

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

**April 13, 2011 - 7:00 p.m.**

**A. Roll Call**

**B. Minutes**

**C. Old Business**

**D. New Business**

1. Economic Opportunity draft ordinance

(Construction Phasing Policy Guideline) (Policy Committee EO Ordinance April 13) (Policy Committee EO Draft Ordinance)

**E. Adjournment**

## MEMORANDUM

DATE: April 13, 2011  
TO: Policy Committee  
FROM: Jason Purse, Senior Planner  
SUBJECT: Draft Economic Opportunity Ordinance

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Staff presented a framework for the Economic Opportunity Ordinance to the Policy Committee in November 2010. As a reminder, topics discussed included construction phasing, tiered density, complementary design, transfer of development rights, balance of uses, and master plan submittal requirements.

Following that meeting, the Board of Supervisors held a work session to discuss a number of ordinance sections. The discussion of EO centered around the need to ensure that residential development was not more than 10% of the total EO area. Furthermore, the Board requested limiting the residential density in order to allow for a TDR program to be an effective incentive if it is adopted. The Board also discussed proposed height limits for buildings, as well as how to encourage business that would create tax revenue for the County, rather than just additional retail work. Staff also separated the construction phasing section from the ordinance and included that as a possible policy guideline. Since this topic is integral to the legislative review of the case, as referenced in the submittal documents section of the ordinance, and because flexibility may be needed on a case-by-case basis, staff believes that construction phasing would be more appropriately handled as a policy guideline.

Staff has constructed a draft ordinance for the newly created district which addresses the topics discussed at both the November Policy Committee meeting as well as the January BOS work session. Please keep in mind that this ordinance has been constructed to serve all future Economic Opportunity districts, rather than being specifically tailored to the Hill Pleasant Farm area. It is staff's intention to allow flexibility in the ordinance for a future vision/master plan to be developed in the future and subsequently accommodated by this ordinance, it is not staff's intention to draft ordinance language to only serve the development of one specific property.

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

**Chapter 24**  
**ARTICLE V. DISTRICTS**  
DIVISION 17. ECONOMIC OPPORTUNITY, EO

**Sec. 24-536. Statement of intent.**

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

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

**Sec. 24-536.1. Documents required for submission.**

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

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

Prior to any rezoning, the applicant must demonstrate that any planning effort has ensured that a project has phased development to be concurrent with, and provide for, adequate road infrastructure, water, sewer, transit, fire stations, police and general government services, parks and recreation facilities, schools, and other facilities and service needs generated by the development. The master plan for the area should also demonstrate appropriate variation in uses, densities/intensities, pattern, and design such that new development is compatible with the comprehensive plan.

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

(3) *Urban/Residential Core.* If any residential development is proposed, the master plan shall delineate an area as the urban/residential core of the Economic Opportunity area. The urban/residential core shall include all areas planned for residential development in the Economic Development area, as well as all

areas planned for commercial/retail uses to serve as support uses to the residential and employment centers of the Economic Opportunity area. The urban/residential core shall not exceed fifteen (15) percent of the total developable Economic Opportunity area. If bus rapid transit or commuter/light rail stations are proposed, the urban/residential core must be within one-quarter (1/4) mile of those stops. Development outside the urban/residential core shall be the primary workplace uses, including office, research, and light industrial.

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

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

(6) *Viewshed Protection.* Care shall be taken to minimize disruptions to adjacent neighborhood views of open spaces or natural features through the sensitive location and design of structures and associated improvements. Visual impacts can be reduced and better view protection provided through careful building placement and consideration of building heights, building bulk, and separations between buildings.

(7) *Natural features and amenities.* Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be preserved to the maximum extent possible.

**Sec. 24-536.3. Minimum area of districts.**

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

**Sec. 24-536.4. Permitted uses.**

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

Use Category	Use List	Permitted Uses	Special Permit Uses
Residential Uses	Accessory structures, as defined in section 24-2	P	
	Apartments	P	
	Multiple-family dwellings	P	
	Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled or other developmentally disabled persons for more than five persons	P	
	Group quarters for agricultural workers	P	
	Home care facility	P	

	Rest homes	P	
	Single-family dwellings	P	
	Nursing homes	P	
	Townhouses	P	
	Two-family dwellings	P	
Commercial Uses	Accessory structures, as defined in section 24-2	P	
	Adult day care centers	P	
	Antique shops	P	
	Arts and crafts shops	P	
	Automobile rental	P	
	Automobile repair and service including tire, transmission, glass, body and fender, and other automotive product sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing	P	
	Automobile service stations; if fuel is sold, then in accordance with section 24-38	P	
	Banks and other similar financial institutions	P	
	Barber and beauty shops	P	
	Business, professional and governmental offices	P	
	Campgrounds		SUP
	Child day care centers	P	
	Clubs, public or private, civic or service clubs, county clubs, lodges and fraternal organizations	P	
	Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities	P	
	Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property	P	
	Convenience stores; if fuel is sold, then in accordance with section 24-38	P	
	Corporate offices	P	
	Courier services	P	
	Data processing centers	P	
	Drug stores	P	
	Dry cleaners and laundries	P	
	Employment services or agencies	P	
	Farmer's markets	P	
	Fast food restaurants		SUP
	Feed, seed and farm supply stores	P	
	Fire stations	P	
	Fish farming	P	
	Flea markets		SUP
	Funeral homes, cemeteries and memorial gardens	P	

Gift stores	P	
Greenhouses and nurseries	P	
Golf courses		SUP
Handicraft stores	P	
Health clubs, exercise clubs and fitness centers	P	
Home occupations as defined	P	
Hotels, motels, tourist homes and convention centers	P	
Indoor sport facilities	P	
Indoor theaters	P	
Janitorial service establishments	P	
Limousine service	P	
Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38		SUP
Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packaging or distribution under cover or screened with landscaping and fencing from adjacent property		SUP
Off-street parking as required by section 24-53	P	
Office supply stores, secretarial and duplicating services	P	
Parking lots and garages	P	
Photographer, picture, artist and sculptor stores and studios	P	
Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	
Printing and publication establishments	P	
Property maintenance facilities, sheds or garages	P	
Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement	P	
Rental of rooms to a maximum of three rooms	P	
Restaurants, tea rooms and taverns	P	
Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plan supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau,	P	

	upholstery, wearing apparel, and yard goods		
	Retail food stores, bakeries and fish markets	P	
	Security service offices	P	
	Shooting ranges, indoor		SUP
	Taxi service	P	
	Theme parks		SUP
	Truck stop; if fuel is sold, then in accordance with section 24-38		SUP
	Truck terminals; if fuel is sold, then in accordance with section 24-38		SUP
	Vehicle and trailer sales and service (with major repair limited to a fully enclosed building)		SUP
	Veterinary hospitals	P	
	Water well drilling establishments		SUP
Civic	Houses of worship and cemeteries accessory hereto	P	
	Libraries	P	
	Museums	P	
	Nonemergency medical transport	P	
	Post offices	P	
	Public meeting halls	P	
	Publicly owned solid waste container sites		SUP
	Schools	P	
	Water impoundments, new or expansion of	P	
Utility	Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more		SUP
	Radio stations, television stations, transmission relay stations and communication towers		SUP
	Telephone exchanges and telephone switching stations	P	
	Tower mounted wireless communication facilities in accordance with division 6, Wireless Communication Facilities		SUP
	Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit		SUP
	Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or area camouflaged, and comply with division 6, Wireless Communications Facilities	P	

	<p>Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:</p> <p>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</p> <p>(a) Distribution lines and local facilities within a development, including pump stations</p>		SUP
Open	Timbering	P	
	Wineries		SUP
Industrial Uses	Food processing and storage, but not the slaughter of animals	P	
	Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property	P	
	Heliports, helistops and accessory uses		SUP
	Hospital	P	
	Industrial and technical training schools	P	
	Laser technology production	P	
	Machinery sales and service with major repair under cover	P	
	Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps	P	
	Manufacture and bottling of soft drinks and wine	P	
	Manufacture and processing of textiles and textile products in structures not more than 2,000 square feet	P	
	Manufacture and processing of textiles and textile products in structures more than 2,000 square feet		SUP
	Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, and yarn in structures of not more than 10,000 square feet	P	
Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair, and yarn in structures of 10,000		SUP	



square feet and greater		
Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products	P	
Manufacture of carpets and carpet yarns in structures of not more than 2,000 square feet	P	
Manufactured home or mobile home sales		SUP
Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity	P	
Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment	P	
Manufacture or assembly of electronic instruments, electronic devices or electronic components	P	
Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments	P	
Petroleum storage		SUP
Private streets within “qualifying industrial parks” in accordance with section 24-55	P	
Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect	P	
Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit		SUP
Research, development and design facilities or laboratories	P	
Resource recovery facilities		SUP
Solid waste transfer stations		SUP
Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property	P	
Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property	P	

**Sec. 24-536.6. Density.**

(a) *Balance of land uses.* Not more than fifteen (15) percent of the developable land area within an Economic Opportunity area, as delineated on the master plan, shall be dedicated to non-primary workplace uses. The remaining 85% of the developable land area shall be dedicated to primary uses. Non-primary workplace uses include hotels, retail, convenience and service uses, restaurants, child care,

residential development or other uses intended to support and compliment primary workplace uses. For the purposes of this requirement primary workplace uses shall include but shall not be limited to office, research, or light industrial.

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

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

<i>Dwelling Type</i>	<i>Maximum Density*</i>
Single-Family structures	4
Multi-Family structures	7
Apartments	10

\*It should be noted that the EO District is being evaluated as a possible receiving area for a Transfer of Development Rights program. Should a TDR program be enacted, the densities in this district would be increased. Any increase would be reflected in a separate TDR ordinance, and not in this EO chart. (This language will not be included in the final ordinance).

(1) For the purposes of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area of the parcel as calculated below:

<i>Gross Acreage</i>	
<i>Percentage of Nondevelopable Area</i>	<i>Gross Acreage Shall Equal</i>
Less than 35%	Total Area of Parcel
More than 35%	Developable Land Plus Up To 35% of the Parcel's Land

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

**Sec. 24-536.7. Requirements for improvements and design.**

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

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

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

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

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

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

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

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

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

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

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

**Sec. 24-536.8. Open space.** \* (This section may require updating at a later date due to ordinance update discussions for other topics)

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

with slopes exceeding 25 percent gradient shall not be counted towards meeting the open space requirement.

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

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

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

#### **Sec. 24-536.9. Height of structures.**

- (a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.
- (b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6,

Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

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

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

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

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

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

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

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

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

#### **Sec. 24-536.10. Setback requirements.**

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

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

(c) *Setback modifications; criteria for determination.* Reduction of the width of the setbacks specified in subsections (a) and (b) above may be approved for an Economic Opportunity zoning district upon demonstration that the proposed setback, by substitution of technique or design, will achieve results

which clearly satisfy the overall purposes and intent of the setback requirement of this section and the intent of section 24-86 (Landscaping and Tree Preservation Requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, a request for a setback modification must meet one or more of the following criteria:

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

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

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

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

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

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

#### **Sec. 24-536.11. Street improvements.**

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

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

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

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

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

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

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

## **JAMES CITY COUNTY CONSTRUCTION PHASING GUIDELINES**

Construction within the Economic Opportunity development shall be sequenced in accordance with a project build-out schedule submitted for review as a part of the initial application, and approved by the board of supervisors. As a guideline, project proposals that adhere to the following sequencing requirements will be considered consistent with the objectives of the phasing plan:

- (1) 20% of the primary workplace square footage must be constructed as proposed on the master plan prior to commencing any residential construction; and
- (2) Construction of the first 50% of the residential units shall be sequenced in conjunction with construction of at least 50% of the primary workplace square footage; and
- (3) Prior to issuance of Building Permits for construction of the final 10% of the residential units at least 90% of the primary workplace square footage shall have been issued a certificate of occupancy.