proposed Revision
Article I: General Provisions	
19-1 Short Title	N/A
19-2 Definitions	<ul style="list-style-type: none"> - In the definition of flag lot, include information about how the front setback is determined, in coordination with changes to Section 19-39. - Include definitions of Alternative Onsite Sewage System and Conventional Onsite Sewage System as defined in State Code. - Ensure that terms used in the zoning and subdivision ordinance are coordinated. - Ensure that road-related terms are coordinated with VDOT definitions - Add definitions of construction (preliminary) plan and final plan.
19-3 Compliance with Chapter Mandatory	N/A
19-4 Penalties	N/A
19-5 Administration and Enforcement of Chapter	N/A
19-6 Effect of Private Contracts	N/A
19-7 Changes, Erasures and Revisions	<ul style="list-style-type: none"> - Clarify the language to say that changes and revisions to plats need to be formally re-approved.
19-8 Subdivision may appeal from disapproval of the plat	N/A
19-9 Plan and plat preparation – by whom prepared	N/A
19-10 How chapter may be amended	N/A
19-11 Resubdivision same as subdivision	<ul style="list-style-type: none"> - Change title to “Relocation or Vacation of Boundary Lines.”
19-12 Vacation of recorded plat	<ul style="list-style-type: none"> - To provide information to applicants, include reference to the VDOT road vacation process.
19-13 Construction and severability of provisions	N/A
19-14 Private streets dedication	<ul style="list-style-type: none"> - Revise this section to coordinate with the standard VDOT private streets note.
19-15 Fees	<ul style="list-style-type: none"> - Amend this Section to just reference the fee schedule, in coordination with the Zoning Ordinance.
19-16 Saving provision	N/A
19-17 Special provisions for family subdivisions (Discussed further in Memo)	<ul style="list-style-type: none"> - Amend to require five years of ownership, and limiting application to R-8 and A-1 districts - Other possible changes could include: broadening/restriction of the family definition, initial parcel size
19-18 Exceptions	<ul style="list-style-type: none"> - Amend this Section to add language stating that the applicant shall note any exceptions

	requested with the initial plan submittal
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Article II: Procedures and Documents to be Filed	
19-19 Pre-App conference and conceptual plan submission	<ul style="list-style-type: none"> - Remove the reference to DRC review of conceptual plans. Since this section was put in the ordinance a number of other processes have been put in place, including the enhanced conceptual plan process for DRC review, the Development Roundtables with staff, and the use of DRC Consideration items.
19-20 Master Plan	<ul style="list-style-type: none"> - Clarify that this language applies to subdivisions other than those with a legislatively-approved master plans.
19-21 Classification of Subdivisions	<ul style="list-style-type: none"> - State the minor subdivision lot number cap (nine lots) for clarity. Include a graphic to help illustrate the text.
19-22 Procedure for review of minor subdivision, townhouse or condominium subdivisions – review procedure	N/A
19-23 Procedure for preliminary plan review for major subdivisions	N/A
19-24 Procedure for preliminary plan review for major subdivisions of fewer than fifty lots	N/A
19-25 Effect of approval of preliminary plan	N/A
19-26 Term of validity for the preliminary plan	N/A
19-27 Preliminary plan - submittal requirements	<ul style="list-style-type: none"> - Adjust the plan scale cited to reflect current engineering firm practice, and reflect a reasonable scale for detailed review. - JCSA: Add submittal requirement item (capacity study) to reflect current practice, change reference from “service authority” to “James City Service Authority”, update regulatory document name to reflect current title. - Env: With regard to the drainage plan, remove outdated language pertaining to topographic plan submittal requirements. - Env: Add an item regarding submission of a stormwater management plan to better coordinate this section with environmental regulations and give a more complete picture/easier overall reference to applicants. - Stormwater: Revise item (h) regarding proposed grades for streets and drainage facilities to help ensure that the drainage systems are installed correctly, and to require construction

	<p>details on all parts of the stormwater system, including pipe bedding and backfill (to assist in future HOA system repairs).</p> <ul style="list-style-type: none"> - Stormwater: Add new item (k) to state “when any part of the land proposed for subdivision lies in a mapped dam break inundation zone, such fact shall be set forth on the plat of the proposed subdivision.” This is in accordance with state dam break inundation zone legislation (House Bill 837). - Add an item regarding submittal of a Phase I Environmental Site Assessment (as permitted by state code) if applicable (i.e. development of a brown or greyfield site, or where initial assessment indicates dumping or other contaminating activities have occurred on the property). - VDOT: require inclusion of the street connectivity index calculation, and the Chapter 527 certification (stating whether or not a Traffic Impact Assessment was required) on the cover sheet so that compliance with VDOT regulations can be verified. - In general, coordinate this section with the enhanced conceptual plan submittal requirements.
19-28 Preliminary plan – townhouse and condominium subdivisions	<ul style="list-style-type: none"> - In general, coordinate this section with Section 19-27, the enhanced conceptual plan submittal requirements, and site plan submittal requirements.
19-29 Final plan – submittal requirements	<ul style="list-style-type: none"> - Revisions to the onsite sewage treatment note as suggested by the Department of Health. - Coordinate with Sections 19-34 thru 36 to require that the surveyor to certify that the monuments and survey markets shown on the plat will be correctly located and installed (as is done in York County). - Add notes regarding monuments and underground utilities. - Revise scale reference to reflect current practice.
19-30 Procedure for approval of final plans	N/A
19-31 Term of validity for the final plan	N/A

Article III: Requirements for Design and Minimum Improvements	
19-32 Land Must Be Suitable	<ul style="list-style-type: none"> - Update reference to the transportation department (to “Virginia Department of Transportation”) here and throughout the document. - In terms of the language on the accessible building site, coordinate this section with 19-39 and 19-40.
19-33 Location of Utilities	<ul style="list-style-type: none"> - JCSA: update “service authority” reference (to James City Service Authority) here and throughout the document. - Expand list of example utilities to include newer communication technologies

	<p>(voice/data/video) in addition to the currently stated “telephone”.</p> <ul style="list-style-type: none"> - Coordinate language with any changes to Appendix A (which is referenced in this section).
19-34 through 19-36 Locations and specifications for monuments, Lot corner monuments, Monuments – general requirements	<ul style="list-style-type: none"> - Allow for use of control monuments in the City of Williamsburg, New Kent County and Newport News (in addition to York County and Newport News Waterworks, which are currently cited). - Coordinate with a revision to Section 19-29 requiring the surveyor to certify that the monuments and survey markets shown on the plat will be correctly located and installed.
19-37 Easements	<ul style="list-style-type: none"> - Add language referencing the JCSA and Environmental Division easement standards
19-38 Lot Size	N/A
19-39 Lot arrangement, design and shape	<ul style="list-style-type: none"> - Add text and graphic to explain lot design standards (i.e. front yard, side and rear setbacks, minimum lot width, etc.) - With regard to the requirement for suitable access to the building site from an approved street, add language to coordinate this section with the shared driveway section, such as developing different standards for the ability to gain access through the lot’s own “flagpole”.
19-40 Lot Location	<ul style="list-style-type: none"> - With regard to the requirement that each lot shall abut and have access to a proposed or existing publicly dedicated street, add language to coordinate this section with the shared driveway section, such as developing different standards for the ability to gain access through the lot’s own “flagpole”.
19-41 Side Lot Lines	N/A
19-42 Lot remnants	N/A
19-43 Double frontage lots	N/A
19-44 Separate ownership of lots to be subdivided	N/A
19-45 Lot frontage	N/A
19-46 and 19-47 Block length, Block width	<ul style="list-style-type: none"> - VDOT: Revise property line stub street right-of-way width requirement to reference VDOT standards (rather than 50’ width as currently written).
19-48 Street alignment and layout	<ul style="list-style-type: none"> - VDOT: revise to reference VDOT standard for street intersection jogs (200’ rather than 150’ as currently written).
19-49 Street construction standards	N/A (Coordinate with Development Standards, as necessary.)
19-50 Street drainage	<ul style="list-style-type: none"> - Env: Update drainage specifications to reflect current Environmental and VDOT regulations. - Stormwater: Separate out the last sentence of subsection (c) so that the waiver/modification process can apply to all requirements of the section. This will allow more flexibility to incorporate LID and Better Site Design principles and practices when deemed appropriate. - VDOT: investigate changes to the slope percentage cited to better match the VDOT Drainage

	Manual.
19-51 Sidewalks	- Coordinate with the sidewalk discussion for Development Standards, new VDOT Secondary Street Acceptance Requirements
19-52 Cul-de-sac streets	- In response to applicant questions over the years, include language addressing how the maximum length of the cul-de-sac is measured.
19-53 Private streets	- Env: Include statement that private streets shall also meet County drainage standards. - Coordinate this section with Development Standards, as necessary.
19-54 Street and subdivision names	N/A
19-55 Street signs	- General Services/VDOT: State that the sign face shall meet all design requirements of the Virginia Department of Transportation to reflect current practice.
19-56 Public water	N/A
19-57 Water facilities	- JCSA: replace the term “central water system” with term “independent water system”.
19-58 Individual wells	N/A
19-59 Public sewer	N/A
19-60 Individual sewer (Discussed further in Memo)	- Include language suggested by the Virginia Department of Health, as discussed in the memo. - To more fully inform applicants, add reference to onsite sewage disposal regulations found in Chapter 23 Chesapeake Bay Preservation Ordinance.
19-61 Regulations governing utility service	N/A
19-62 Inspection of public water, sewer and stormwater system	- JCSA: eliminate reference to requiring the JCSA certificate to construct prior to final approval of the subdivision plat. - JCSA: change reference from “service authority regulations” to “JCSA Regulations Governing Utility Service” - Stormwater: Add more details in subsection (b) about the process for stormwater facilities (i.e. the need for a certificate to construct). Also, revise the language to reference the County rather than the stormwater division.
19-63 Fire protection	N/A
19-64 Streetlights	- Coordinate this section with the Outdoor Lighting discussion for Development Standards, and with the County’s Streetlight Policy.
19-65 Off-site sewer, water, and drainage costs	N/A
19-66 Off-site road improvements	N/A
19-67 Dedication and reservation of land for public purposes	N/A
19-68 Establishment of homeowners	N/A

association	
19-69 Entrance feature review	N/A
19-70 Stormwater management feature review	N/A
19-71 Shared driveway for minor subdivisions	<ul style="list-style-type: none"> - Coordinate this section with the sections on lot design – consider different standards for access through the “flagpole” of the lot depending on whether a shared driveway is required or not. - Clarify whether all lots in a minor subdivision are exempt from the shared driveway requirement if one of them is over 5 acres, or just the 5 acre lot. - Stormwater: To address issues that have arisen over the years, provide more detail about the requirement that the driveway be “three inches deep,” such as “a paved surface at least ten feet wide consisting of 2 inches of pavement over 4 to 6 inches of stone aggregate.” Also, state that a detail showing the driveway specifications be included on the subdivision plat. - Correct the reference to 19-32(c). - Env: To clarify the process for applicants, add language noting that an erosion and sediment control plan and land disturbing permit may be required for the shared driveway, as determined by the Environmental Director. - VDOT: revise the driveway width language to avoid conflicting with VDOT standards for entrances onto state maintained roadways.

Article III Performance Assurances	
19-72 Installation of improvements and bonding	<ul style="list-style-type: none"> - Env: Add language specifying the bonding process for condominium development, where lots are not being individually subdivided (i.e. in instances where a final plat may not be submitted for approval). Coordinate revisions with Section 24-8 (Certificate of Occupancy) and Section 24-17 (Enforcement and guarantees as to conditions) in the Zoning Ordinance. These sections discuss guarantee of items shown on a site plan, and guarantee of proffered or conditioned items, respectively. This should help clarify the process for applicants. - Env: Update language regarding final release of surety to clarify that “acceptance” of the facility may mean review and approval of as-builts and construction certifications rather than taking over operation and maintenance (i.e. to acknowledge that the JCSA process for water and sewer acceptance is different than the process for stormwater systems and stormwater management facilities).

Appendix A

Typical Utility Detail – Ditch Section

- Revise to make dimensions better match current VDOT standards, and to consider referencing Hampton Roads Planning District Commission standards.

POLICY COMMITTEE MEETING

January 24, 2011

6:00 p.m.

County Complex, Building A

1. Roll Call

Present

Mr. Jack Fraley, Chair
Mr. Tim O' Connor
Mr. Al Woods (via phone)

Absent

Mr. Reese Peck

Staff Present

Mr. Allen Murphy
Mr. Chris Johnson
Mr. Jason Purse
Ms. Christy Parrish
Mr. Brian Elmore

Mr. Jack Fraley called the meeting to order at 6:00 p.m.

2. New Business – Commercial Districts Ordinance Changes

Mr. Johnson stated staff would like Committee input on raising Development Review Committee (DRC) and commercial Special Use Permit (SUP) thresholds. He stated staff reviewed the commercial SUP triggers in section 24-11, including the building square footage and peak-hour traffic trip counts thresholds against other similar localities. Staff recommends increasing the square footage threshold from 10,000 square-feet to 20,000 square-feet. Although the development community has questioned the restrictiveness of the existing thresholds, staff noted that they have only been triggered 25 times in the past 8 years. Staff did acknowledge that the perceived cost and time of SUP review could have been a factor driving other applicants to pursue development in other localities.

Mr. Fraley stated he had concerns with the phrase 'infill' development as used in the Sustainability Audit's recommendations. He stated there would be more of these types of developments, such as Autumn West, in the future.

Mr. Johnson stated that it was not staff's intention to exclude infill developments from the DRC review criteria. He stated staff was not trying to expedite any residential infill development that may cause significant impacts on nearby properties. However, staff does see residential and commercial infill as two separate issues.

Mr. Purse stated staff is exploring options to better promote redevelopment and infill in the ordinance. He stated that staff continues to view the DRC as the appropriate body to provide a check for projects without an approved master plan.

Mr. Johnson stated that the DRC's role as an appeal board for adjacent property owners would remain unchanged. He stated the DRC's role over the past 18 months has shifted from an oversight body to a strategic body through early meetings with applicants. Raising thresholds would see shifts in the types of cases coming before the DRC, including an increase in conceptual plan review where applicants ask for project feedback in advance of submitting formal applications for legislative review. Early review from the DRC can reduce the need for additional expensive reengineering and streamline the development process.

Mr. Fraley stated he was concerned applicants would no longer feel like they needed to hear early input if higher thresholds eliminated the requirement for them to appear before the DRC.

Mr. Allen Murphy stated changing thresholds may change the number of applicants for early conceptual review and the Policy Committee should keep that in mind when discussing these changes.

Mr. Johnson stated a major incentive for enhanced conceptual plans is the granting of preliminary approval after the meetings. He stated if triggers were increased, the incentives for DRC review should remain.

Mr. Fraley asked about the staff's performance standard recommendations.

Mr. Johnson stated that where there is a track record of similar SUP uses and impacts, the ordinance could allow additional flexibility, such as reduced parking requirements for businesses with drive-thrus. He stated some uses may be able to avoid the legislative process with additional standards.

Mr. Fraley stated that applicants have adapted to the specific tastes of Planning Commissioners. He stated applicants want clear guidelines.

Mr. Woods stated he had concerns with developing performance standards that would apply to one type of development or area, but not another.

Mr. Johnson stated that the county has not yet differentiated the nuances between residential and commercial performance standards.

Mr. Fraley stated the DRC should move to a more strategic role, concentrating on enhanced conceptual plans and appeals. He stated the DRC should not review large subdivisions, although this change would create a greater responsibility to review master plans. The DRC should also not review large commercial buildings in office or industrial parks. A nuanced approach should be used on residential infill projects, including different standards for townhome and commercial developments.

Mr. Woods stated he was concerned master plans approved today may not be good for the community in twenty years.

Mr. Fraley stated the DRC should also review master plan consistency.

Mr. Johnson stated there were legal and financial considerations for vested master plans.

Mr. Murphy stated if there was no agreement on raising commercial thresholds, then the Commission could compromise and only raise industrial thresholds.

Mr. Fraley stated he supported staff's recommendations on the shifting DRC role, with consideration of infill developments and commercial/industrial sliding scales.

Mr. Fraley stated he did not have any issues with increasing the commercial SUP trigger to 20,000 square feet.

Mr. Johnson stated the research into other localities' commercial SUP square footage triggers focused on communities across the country with similar profiles to James City. Based on other localities' triggers, there appeared to be room to raise the square footage requirement in JCC.

Mr. Fraley stated he wanted to know how competing localities, especially York County, handle their commercial SUPs.

Mr. Mark Rinaldi, a member of Bush Construction, stated the county should determine what types of businesses it wants to attract. He stated the county could make it easier for certain businesses to succeed in certain geographic areas.

Mr. Fraley asked about the traffic SUP threshold.

Mr. Purse stated that increased traffic is often the largest impact of a commercial project. He stated the Virginia Department of Transportation's 527 regulations use the same 100 peak hour trips standard. The county also agrees that the 100 peak hour trips is a clear impact on the community, and less subjective than building size, as it is a quantifiable impact on the infrastructure.

Mr. Fraley stated 100 peak hour trips can have varying impact depending on its location. He asked staff to nuance the 100 trip threshold.

Mr. Woods asked if staff had the ability to differentiate between different types of trip generators, such as school, drug stores, and restaurants.

Mr. Johnson stated there are exemptions for office building and industrial trips generation. He stated staff can review additional exceptions.

Mr. Fraley stated he would like to discuss the thresholds with the Board at the upcoming work session before staff makes major revisions.

3. Public Comment

Mr. Fraley opened the public comment period.

Mr. Dick Schreiber, representing the Greater Williamsburg Chamber and Tourism Alliance, stated his business owner survey reported that quality of life was the greatest advantage for operating a business in Williamsburg. He stated growth is necessary, but should be targeted in areas and amounts the County wants. The process should be more predictable, and unnecessary obstacles and fees should be removed.

Mr. Bob Spencer stated proposals should be as specific as possible, cumulative impacts of traffic generation should be considered, and there should be greater control of by-right development.

Mr. Jack Haldeman stated that the Business Climate Task Force report states that attracting businesses should be subordinate to maintaining the community character, expediting commercial projects should be balanced against the quality of jobs created and that new development would make it more difficult to address new Chesapeake Bay pollution restrictions.

Mr. Fraley stated the County's red tape should be reduced. He stated the County should define what it wants and that the quality of applications was improving.

Mr. Rinaldi stated the County should encourage redevelopment in blighted areas and empty shopping centers.

Mr. Fraley stated the Economic Opportunity (EO) zone, combined with state-supported expanded enterprise zones, could bring additional economic development. He stated the County needs to diversify its tax and economic bases.

4. Adjournment

Mr. Woods moved to adjourn.

The meeting was adjourned at 7:30 p.m.

Jack Fraley, Chair of the Policy Committee

POLICY COMMITTEE MEETING

January 31, 2011

6:00 p.m.

County Complex, Building A

1. Roll Call

Present

Mr. Jack Fraley, Chair

Mr. Tim O'Connor

Mr. Al Woods

Mr. Reese Peck

Staff Present

Mr. Allen Murphy

Ms. Tammy Rosario

Ms. Leanne Reidenbach

Ms. Christy Parrish

Ms. Kate Sipes

Ms. Jennifer VanDyke

Mr. Jack Fraley called the meeting to order at 6:00 p.m.

2. Minutes – December 13, 2010

Mr. Woods moved to approve the minutes with amendments.

The minutes were approved (4-0).

3. Old Business

There was no old business to discuss.

4. New Business – Cumulative Impacts of Development zoning ordinance updates

Ms. Kate Sipes discussed the level of information that is currently used to gauge cumulative impacts. Different departments collect different pieces of data that is then used to project cumulative impacts. Each department uses a different software program making the process of compiling information a challenge. The information frequently requested is not easily withdrawn. Recognizing the complexity of this issue, this endeavor became an implementation item during the Comprehensive Plan update. Staff has since been evaluating options to find the most efficient way of capturing pertinent information to develop a more comprehensive understanding of cumulative impacts.

Ms. Christy Parrish discussed the process that the Planning division and the Real Estate division undergo during the creation of new lots. Applications are originally submitted with Planning, Real Estate creates new parcels, and eventually Codes Compliance will supply a building permit and a Certificate of Occupancy (CO) for those parcels being improved. Each division collects and tracks its own data using a different software. Planning uses CaseTrak, Real Estate uses Proval and Codes Compliance uses HMS.

Ms. Parrish stated while looking at different options available to staff, the one program that supplied the greatest amount of useful information was Geographic Information System (GIS). Staff

then looked at the information available for the purpose of accumulating data that could be used to better understand cumulative impacts. Examples of the information collected for the Jamestown District were provided. Staff created a body of information that represented an inventory of existing improved and vacant parcels. Information taken from GIS was then used to create pivot tables. Ms. Parrish reviewed the type of information that is made available using this method.

Mr. Fraley asked how much time is exhausted from when a subdivision is approved to when Real Estate creates a new lot.

Ms. Parrish stated once Planning has approved the subdivision, the developer can then record the plat. The land itself is assessed July 1 of the calendar year. There is a lag time. Supplemental bills are created for tax purposes if someone is building a house.

Mr. Reese Peck asked how often the database would be updated.

Ms. Parrish stated that eventually updating information should be relatively easy. Information will be collected using GIS, and GIS is kept current.

Mr. Woods asked if there are other localities using a software system that would make the process easier.

Ms. Parrish stated that staff had sent out a Request For Information (RFI) to find out. There were three responses. Staff sub sequentially interviewed one company that arrived at comparable information. This will be discussed later on.

Mr. Fraley asked if this information would then be used to populate a separate layer in GIS.

Ms. Parrish stated yes. The information is then re-uploaded onto GIS making it easy to access and manipulate.

Mr. Fraley stated he would be interested in receiving training on GIS and possibly there are other Planning Commissioners with the same interest.

Ms. Sipes stated this information serves the purpose of creating a comprehensive look at inventory. This can then be applied to better understand impacts on schools and water and sewer. Traffic impacts were thought to be the third and most critical application of the data, though traffic has the greatest number of variables making it the most complicated.

Mr. Woods asked what the school system uses to forecast their needs.

Ms. Parrish stated she is unfamiliar with their methods.

Mr. David Jarman, 117 Landsdown, stated that once a year they update their projections going out ten years. They use two components. One component is Survival Cohort Methodology. This takes the current student population and graduates each student to the next grade level for each year. Secondly, they attempt to project what the new household formations will be. New housing equates to more students. They use a formula for these projections. Finally, the data is used to

shift resources as needed. This function is not performed by the school system; it is done by an outside consultant. The consultant also maintains the database.

Mr. Woods stated that the information supplied would include impacts of new development.

Mr. Jarman stated they have their own methodology of projecting student populations.

Ms. Sipes stated that the Planning Division is contacted annually by Alan Robertson of Williamsburg-James City County Public Schools. This information is forwarded to the Planning Division from the consultant. They will also request information from the Planning Division regarding residential developments that have been approved. They attempt to track residential units that are still in the pipeline and not yet developed for forecasting purposes.

Mr. Jarman stated that their methodology is defined and provided with the database.

Mr. Woods stated efforts should not be duplicated.

Ms. Parrish stated that the school system could benefit from these efforts. Planning staff has been notified that this new collection of data could also be used by Fire and Police. This will not be duplicating the same data collection.

Ms. Leanne Reidenbach stated that this is part of the Board of Supervisors (BOS) adopted Adequate Public Facilities for Schools policy. The number of new housing units is applied to a formula to arrive at projected school-age children. Depending upon the housing unit type, apartment, townhouse, or single family dwelling, a different derivative is used.

Mr. Jarman stated that the weakness of the school division's methodology is projecting new household formations.

Ms. Reidenbach stated that staff is looking to the Policy Committee to direct development of this model. Ms. Reidenbach asked what kind of questions they want the cumulative impact model to answer.

Mr. Woods asked how the BOS prioritized this effort.

Mr. Fraley stated this is a high priority item, though expectations must be tempered by the amount money and time allocated to it. The BOS had discussed accumulating focused data, a set of data that could fit on "the back of an envelope".

Ms. Reidenbach stated staff wants to hear what sort of expectations the Policy Committee has for the cumulative impact data.

Mr. Peck stated so much of this data is relative to the spatial dimension of the development and the surrounding areas. Schools may be over-extended in one area and have abundant resources in another. When considering cumulative impacts one should consider the incremental cost that will be required to expand necessary facilities.

Mr. Woods stated it is important to ask what you want your community to look like, and what are the demands and issues associated with that vision.

Mr. Fraley stated one should ask what is the population going to look like. Developing a public facilities master plan would also forecast community needs driven by the cumulative impacts of new development. Mr. Fraley stated one should also consider what tax revenue base will be required to support these facilities.

Mr. Woods asked what has been the contributing discussion that led to this point.

Ms. Reidenbach stated that it stemmed from legislative and rezoning applications for new developments. These proposals include cumulative impact statements that speak to traffic, schools, water and sewer infrastructure needs. That analysis is based solely on what is on the ground.

Mr. Fraley stated that about five years ago he had written a paper on the need to revise methods for traffic studies. Traffic studies were eventually expanded to include corridor studies that assessed the cumulative impacts of those developments in the pipeline along with build-out potential based upon the parcel's zoning. Further discussions on cumulative impacts also occurred during the last Comprehensive Plan update. At that time Mr. Peck was vocal about the need for a public facilities master plan. Since then there had been the efforts of the James City County Concerned Citizens (J4C's) that centered on cumulative impacts.

Mr. Peck stated the need for cumulative impact studies naturally becomes a necessity for any growing community. James City County (JCC) citizens must also remain cognizant of the environmental concerns related to the close proximity of the Chesapeake Bay.

Ms. Rosario stated that there is data lost as staff conducts various analyses and modeling efforts that use development numbers, such as development potential analyses and traffic forecasting. This effort will eliminate the loss of such data. However, the question of where and when the pipeline development will occur, will remain unknown complicating the answers in public facility planning

Ms. Sipes spoke on the RFI. Staff was pleased to have three responses related to the RFI. Each of the three had a different approach. None of responses were creating the exact level of information staff had been tasked with. The one company that staff interviewed had achieved something that looked similar. The company completed a project for the State Department of Transportation in Delaware. The study only included traffic impacts. Ms. Sipes discussed the model created.

Ms. Rosario stated even before the RFI, staff had asked the Planner's Advisory Service to find other localities that may have done something similar. No other locality employs any method that compiles cumulative impact data in this way. There were examples of other localities that were tracking or creating an analysis of impacts, but not together.

Mr. Fraley stated that the ground-breaking nature of this effort is significant; the BOS should take this into consideration. During the Comprehensive Plan there was a traffic model used to identify choke points/potential problem areas.

Ms. Sipes stated that the first step in understanding cumulative impacts requires tracking development through the process. The tracked progression would start with the rezoning proposal, next the subdivision being recorded at the courthouse, next Real Estate getting it on the tax rolls, until finally the building permit or Certificate of Occupancy is issued. The goal is to develop a method of tracking developments through the system.

Ms. Reidenbach stated that staff will initially focus on residential developments. Residential development is easier to track and has the greatest impacts on the community.

Ms. Sipes stated that creating a better inventory and tracking system for residential development is something staff can accomplish. The next step, using the data to generate projected impacts is much more complicated. Staff needs to develop a method (with or without a consultant) of collecting data to extrapolate very specific impact projections. Even if money were unlimited, it is impossible to forecast unlimited conditions.

Mr. Tim O'Connor asked about the timing of development.

Ms. Reidenbach stated that this does not include a time horizon. It would only track the progress of the development through the system.

Mr. Fraley stated that even once a development is in the pipeline there will be "what if's".

Ms. Sipes stated that as a part of the semi-annual or annual reporting mechanism the progress of those developments can be monitored. Ms. Sipes stated staff is looking to find what type of information could be of assistance during the Planning Commission's review of legislative cases.

Ms. Reidenbach stated that staff is looking to hear what their priorities are regarding impacts.

Mr. Fraley stated he is uncertain of how this information relates to achieving the goal of a vision. Mr. Fraley stated in looking at question two, he sees certain items that may be easy to arrive at such as Police and Libraries, and others that would be very challenging.

Mr. Peck stated that there may be certain conditions that need to be more closely followed in a given area of interest.

Ms. Reidenbach stated that to construct the model staff needs to focus on a finite number of impacts. Once the database has been constructed and has been collecting data for a period of time there may be more information gleaned from the output. Getting to this stage will take time.

Mr. Peck stated, with that in mind it may be ideal to focus on traffic. Many other impacts would follow the same trend as traffic.

Mr. Fraley stated that traffic studies are already a required element with any development that expects to generate 100 or more weekday peak hour trips to and from the site during the peak hour of operation. Schools are very important and represent more than 50% of the budget. The environment is another impact of great importance.

Mr. Peck stated that schools are very important. Staff should look into what the school system uses to create their forecasts.

Mr. Jarman offered his own prioritized list for impacts: 1) schools, 2) water and sewer, 3) environmental impacts, and 4) transportation.

Mr. Fraley stated he sees transportation as a very detrimental impact for two reasons: quality of life and economic development of the community. The ability to recruit new businesses to JCC depends on the transportation system. The impacts on water and sewer are being considered independently by the Service Authority and the BOS.

Mr. Jarman stated that the methods employed by the Service Authority to measure impacts are lacking. They use historic data to calculate needs into the future; the method leaves a lot of room for error.

Mr. Peck stated that this is an important point especially if one is considering the challenges of sustainable development. The groundwater permitting system is flawed. The water plan has not been updated since 1997. The stormwater system is also past due.

Mr. Chuck Buell of 112 Killington stated that while constructing the model it is important to understand all the variables involved by developing "what if" questions. He does not see the model being capable of foreseeing all negative outcomes.

Ms. Rosario stated that this was greatly considered during the Comprehensive Plan update. There were several critical questions asked based upon potential growth patterns. Three different build-out scenarios were developed to better understand impacts. Based on zoning designation and/or Comprehensive Land Use designation staff had developed projections for several undeveloped parcels.

Mr. Buell stated that thresholds need to be developed.

Mr. Fraley stated that this brings to mind the consequences of having inconsistencies between the zoning and the Comprehensive Land Use designation. Mr. Fraley stated that staff should work with Larry Foster to find out more about the water and sewer impacts.

Ms. Sipes stated that staff has been working with Mr. Foster, and they will continue to do so.

Mr. Jarman stated that while working with the J4C's, Mr. Foster discussed his efforts in looking at surface water alternatives.

Mr. Woods stated that he does not see water and sewer as the fourth item in the list of priorities; it needs to be higher. Transportation has to be at the top since economic viability is dependent upon it.

Ms. Reidenbach stated that staff is also looking to get feedback regarding the frequency of the data updates.

Mr. Fraley stated that it could be updated annually as a part of the annual Planning Commission Report.

Mr. Woods asked what frequency staff was proposing.

Ms. Reidenbach stated that Planning Commissioners may see an advantage in having the most up-to-date information available when considering rezoning proposals under legislative review. Though recognizing the amount of staff time that would be exhausted providing these updates, it may not be realistic.

Ms. Parrish stated that doing it on an annual basis means that updates can be provided directly after Real Estate posts their annual updates.

Ms. Reidenbach stated that staff is looking to hear the preferred format for presentation, i.e. spreadsheet or graphics.

Mr. Fraley suggested a combination of the two.

Ms. Reidenbach asked, based upon the elements highlighted in the Cumulative Impact Modeling memorandum dated January 31, 2011, are there other items that should be included for further consideration.

Mr. Woods stated he is concerned with setting realistic expectations. He is not certain that the goals set forth are attainable.

Mr. Allen Murphy stated that this has not been done previously; staff will be breaking new ground.

Mr. Woods stated it is important to realize what they are risking by exhausting staff's time and energy on this endeavor.

Mr. Murphy stated that this needs to be considered a long-term planning vision.

Mr. Woods stated that staff needs to hear fully what people are expecting with this. Mr. Woods asked how staff is going to facilitate this discussion with the BOS. There may be unintended consequences if people have unspoken expectations regarding the outcome of the model.

Ms. Reidenbach stated that the work thus far, creating the data for one district had several purposes. One being a measure of how much time is exhausted collecting and applying this data. Staff was pleased to see that the information can be loaded into GIS, this will save time in the long run. If an outside consultant were to be used the project would be very costly.

Ms. Parrish stated that even if the County were to use an outside consultant the steps that staff proposes here would be necessary. Going through this process is inevitable. Once staff has refined the process the other districts should be completed fairly quickly.

Mr. Peck stated that you cannot avoid the need for objective view points. There is no tool available that will foresee all possible impacts of development. This tool should provide the most

up-to-date information to give a foundation for further analysis. People need to remain cognizant that the information has limitations.

Mr. Buell asked what the schedule for this project is.

Mr. Fraley stated that this has been identified as a high-priority item. This will be reviewed by the BOS in February.

Mr. Jarman stated that the J4C's could assist staff by providing and discussing the data collection and analysis they under went to create their own cumulative impact studies. Of the stages outlined by staff the J4C's had looked at stages 1, 2, 6 and portions of 5. The first stage is the most important as well as the easiest.

Mr. Fraley stated that he would like staff to utilize the resources in the community.

Ms. Parrish stated that staff intends to create a database that will be fairly easy to update.

Mr. Jarman stated that their efforts included one other piece of data not seen here; they identified traffic corridors for each parcel.

Ms. Reidenbach stated that staff has considered labeling corridors, though it becomes complicated for some areas that feed into multiple corridors.

Mr. Fraley asked staff several questions related to the upcoming meeting schedule.

5. Adjournment

Mr. Peck moved to adjourn.

The meeting was adjourned at 7:40 p.m.

Jack Fraley, Chair of the Policy Committee