

# **Policy Committee Government Center Complex Conference Room, Building D**

April 14, 2014 - 3 p.m.

## **1. Roll Call**

## **2. Minutes**

a. March 13, 2014

## **3. Old Business**

a. Case No. ZO-0007-2013. Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County (Chicken Memorandum Policy III) (Chickens Keeping Draft III)

b. Case No. ZO-0008-2013. Accessory Apartments (Accessory Apartments) (Draft Ordinance Accessory Apartments) (Policy Staff Report April 4, 2104)

## **4. New Business**

## **5. Adjournment**

## **POLICY COMMITTEE MEETING**

March 13, 2014

3:00 p.m.

County Government Center, Building D

### **1.) Roll Call**

#### **Present**

Mr. Tim O'Connor  
Mr. Rich Krapf  
Ms. Robin Bledsoe  
Mr. John Wright

#### **Staff Present**

Mr. Paul Holt  
Ms. Ellen Cook  
Mr. Jason Purse  
Ms. Leanne Pollock  
Ms. Kate Sipes  
Mr. Scott Whyte  
Ms. Jennifer VanDyke  
Mr. John Rogerson  
Ms. Beth Klapper

Mr. Tim O'Connor called the meeting to order at 3:00 p.m.

### **2.) Minutes**

a. February 13, 2014

Mr. Rich Krapf moved to approve the minutes.

In a unanimous voice vote the minutes were approved as submitted (4-0).

### **3.) New Business**

#### **a. Agricultural and Forestry Industries (AFID) Grant Update**

Ms. Leanne Pollock, Senior Planner II, stated that the County applied for and received a \$20,000 state grant for rural economic development planning. She stated that they have been working in partnership with the Office of Economic Development and the Rural Economic Development Committee.

Ms. Pollock stated that the state grant supports the Economic Development and Land Use Goals, Strategies, and Actions that are in the Comprehensive Plan. Ms. Pollock stated that the purpose of the project is how to support the viability of agriculture and timbering industries; how to encourage business growth; diversification of the tax base through rural economic development; and how to foster new business enterprises that are compatible with or support rural lands goals in the comprehensive plan.

Ms. Pollock further stated that they have been working with a consultant to complete the process and have held stakeholder interviews which included rural land holders, Agricultural and Forestal District and Purchase of Development Rights participants, participants in previous rural lands discussions, local chefs, existing rural businesses, and leaders in the health, institutional and school industries, among many others. Ms. Pollock further stated that they completed a

fiscal assessment of rural activity which is intended to complement the stakeholder interviews in developing a list of actions and projects that promote rural economic development goals.

Ms. Pollock stated that a draft list of actions and projects has been developed ranging from marketing, rural recreation and agri-tourism to infrastructure projects such as food hubs and community gardens. Ms. Pollock stated the Rural Economic Development Committee is in the process of evaluating the projects to narrow the focus and more fully develop the scope of the projects. Ms. Pollock stated that the next steps would entail hosting a workshop and gathering public comment with a goal of having the information ready for inclusion in the Comprehensive Plan.

Ms. Robin Bledsoe inquired how staff would determine which projects were feasible and/or of interest to the community.

Ms. Pollock stated that many of the projects were developed from public input gathered during the stakeholder interviews. Ms. Pollock further stated that ultimately the consultants would flesh out the projects, determine the feasibility and develop a timeframe for implementation.

Ms. Bledsoe inquired whether the County would be implementing the projects or whether the idea was to develop a tool kit so that other entities could implement some of the projects.

Ms. Pollock stated that it would depend on the nature of the project. Some projects would be geared toward a private investment; however, staff would be available to support the effort in the community.

Mr. John Wright inquired whether the criteria for evaluating the projects included a measure to determine how successful a project would be.

Ms. Pollock responded that the Rural Economic Development Committee would provide feedback on the potential success of a project; however, the initial evaluation criteria were geared more toward timeframe, cost and resources required.

Ms. Kate Sipes, Business Development and Retention Coordinator, stated that criteria for the second round of evaluations would be refined and weighted.

Ms. Pollock noted that one of the criteria is how well a project furthered the goals for rural economic development and the benefit to rural property owners.

Mr. Tim O'Connor inquired whether the feedback from rural property owners indicated that they wanted to continue to farm their land.

Ms. Sipes stated that the responses had varied greatly. Ms. Sipes further stated that one of the study goals was to ensure that continuation of productive farming and timbering would be made practically possible by developing options that have a reasonable chance of success.

Mr. O'Connor inquired what the response was from local chefs and restaurants.

Ms. Sipes responded that there is a large demand for locally sourced products. Ms. Sipes noted that the response included not only restaurants but also institutions such as the schools, continuing care facilities and the jail.

Mr. Krapf noted that he was impressed with the consultant's efforts and believed they brought a valuable perspective to the project.

**b. Longhill Road Corridor Study - Update**

Mr. Carroll Collins, Kimley Horn and Associates provided a presentation on the status of the Longhill Road Corridor Study. The presentation covered feedback from the Project Advisory Committee, the Technical Advisory Committee and public meetings. The presentation also covered recommendations for typical road sections and access management at the various intersections.

Mr. Krapf inquired if it was possible to determine at this stage what percentage of privately owned property would be impacted by roadbed changes.

Mr. Collins responded that this not been part of the considerations to date.

Mr. Krapf inquired if that would be done prior to the final report.

Mr. Collins stated that it could be touched on briefly for the final report but that the effect on properties would not be fully determined until the project was in the design phase.

Mr. Krapf noted that his question related not only to impact on the properties but also to what the effect of acquiring property would be on the project cost.

Ms. Bledsoe inquired if the process would be to purchase the property.

Mr. Collins responded that in most cases it would only require purchasing the portion of the property required for the project.

Mr. Wright inquired about the costs associated with relocation of utilities.

Mr. Collins responded that an estimate of utilities costs would be included in the final report.

Mr. O'Connor inquired what the recommendation is for the intersection at the Warhill Sports Complex.

Mr. Collins stated that the recommendation is a signalized intersection; however, it will require a further study to determine if the warrants are met.

Mr. O'Connor inquired if the speed limit would remain at 45 mph.

Mr. Collins confirmed.

Mr. O'Connor inquired about the plans for the segment of the road between Rt. 199 and Williamsburg West/Lane Place.

Mr. Collins stated that the intention would be two lanes with an exclusive right turn lane at Lane Place.

Mr. O'Connor inquired about the effect of the wetlands between Longhill Grove and Fords Colony on the project; whether there would be sufficient space to construct the typical three lane section.

Mr. Collins stated that one of the benefits of the realignment option is that it would shift the road away from the wetlands as well as away from the pond and the cemetery.

Mr. O'Connor thanked Mr. Collins for his presentation and stated that he was pleased with the way the improvement options are shaping up.

#### **4.) Old Business**

##### **a. Case No. ZO-0007-2013, Zoning Ordinance Amendment to Consider the Keeping of Chickens in Residentially Zoned Areas of the County**

Mr. Scott Whyte, Senior Landscape Planner, II stated that at its February meeting, the Policy Committee instructed staff to prepare draft ordinance options for consideration. Mr. Whyte stated that both draft ordinances would restrict the use to domestic purposes, single family residences and permit only the keeping of hens. Mr. Whyte further stated that both draft ordinances also include regulations for coops and their location and construction and a permitting process. Mr. Whyte noted that where the draft ordinances differ is in the number of birds allowed based on lot size and one requires a permit processing fee where the other does not.

Mr. Krapf noted that the sample ordinance from Prince William County addressed the proximity of chicken coops to the RPA streams and non RPA streams and inquired whether that was a concern that should be considered.

Mr. Jason Purse, Zoning Administrator, stated that staff could bring the question to the attention of the Engineering and Resource Protection division for feedback.

Mr. Krapf noted that his concerns were related to chicken waste leaching into a stream.

Mr. Whyte stated that if the number of birds was restricted to a maximum of 12, the amount of waste produced would be less than the amount of fertilizer generally used on lawns.

Ms. Bledsoe requested clarification on whether section 3.1-796.116 of the Code of Virginia, Dogs killing, injuring or chasing livestock or poultry applied to backyard chickens.

Mr. Paul Holt, Planning Director, stated that there is no distinction in this section or its matching section in the County Code for the various zoning districts. Mr. Holt stated that in County Code there are, however, prohibitions on the discharge of firearms based on the specific neighborhood. Mr. Holt stated that further review would be required to determine on which regulation takes precedence.

Mr. O'Connor inquired whether the recommendation was for three or four square feet of space per bird.

Mr. Holt noted that this portion was to define the inside portion and not the outside run area.

Mr. Wright inquired whether the recommendation was for the birds to always be confined.

Mr. Holt responded that the birds were not limited to the coop only but could have an outside run area.

Mr. O'Connor noted the Prince William County ordinance included a prohibition on dispatching chickens on the property.

Mr. Krapf inquired what the purpose of such a prohibition might be.

Mr. O'Connor noted that the sight of a chicken being dispatched might be upsetting to neighbors.

Mr. O'Connor noted that the Prince William County ordinance also prohibited chicken coops near wellheads.

Mr. Holt stated that he could inquire what the Health Department regulations might be.

Mr. O'Connor inquired whether the Committee had a preference between the two ordinances.

Mr. Holt noted that the Committee would want to choose between the options for minimum lot size as well as the option for a permit fee.

Mr. O'Connor noted that the Committee would want to review the ordinance once more before forwarding a recommendation to the Planning Commission.

Mr. Krapf concurred, noting that there were still several outstanding questions and concerns.

The Committee concurred that they would choose item (b) from draft ordinance option #1. The Committee recommended including a setback restriction that addresses flag lots and corner lots. The Committee also concurred that a permit processing fee should be included.

Mr. Holt stated that staff would bring back a revised ordinance for review at the Committee's April meeting along with answers to the several questions noted.

## **5.) Adjournment**

The meeting was adjourned at 3:55 p.m.

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Tim O'Connor, Chair of the Policy Committee

Questions	No. Respondent	Yes	No	Agree	Disagree	Don't Know	No Opinion / Not Sure	Strongly Agree	Strongly Disagree	Apprpriate Size Limitations	Too Limiting	Should Be More Restrictive	Somewhat Important	Not at all Important	Very Important	% Yes	% No	% Agree	% Disagree	% Don't Know	% No Opinion	% Strongly Agree	% Strongly Disagree	% No Opinion	% Apprpriate Size Limitations	% Too Limiting	% Should Be More Restrictive	% Somewhat Important	% Not at all Important	% Very Important
1a.	28	21	7													75%	25%													
2	28	8	20													29%	71%													
3a	28			7	4		1	12	4									25%	14%	0%	4%	43%	14%	0%						
3b	28			10	3		4	7	4									36%	11%	0%	14%	25%	14%	0%						
3c	28			7	3		1	14	3									25%	11%	0%	4%	50%	11%	#REF!						
3d	28			9	7			4	8									32%	25%	0%	0%	14%	29%	#REF!						
Parking	28												8		20													29%	0%	71%
Traffic	28												8	4	16													29%	14%	57%
Noise	28												7	3	18													25%	11%	64%
Floor area limitation at 35%	27									15	9	3													56%	33%	11%			
6	28	11	11			6										39%	39%			21%										
9	26	26														93%	0%													

**Total Number of Respondents: 28**

## **ACCESSORY APARTMENT SURVEY RESPONSE**

Are there any other Considerations?

- But again you need some type of specific limitations. For example, a 4000 square foot home would mean 1400 square feet which is decent size and could accommodate a large group of people. Use 35% but not to exceed \_\_\_\_\_ square feet.
- I would be more comfortable with "not to exceed" square footage for the unit. 35% of a 1500 SF house would be 525 -- pretty tiny.
- 50%
- Size of apartment should be based on size of the home AND/OR the size of the property.
- Should not happen. There are tons of empty apartments in the area already.
- Once again, it should be a quality plan that fits within the architecture and the need.
- Should not happen. There are tons of empty apartments in the area already.
- I would be more comfortable with "not to exceed" square footage for the unit. 35% of a 1500 SF house would be 525 -- pretty tiny.
- When people are going to that much expense, they often will want to add storage, hobby, or garage space in the construction. Would the 35% apply only to the apartment portion??? If so, then it is OK.
- But again you need some type of specific limitations. For example, a 4000 square foot home would mean 1400 square feet which is decent size and could accommodate a large group of people. Use 35% but not to exceed \_\_\_\_\_ square feet.
- Size of apartment should be based on size of the home AND/OR the size of the property.



# ACCESSORY APARTMENT SURVEY RESPONSE

2. Do you see a need or desire for accessory apartments in the community?

2a. If you answered "Yes" - please elaborate on the need or desire:

- Housing for in-laws who cannot afford to live on their own nor are eligible for government assistance.
- For some families, an in-law suite would be a viable alternative to housing in a senior/independent living complex.
- Accessory apartments increase affordable housing options, can allow seniors to "age in place", increase density to make more efficient use of public utilities and transportation. In a university community, as well, these can provide more housing options for students.
- The option for homeowners to have an accessory apartment should always be allowed.
- Many seniors would benefit from allowing accessory apartments. Accessory Apts. could allow them to live with their adult children, but retain some autonomy. In other cases, it would allow a senior to remain at home with a caregiver living in the accessory apartment; could also be a source of income for seniors. It's a way to increase the very limited stock of affordable workforce housing available for hospitality workers in the area as well as provide options for W&M students to live off campus.
- Just let people have the ability to make money by renting out these accessory apartments.
- Accessory apartments have a variety of uses from hosting elderly family members, allowing cost share/income to help cover high mortgage expenses, allowing college age students a safe, lower cost place to live, etc. They are always needed in any community.
- WM students are short of housing.
- Aging population wishing to remain independent while living near family or caretakers, grown children/divorced children moving back home, elderly/ill family members needing temporary care/living arrangements, creation of more affordable rental options for singles, creation of an additional income stream from a small apartment is a plus to homeowners in a bad economy, creation of more short term rental opportunities for people with temporary jobs, going thru divorce/separation, domestic abuse, between moves, etc. Purchasing a property with an ancillary apartment would increase property value. City of Williamsburg has always had such arrangements and it has seemed to work well for all parties.
- We wanted to build a detached garage with an apartment for guests on the second floor.
- In-Law apartments for their independence by close supervision for their safety and health.
- As an example, some older folks who desire to age in place need the help of their children to manage their affairs. But often both the elderly parents and the caregiver children want to live under separate roofs.
- It is desirable to allow property owners the option of accessory apartments for a variety of uses, some of which may involve providing living accommodations for unrelated individuals or families.
- As more intergenerational families live together, this kind of apartment is a must.
- Only for a family member who may need to live with you, an elderly parent or close family member or grown child that needs to live with you for an extended time.

- I think can be a need for one additional apt within a single family dwelling. Sometimes people need to care for family or rent a space for income. I do not agree with multiple apartments or rentals on a residential lot in a neighborhood of single family houses.
- For some families, an in-law suite would be a viable alternative to housing in a senior/independent living complex.

## **ACCESSORY APARTMENT SURVEY RESPONSE**

3a. James City County should consider allowing detached, accessory apartments. Comments:

- Some county residents have adequate property that is well suited to this offer.
- In the area I live in Powhatan Shores, Page Landing, Gatehouse Farms, Peleg's Point, there is only one road leading in and out. This area does not need more cars and people.
- I agree with this use for members of the owners' family. I do not agree with use as a rental property.
- As a Residential HOA president the approval of ordinance will be unmanageable for the local HOA as well as the county.
- The existing unit may not lend itself to subdivision internally or adding a structure onto an existing exterior wall.
- In our struggling economy it provides an added income for families to have a detached accessory apartment. This could be very important for adult children with grandchildren to have a place to live.
- The effect on quality of life must always be the principal consideration in county planning. Allowing accessory apartments would erode quality of life by substantially changing the character and nature of neighborhoods. Bad idea.
- Property assessments could be increased on those finished buildings. More money for the county.
- People own, care for, and pay taxes on their property. The county should not regulate every single thing homeowners do. It doesn't hurt anyone if we allow detached accessory apartments to be built; rather, it helps fill the need for them. Accessory apartments have so many benefits. I would like to be able to build an accessory apartment for my son who is going to college in 2 years. College prices are sending our kids into the work force in massive debt. He would be able to live at home, but have the freedom of his own place.
- Aging population wishing to remain independent while living near family or caretakers, grown children/divorced children moving back home, elderly/ill family members needing temporary care/living arrangements, creation of more affordable rental options for singles, creation of an additional income stream from a small apartment is a plus to homeowners in a bad economy, creation of more short term rental opportunities for people with temporary jobs, going thru divorce/separation, domestic abuse, between moves, etc. Purchasing a property with an ancillary apartment would increase property value. City of Williamsburg has always had such arrangements and it has seemed to work well for all parties.
- In-Law apartments for their independence by close supervision for their safety and health.
- There is a need.
- A small apartment over a separate garage or workshop is acceptable. Again only on larger multi acre lots that I think this would be acceptable.
- Physical attachment to a residence or building should have no bearing on the right of a property owner to construct an accessory apartment.
- This is a really bad idea.<sup>3</sup>
- Covered this in above response.

- Accessory apartment might also provide opportunity for a family unable to rent housing through traditional means.
- It has potential to negatively change the character of a neighborhood.
- For reason supported above. Families will continue to burden the responsibilities to care for older adults/spouses within their home.
- This is a really bad idea.
- Dependent on the size of the lot. Only in very specific situations.
- To support and or supervise a family member while allowing them a greater degree of independence and privacy.
- I guess aesthetics would probably be the only thing I can think of.

## **ACCESSORY APARTMENT SURVEY RESPONSE**

3b. James City County should consider allowing accessory apartments attached by breezeway as opposed to substantially contained within the single-family dwelling. Comments:

- Not sure needs to be attached by a breeze way; I have seen situations where the accessory apartment would probably be above a detached garage or other building in close proximity to the main house/building. Also, how do you define a "breezeway"? Does that mean have to have a roof on the breezeway?
- In the area I live in Powhatan Shores, Page Landing, Gatehouse Farms, Peleg's Point, there is only one road leading in and out. This area does not need more cars and people.
- I think a breezeway could be a nice architectural feature, but is not significant in the shelter aspect of creating an accessory apartment.
- This would be a great compromise if allowing completely separate accessory apartments is off the table.
- Breezeway regulation is silly and likely prohibits many other good design options; ex: the logical location for an apartment might NOT be in close proximity to the house. Regulation should allow for apartments contained within the residence as well as separate from the home.
- That might be nice if you are using the apartment for an elderly parent to live with you.
- Still close enough for in-law protection.
- The County should have little regulation over the architectural solutions available to the property owner in developing a plan for an accessory apartment.
- More families are becoming tri-generational. By that I mean taking care of elder parents: Family with children and grandparents living together. Reviewing the demographics of our community should alert planners to the above average number of seniors presently in our community and the continued migration of seniors.
- With the assumption a family member is being taken care of, it is easier to do within a single building.
- I can just picture the lengths people will go to satisfy that requirement and it won't be pretty.

## **ACCESSORY APARTMENT SURVEY RESPONSE**

3c. James City County should limit the number of occupants allowed to live in an accessory apartment at any one time.

Comments:

- Same as current rules - 3 unrelated. Of course there has to be some definition of construction AND SIZING to permit this many people. You might want to add other criteria for RELATED folks such as a father, mother and two children under age 19 unless employed. Need to leave home sooner or later.
- 2
- 2
- 2
- Two adults and two children.
- No more than 3, the size of a small family.
- I do not believe accessory apartments should be allowed. If they are allowed, however, occupancy should be limited to no more than two (2) people.
- This question needs clarification. I could say yes if the home is build close to other homes, but no if it is located on over an acre. My overall answer is no, we should not limit the number of occupants.
- Depends on size of apartment.
- Perhaps 2 to 4 depending on the size of the apartment.
- 2 or 1 per bedroom if unrelated.
- Number is not relevant, either a caregiver or a family of whatever size that acts as caregiver.
- The familial relationship between occupants should have some bearing; however, some property owners may have a need for multiple attendants who are unrelated. The limitation of floor area of the accessory apartment based on the area of the principle residence effectively sets an occupant limitation.
- If you allow accessory apartments put aside lots of money for increased police services.
- It could be 6, but there should be the option for adjustment. For example: If families with more than 2 children want to take care of an elder parent (s), they should be able to.
- I think 3 for unrelated persons, 4 for related persons.
- 2 people.
- The number should reflect the same state requirement of three before applying for a certificate of need.
- 2.
- Not more than 2 adults or 1 adult and 2 preteen children.

## ACCESSORY APARTMENT SURVEY RESPONSE

3d. Detached accessory apartments that are not substantially contained within the single-family dwelling will negatively impact the character of the neighborhood. Comments:

- Prospective rules can define specific requirements that are favorable to a developing community. However for those communities already in place, these may require some fine tuning, especially if they do not have a neighborhood HOA with very specific covenants, rules, and regulations in place now.
- Most lots are not large enough to accommodate a detached structure.
- This is a perception which is not substantiated by good design. We are not talking about putting the structure in the front yard. Many properties have sheds or garages at the back which are not considered negative impacts.
- As long as there is no criminal activity or squalor associated with the accessory apartment there should be no negative impact.
- If this is a concern, design standards could be used to ensure the accessory apartment fits into the neighborhood.
- As I previously stated, accessory apartments will dramatically change the character and nature of neighborhoods.
- This is done all the time in much larger cities and localities. Even the city of Williamsburg has this. James City County will someday be a very large city and we should plan to give people the opportunity to live in the county even if only on a rental basis.
- Honestly, that is a ridiculous statement. They aren't any different than a large work shed.
- If done tastefully and with common sense it should increase the property value of a home.
- It should have to be approved by an JCC ARB so that it is well done and fits the character of the neighborhood.
- Countless homes have outbuildings that do not detract from the neighborhood. We are talking about use of structure, not accessory structures as they are nearly universally permitted.
- Depending on the lot size.
- The provision to allow a detached accessory apartment (where an "attached" accessory apartment is currently permitted) would have no significant effect on the neighborhood character. The subdivision of the principle residence into individual units, or the permitting of "congregate living" units in the principle residence would. The essential term is "accessory" apartment. Assuming the accessory apartment is truly accessory to the main residence, attached or detached would be irrelevant.
- I would agree if the units were poorly constructed and poorly taken care of. If they are nicely built and nicely taken care of then I would disagree.
- Again, it depends on the size and location of the lot and the siting of the apartment.
- The number of such apartments within any neighborhood should be limited to less than 20% of the total homes and should be issued on a first come first serve basis and equally distributed across the development.

## **ACCESSORY APARTMENT SURVEY RESPONSE**

7. What other minimum standards are important to you regarding accessory apartments in James City County?

- Any proposed language needs to include specific reference to existing HOA covenants and rules are superior in enforcement to the James City County code. I do not want our HOA having to spend legal fees to dispute any homeowner argument saying "JCC code allows it so I don't have to follow the HOA rules."
- If apartments are built, then I believe public transportation should be extended.
- Lot size.
- 1 level structure.
- Exterior design & finish consistent with the "host" structure.
- Those dwelling in accessory apartments should be required to park in the driveway. There should be a limit on the number of vehicles there at any given time.
- Require design standards so fit into the neighborhood.
- If allowed, accessory apartment dwellers should be required to pay a special county tax and provide proof that they have adequate means of disposing of trash.
- Architectural standards, size of unit, number of residents, parking.
- Must stay within setbacks.
- Don't allow it!!
- Quality of building, how it is maintained, internally as well as externally. Owners and occupants should have mutual responsibility for upkeep. Number of people who live in the apartment is important, but not the only factor. Standards and cleanliness, etc. is very important. Are there Inspectors to monitor?? Should have adequate parking,
- One bedroom only with maximum of 2 people. Should be attached to or inside the home vs. detached.
- Identifying who will be living in them. The need should be to allow families to accommodate their older adults.
- Must have a handicap accessible bathroom, must have a partial kitchen, must incorporate universal design standards.
- Should have separate electric, gas, and water meters. No wood burning stoves or fireplaces.
- I think the multiple dwellings grandfathered in in Indigo Park have degraded the neighborhood. There are rental houses with multiple tenants that are not taken care of on Cooley. It is frustrating that older neighborhoods with no HOA's have no protection in keeping up the neighborhood.



## **ACCESSORY APARTMENT SURVEY RESPONSE**

8. What other input would you like to share as James City County considers this important question?

- I would suggest that an accessory apartment only be occupied by adult relatives of the property owners.
- Twenty-one percent of James City County's population is 65 or older, and is also a destination for retirees. As the baby-boom generation ages, their desire to remain in their homes, to supplement incomes impacted by inflation will increase. Accessory apartments are one way of addressing this challenge.
- Those dwelling in accessory apartments should not be allowed to create any type of public nuisance.
- This is a great opportunity to help seniors remain living in the community, as well as a way to increase the amount of affordable workforce housing for people working in low paying hospitality jobs.
- I love this idea of an online survey to get citizens' input! Many cannot be at the county meetings, but appreciate an opportunity to have their voices heard. Thank you!
- If size of the lot is large enough noise, parking and traffic should not be an issue.
- Accessory apartments offer property owners a variety of benefits but should not be a means for evildoers to circumvent zoning to build multi-family developments where otherwise restricted, including creating densities that would otherwise be prohibited. The current requirement of attachment to the principle dwelling seems too restrictive, maintaining a small relative size to the principle dwelling seems prudent, and revising the zoning ordinance to allow for detached apartments of a similar size as is currently permitted is reasonable and would not represent creating an increased level of density not already permitted.
- I have seen other communities destroyed by this exact thing. Criminals love these as hideouts.
- Quality of building, how it is maintained, internally as well as externally. Owners and occupants should have mutual responsibility for upkeep. Number of people who live in the apartment is important, but not the only factor. Standards and cleanliness, etc. is very important. Are there Inspectors to monitor?? Should have adequate parking.
- There is great need for flexible housing options in JCC. Accessory apartments is one. They provide opportunities for sharing the cost of housing will assist with seniors staying in their homes longer, help those unable to afford market apartment rates.
- I think accessory apartments should be limited to family, medical caretakers or employees of the property owner and not open to the public to rent.
- The initial building permit should require the unit be built to support a family member or full time caregiver. After that person leaves, I'm not sure how to regulate the apartments.
- Don't.
- These apartments should not be used as a rental to non-family members and should not be used.

## **ACCESSORY APARTMENT SURVEY RESPONSE**

9. Do you live in James City County? (Y/N) If yes, please provide the name of the subdivision where you live.

- Stonehouse
- yes Hickory Sign Post Road
- Yes, Gatehouse Farms
- Yes in Adams Hunt
- Yes
- Yes. Fords colony
- yes, sycamore landing
- Yes, Braemar Creek
- Y Fenwick Hills
- Yes, Poplar Hall Plantation
- Yes Rolling Woods. We restrict detached apartments but have several attached.
- Peleg's Point
- Yes; Indigo Park
- Yes, New Town Residential Association. I serve on the NTRA Residential Advisory Board.
- Yes Powhatan secondary
- Y - Monticello Woods
- Yes, White Hall
- Yes. Great Woods.
- Yes. Rolling Woods.
- Y, Indigo Park
- Yes, Ford's Colony
- Yes... Great Woods/Sand Hill
- Yes. Kingswood
- Peleg's Point
- Yes. Rural area Not a neighborhood.
- Yes

## MEMORANDUM

DATE: April 14, 2014

TO: The Policy Committee

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: Case No. ZO-0007-2013. Chicken Keeping in Residentially Zoned Areas of the County.

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At its meeting on March 13, 2014, the Policy Committee continued its discussion and public input sessions on this matter. The Committee reviewed two draft ordinances and indicated the area requirements, number of birds allowed, and the associated fee in option No. 2 was the most desirable. The Committee directed staff to redraft an ordinance with the selected issues in option No. 2. The Committee also directed staff to explore the newly raised issues of State code allowing the shooting of dogs killing chickens, chicken coops located adjacent to well heads, and coops situated within Resource Protection Areas (RPAs). The committee also requested that an exception to allowing chickens only in rear yards be made for lots that are unusually shaped or when the rear yard is situated in a way that increases the likelihood the chickens could become a nuisance to the neighbors.

Staff has prepared a draft ordinance for the Committee's review. State code language was not included because the County Attorney's office has reviewed the State Code, as well as animal control ordinances, and concluded that these provisions can continue to work well with the adoption of a residential chicken keeping ordinance. After consulting with the county's Engineering and Resource Protection Division staff has included language that prohibits chicken keeping within Resource Protection and Conservation Easement areas on the basis that these areas prohibit clearing and run-off of chicken waste would be considered non-point source pollution. Staff also consulted with the Virginia Department of Health on whether or not chicken facilities should be allowed within the same area that a well head is located. The Health Department did advocate the separation of the chicken keeping and well heads as a best management practice; however they did not advocate the enforcement of such a regulation citing that they do not restrict dog pens or horse stables adjacent to well heads. Therefore staff did not include language on this issue. An exception to the keeping of chickens in the back yard only has been included.

Staff is seeking Policy Committee guidance on revisions to the proposed draft ordinance or the committee's approval to send the draft on to the Planning Commission for their consideration.

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W. Scott Whyte  
Senior Landscape Planner II

Attachments:

1. Draft ordinance

## **Chapter 24**

### **ARTICLE II. SPECIAL REGULATIONS**

#### **DIVISION 1. IN GENERAL**

##### **Sec. 24-47.**

Keeping and housing domestic chickens on residentially-zoned and occupied property shall be solely for purposes of household consumption and shall comply with the following requirements:

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed. Harvesting or dispatching of chickens is not permitted.
- (b) The maximum number of chickens permitted on a residential lot shall be two (2) hens per the first 5,000 square feet of lot area, and one additional bird for each additional 5,000 square feet of total lot area thereof. The total number of birds is not to exceed a maximum of twelve (12) hens.
- (c) Chickens shall only be allowed on properties consisting of single family homes and which are on lots of at least 15,000 square feet in size.
- (d) No roosters shall be allowed.
- (e) Coops or cages and runs shall only be located in the rear yard area. The Zoning Administrator may grant an exception to this requirement in cases where due to unusual lot configuration, topography, or proximity of neighbors, another area of the yard is more suitable for such an activity.
- (f) Coops or cages and runs shall be situated at least five (5) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. On corner lots all pens coops or cages shall be situated no closer than 35 feet from the side street.
- (g) Coops or cages and runs shall be located outside of Resource Protection Areas and Conservation Easements.
- (h) Coops or cages and runs shall be required. Such coops, cages and runs shall be enclosed with a minimum four (4) feet high chicken wire fence. All coops, cages or runs shall provide at least three (3) square feet of area per bird for free movement and a healthy environment.
- (i) All chickens shall be provided with a covered and enclosed shelter. Such structures shall be enclosed on all sides and shall have a roof and at least one access door.
- (j) In the case of proposals for backyard chicken-keeping, the property owner shall file an application with the James City County Zoning office. Such application shall be accompanied by a \$20.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the zoning office shall issue a permit to document that the proposed activity has been reviewed and is authorized

pursuant to the terms of this chapter. Any permit that is found in violation or not in compliance with this section may be revoked.

## **ARTICLE V. DISTRICTS**

### **DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1**

#### **Sec. 24-232. Use list.**

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Keeping of chickens in accordance with Section 24-47	P	

## Chapter 24

### ZONING

#### Article I. In General

##### Sec. 24-2. Definitions.

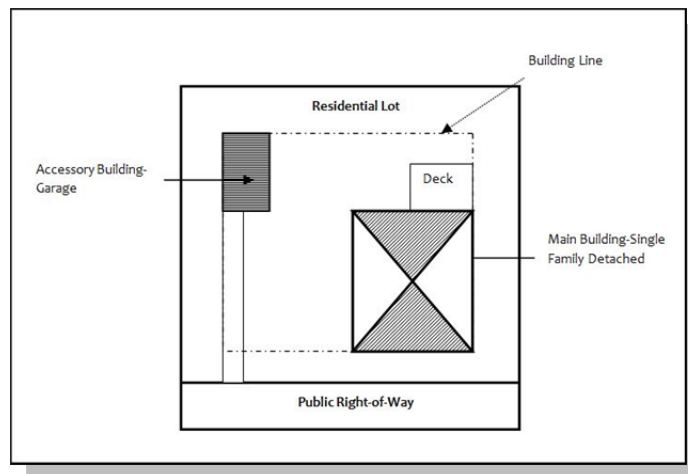
For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

##### A

*Accessory apartment, attached.* A separate, complete housekeeping unit that is substantially contained within the structure of, and clearly secondary to, a single-family dwelling. The accessory apartment may not occupy more than 35 percent of the floor area of the dwelling *and shall be in accordance with section 24-32.*

*Accessory apartment, detached.* A separate, complete housekeeping unit that is incidental to and located on the same lot occupied by a single-family dwelling. The detached, accessory apartment may not occupy more than 50 percent of the floor area of the accessory structure and shall be in accordance with section 24-32.

*Accessory building or structure.* A subordinate building or structure customarily incidental to and located upon the same lot occupied by the main use or building. *With the exception of detached accessory apartments, as may be approved by a special use permit, No* such accessory building or structure shall be used for housekeeping purposes. Garages or other accessory structures such as carports, porches, decks and stoops attached to the main building shall be considered part of the main building. Accessory buildings and structures located ten feet or less from a main structure shall be considered part of the main structure for the purpose of determining side and rear yards. (Refer to the definition of “structure.”)



## D

*Dwelling unit.* One or more rooms in a dwelling designed for living or sleeping purposes, and having at least one kitchen. *For purposes of this ordinance, attached and detached accessory apartments shall not be considered dwelling units.*

### ARTICLE II. SPECIAL REGULATIONS

#### DIVISION 1. IN GENERAL

##### **Sec. 24-32. Special requirements for accessory apartments.**

*a. Attached* Accessory apartments shall comply with the following requirements:

- (1) Only one accessory apartment shall be created within a single-family dwelling.
- (2) The accessory apartment shall be designed so that the appearance of the building remains that of a ~~one-family~~ *single-family* residence. New entrances shall be located on the side or rear of the building and the apartment may not occupy more than 35 percent of the floor area of the dwelling.
- (3) For purposes of location and design, the accessory apartment is part of the main structure and shall meet all setback, yard and height regulations applicable to main structures in the zoning district in which it is located.
- (4) Off-street parking shall be required in accordance with section 24-54 of this chapter.

*b. Detached, accessory apartments - where approved, shall comply with the following requirements.*

- (1) Only one accessory apartment shall be created per lot.*
- (2) The accessory apartment may not occupy more than 50 percent of the floor area of the accessory structure and shall meet all setback, yard and height regulations applicable to accessory structures in the zoning district in which it is located.*
- (3) The accessory apartment shall not exceed 400 square feet in size and shall meet all setback, yard and height regulations applicable to accessory structures in the zoning district in which it is located.*
- (4) The property owner or an immediate family member shall reside in either the single-family dwelling or the accessory apartment.*
- (5) Approval from the Health Department shall be required where the property is served by an individual well and/or sewer disposal system.*
- (6) The accessory structure shall be so designed such that the size and scale of the structure is compatible with surrounding structures.*
- (7) Off-street parking shall be required in accordance with section 24-54 of this chapter.*

## ARTICLE V. DISTRICTS

### DIVISION 2. GENERAL AGRICULTURAL DISTRICT, A-1

#### **Sec. 24-212. Permitted uses.**

In the General Agricultural District, A-1, structures to be erected or land to be used shall be for the following uses:

Accessory apartments, *attached*, in accordance with section 24-32.

Accessory buildings and structures.

Accessory uses, as defined herein.

Communication towers and tower mounted wireless communications facilities, up to a height of 35 feet.

Farmers' markets, limited in area to 2,500 square feet.

General agriculture, dairying, forestry, general farming, and specialized farming, including the keeping of horses, ponies and livestock, but not intensive agriculture as herein defined and not commercial slaughtering or processing of animals or poultry.

Greenhouses, commercial.

Home occupations, as defined herein.

Horse and pony farms (including the raising and keeping of horses), riding stables.

House museums.

Houses of worship and cemeteries accessory hereto.

Intensive agriculture as herein defined.

Manufactured homes that are on a permanent foundation.

Nurseries.

Off-street parking as required by section 24-54.

Petroleum storage on a farm as an accessory use and not for resale.

Preserves and conservation areas for protection of natural features and wildlife.

Rest homes for fewer than 15 adults.

Retreat facilities.

Single-family detached dwellings.



Slaughter of animals for personal use but not for commercial purposes.

Storage and repair of heavy equipment as an accessory use to a farm.

Timbering in accordance with section 24-43.

Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet.

Wayside stands for seasonal sale of agricultural products, limited in area to 500 square feet.

Wineries, as herein defined, including a shop for retail sale of wine, but not including other commercial accessory uses.

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

**Sec. 24-213. Uses permitted by special use permit only.**

In the General Agricultural District, A-1, buildings to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and such other guides and standards as may be contained in this chapter.

*Accessory apartment, detached, in accordance with section 24-32.*

Adult day care centers.

Airports and landing fields, heliports or helistops and accessory uses.

Animal hospitals, veterinary offices and kennels.

Automobile graveyards.

Automobile repair and service.

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

Beauty and barber shops.

Campgrounds.

Cemeteries and memorial gardens, not accessory to a church or other place of worship.

Commercial equipment repair accessory to a dwelling with no outdoor storage or operations and the use occupies a building not larger than 2,000 square feet.

Communication towers over 35 feet in height.

Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities except for facilities approved as part of a subdivision created pursuant to section 24-214(c).

Contractors' warehouses, sheds and offices.

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

Day care and child care centers.

Dinner theaters and dance halls as an accessory use to a restaurant or tavern.

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.

Excavation or filling, borrow pits, extraction, processing and removal of sand and gravel and stripping of top soil (but not farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval, which do not require a special use permit.)

Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled or other developmentally disabled persons, for more than five such persons.

Farm equipment sales and service.

Farmers' markets over 2,500 square feet in area.

Feed, seed and farm supplies.

Fire stations, rescue squad stations, volunteer or otherwise.

Fish farming and aquaculture.

Flea markets, temporary or seasonal.

Food processing and storage.

Gift shops and antique shops.

Golf courses and country clubs.

Group quarters for agricultural workers.

Home care facilities.

Horse racing tracks.

Horse show areas, polo fields.

Hospitals and nursing homes.

Hunting preserve or club, rifle or pistol range, trap or skeet shooting.

Lodges, civic clubs, fraternal organizations or service clubs.

Lumber and building supply stores.

Manufacture and sale of wood products.

Manufactured home parks in accordance with the special provisions of article IV.

Medical clinics.

Petroleum storage, other than on a farm for farm use or accessory for a residence.

Post offices and public buildings generally.

Professional offices of not more than 2,000 square feet with no more than one office per lot.

Race tracks for animals or vehicles, including racing courses for power boats.

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

Rental of rooms to a maximum of three rooms.

Rest homes for 15 or more adults.

Restaurants, taverns.

Retail sale and repair of lawn equipment with outdoor display area up to 2,500 square feet and repair limited to a fully enclosed building.

Retail sales of plant and garden supplies.

Retail shops associated with community recreation facilities.

Sanitary landfills, in accordance with section 24-40, construction debris landfills, waste disposal or publicly owned solid waste container sites.

Schools, libraries, museums and similar institutions, public or private.

Seminaries.

Slaughterhouses.

Solid waste transfer stations.

Storage and repair of heavy equipment.

Storage, stockpiling and distribution of sand, gravel and crushed stone.

Telephone exchanges and telephone switching stations.

Tourist homes.

Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, over 35 feet in height.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or 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.

Two-family dwellings.

Upholstery shops.

Utility substations.

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, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, including pump stations,, are permitted generally and shall not require a special use permit.

Water impoundments, new or expansion of, 20 acres or more or with dam heights of 15 feet or more.

Waterfront business activities: marine interests, such as boat docks, piers, yacht clubs, marinas and commercial and service facilities accessory thereto, docks and areas for the receipt, storage, and transshipment of waterborne commerce; seafood and shellfish receiving, packing and shipping plants; and recreational activities primarily conducted on or about a waterfront. All such uses shall be contiguous to a waterfront.

Wayside stands for sale of agricultural products over 500 square feet in area.

## ARTICLE V. DISTRICTS

### DIVISION 3. LIMITED RESIDENTIAL DISTRICT, R-1

#### Sec. 24-232. Use list.

In the Limited Residential District, R-1, structures to be erected or land to be used, shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory apartments, <i>attached</i> , in accordance with section 24-32.	<b>P</b>	<del>SUP</del>
	<i>Accessory apartment, detached, in accordance with section 24-32.</i>		<del>SUP</del>
	Accessory buildings or structures as defined	P	
	Group home or residential facility, for eight or fewer adults	P	
	Single-family detached dwellings contained within cluster development in accordance with article VI, division 1 of this chapter		SUP
	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-233(a)	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre in accordance with section 24-233(b)		SUP

## ARTICLE V. DISTRICTS

### DIVISION 4. GENERAL RESIDENTIAL DISTRICT, R-2

#### Sec. 24-252. Use list.

In the General Residential District, R-2, structures to be erected or land to be used, shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory apartments, <i>attached</i> , in accordance with section 24-32.	P	
	<i>Accessory apartment, detached, in accordance with section 24-32.</i>		<i>SUP</i>
	Accessory buildings or structures as defined	P	
	Group home or residential facilities, for eight or fewer adults	P	
	Multifamily dwellings of between five and eight units, contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter		SUP
	Multifamily dwellings, up to and including four units, with a maximum gross density of one unit per acre, contained within residential cluster development in accordance with article VI, division 1 of this chapter	P	
	Multifamily dwellings, up to and including four units, with a maximum gross density of more than one unit per acre, contained within residential cluster development in accordance with article VI, division 1 of this chapter		SUP
	Multifamily dwellings, up to and including two units, in accordance with section 24-260		SUP
	Single-family detached dwellings with a maximum gross density of one dwelling unit per acre, either <ul style="list-style-type: none"> <li>in accordance with section 24-253(a), or</li> <li>contained within residential cluster development in accordance with article VI, division 1 of this chapter</li> </ul>	P	
	Single-family detached dwellings with a maximum gross density of more than one dwelling unit per acre, either <ul style="list-style-type: none"> <li>in accordance with section 24-253(b), or</li> <li>contained within residential cluster development in accordance with article VI, division 1 of this chapter</li> </ul>		SUP

ARTICLE V. DISTRICTS  
DIVISION 4.1. RESIDENTIAL REDEVELOPMENT DISTRICT, R-3

**Sec. 24-273.2. Use list.**

In the Residential Redevelopment District, R-3, 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	Specially Permitted Uses
Residential Uses	Accessory buildings or structures as defined	P	
	Accessory apartments, <i>attached</i> , in accordance with section 24-32.	P	
	<del>Accessory apartment, detached, in accordance with section 24-32.</del>		<i>SUP</i>
	Apartments	P	
	Group homes or residential facilities, for eight or fewer adults	P	
	Group homes or residential facilities, for nine or more adults		SUP
	Independent living facilities		SUP
	Multifamily dwellings up to and including four units	P	
	Multifamily dwellings greater than four units	P	
	Single-family dwellings	P	

DIVISION 5. RESIDENTIAL PLANNED COMMUNITY  
DISTRICT, R-4

**Sec. 24-281. Use list.**

In the residential planned community district, R-4, 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	Specially Permitted Uses
Residential Uses	Accessory buildings or structures, as defined	P	
	Accessory apartments, <i>attached</i> , in accordance with section 24-32.	P	
	<i>Accessory apartment, detached, in accordance with section 24-32 and located in an area designated as "A" on the approved master plan.</i>		<i>SUP</i>
	Apartments	P	
	Group homes or residential facilities for eight or fewer adults	P	
	Group homes or residential facilities for nine or more adults		SUP
	Independent living facilities		SUP
	Multi-family dwellings (up to and including four dwelling units)	P	
	Multi-family dwellings (more than four dwelling units)	P	
	Single-family dwellings	P	



## ARTICLE V. DISTRICTS

### DIVISION 7. LOW-DENSITY RESIDENTIAL DISTRICT, R-6

#### **Sec. 24-328. Permitted uses.**

In the Low-Density Residential, R-6, structures to be erected or land to be used shall be for the following uses:

*Accessory apartments, attached, in accordance with section 24-32.*

Accessory buildings or structures as defined.

Agriculture, including land and buildings for accessory uses, such as forestry, farming, the raising of livestock, excluding hogs, and other agricultural pursuits.

Boat docks.

Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities.

Home occupations as defined.

Horse or pony farms (including the raising and keeping of horses), riding stables or horse show areas.

Houses of worship.

Off-street parking, as required by section 24-54.

Preserves, conservation areas or hunting clubs.

Retail shops associated with community recreation facilities.

Schools, libraries and fire stations.

Single-family dwellings.

Timbering in accordance with section 24-43.

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

Wireless communications facilities that utilize alternative mounting structures and comply with division 6, Wireless Communications Facilities.

**Sec. 24-329. Uses permitted by special use permit only.**

In the Low-Density Residential, R-6, buildings to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a special use permit by the board of supervisors:

~~Accessory apartments in accord with section 24-32.~~

*Accessory apartment, detached, in accordance with section 24-32.*

Adult day care centers.

Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities.

Cemeteries and memorial parks.

Day care and child care centers.

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.

Golf courses, county clubs.

Home care facilities.

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

Rental of rooms to a maximum of three rooms.

Telephone exchanges and telephone switching stations.

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

Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains, with no additional connections to be made to the line, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution

lines and local facilities within a subdivision or development, including pump stations, are permitted generally and shall not require a special use permit.

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

## ARTICLE V. DISTRICTS

### DIVISION 8. RURAL RESIDENTIAL DISTRICT, R-8

#### Sec. 24-348. Permitted uses.

In the Rural Residential District, R-8, structures to be erected or land to be used shall be for the following uses:

Accessory apartments, *attached*, in accordance with section 24-32.

Accessory buildings and structures.

Accessory uses, as defined herein.

Communication towers and tower mounted wireless communication facilities, up to a height of 35 feet.

Farmers' markets, limited in area to 2,500 square feet.

General agriculture, dairying, forestry, general farming and specialized farming, excluding the raising of hogs, but not commercial livestock or poultry operations which require a special use permit in the General Agricultural District, A-1.

Home occupations, as defined herein.

Horse and pony farms of less than 50 animals (including the raising and keeping of horses), riding stables.

House museums.

Nurseries.

Off-street parking as required by section 24-54.

Petroleum storage on a farm as an accessory use and not for resale.

Preserves and conservation areas for protection of natural features and wildlife.

Rest homes for fewer than 15 adults.

Site-built single-family detached dwellings and modular homes.

Slaughter of animals for personal use but not for commercial purposes.

Storage and repair of heavy equipment as accessory use to a farm.

Timbering in accordance with section 24-43.

Water impoundments, new or expansion of, less than 20 acres and with dam heights of less than 15 feet.

Wayside stands for seasonal sale of agricultural products, limited in area to 500 square feet.

Wineries, as herein defined, including a shop for retail sale of wine, but not including other commercial accessory uses.

Wireless communications facilities that utilize alternative mounting structures and comply with division 6, Wireless Communications Facilities.

**Sec. 24-349. Uses permitted by special use permit only.**

In the Rural Residential District, R-8, structures to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit approved by the board of supervisors in accordance with the procedures, guides and standards of sections 24-9 and 24-10 and such other guides and standards as may be contained in this chapter:

*Accessory apartment, detached, in accordance with section 24-32.*

Adult day care centers.

Airports and landing fields, helistops or heliports and accessory uses.

Barber and beauty shops.

Business, governmental, and professional offices.

Camouflaged wireless communications facilities that comply with division 6, Wireless Communication Facilities.

Campgrounds.

Cemeteries and memorial gardens, not accessory to a church or other place of worship.

Child day care centers.

Commercial livestock or poultry operations for more than 100 slaughter or feeder cattle, 70 dairy cattle, 250 swine, 1,000 sheep, lambs, goats or similar animals, 50 horses, 10,000 chickens, or 5,500 turkeys or ducks.

Communication towers over 35 feet in height.

Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities, but not those approved as a part of a planned unit development.

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

Drug stores.

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.

Excavation or filling, borrow pits, extraction, processing and removal of sand and gravel and stripping of topsoil (but not farm pond construction, field leveling or stripping of sod for agricultural purposes and excavations in connection with development which has received subdivision or site plan approval, which activities do not require a special use permit).

Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled, or other developmentally disabled persons for more than five such persons.

Farm equipment sales and service establishments.

Farmers' markets over 2,500 square feet.

Feed, seed and farm supplies.

Fire stations or rescue squad stations, volunteer or otherwise.

Fish farming and aquaculture.

Flea markets, temporary or seasonal.

Food processing and storage, but not the slaughter of animals.

Food processing and storage in a residence.

Gift shops, antique shops.

Golf courses and country clubs.

Greenhouses, commercial.

Group quarters for agricultural workers.

Home care facilities.

Horse and pony farms with 50 or more animals.

Horse show areas, polo fields.

Hospitals.

Hotels and motels.

Houses of worship and cemeteries accessory thereto.

Hunting clubs.

Kennels.

Lodges, civic clubs, fraternal organizations, and service clubs.

Manufacture and sale of wood products.

Manufactured home parks.

Manufactured homes in accordance with section 24-107 and section 24-108 not located within the primary service area.

Medical clinics or offices.

Neighborhood Resource Centers.

Nursing homes and facilities for the residence and/or care of the aged.

Photography, artist and sculptor studios.

Photography sales and arts and crafts shops.

Post offices and public buildings generally.

Radio and television stations or towers.

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

Raising of hogs.

Rental of rooms to a maximum of three rooms.

Rest homes for 15 or more adults.

Restaurants, taverns.

Retail shops associated with community recreation facilities.

Retreat facilities.

Sanitary landfills in accordance with section 24-40, waste disposal or publicly owned solid waste container sites.

Schools, libraries, museums and similar institutions.

Seminaries.

Telephone exchanges and telephone switching stations.

Tourist homes.

Tower mounted wireless communications facilities in accordance with division 6, Wireless Communications Facilities, over 35 feet in height.

Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, private extensions or 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.

Two-family dwellings.

Utility substations.

Veterinary hospitals.

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

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

Water impoundments, new or expansion of, 20 acres or more or with dam heights of 15 feet or more.

Wayside stands for sale of agricultural products over 500 square feet in area.

Yacht clubs and marinas and commercial and service facilities accessory thereto.



## ARTICLE V. DISTRICTS

### DIVISION 14. PLANNED UNIT DEVELOPMENT DISTRICTS, PUD

#### Sec. 24-493. Use list.

- (a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Residential Uses	Accessory buildings or structures, as defined	P	
	Accessory apartments, <i>attached</i> , in accordance with section 24-32.	P	
	<i>Accessory apartment, detached, in accordance with section 24-32 and located in an area designated for detached, single-family units.</i>		<i>SUP</i>
	Apartments	P	
	Group homes or residential facilities, for eight or fewer adults	P	
	Group homes or residential facilities, for nine or more adults		SUP
	Home occupations, as defined	P	
	Independent living facilities	P	
	Multi-family dwellings up to and including four dwellings	P	
	Multi-family dwellings more than four dwellings	P	
	Single-family dwellings	P	

## ARTICLE V. DISTRICTS

### DIVISION 15. MIXED USE, MU

#### Sec. 24-518. Use list.

In the mixed use 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	Specially Permitted Uses
Residential Uses	Accessory structures, as defined in section 24-2	P	
	Accessory apartments, <i>attached</i> , in accordance with section 24-32.	P	
	Apartments	P	
	Group homes or residential facilities, for eight or fewer adults	P	
	Group homes or residential facilities, for nine or more adults		SUP
	Group quarters	P	
	Home care facilities	P	
	Home occupations, as defined	P	
	Independent living facilities	P	
	Multi-family dwellings up to and including four dwelling units	P	
	Multi-family dwellings more than four dwelling units	P	
	Single-family dwellings	P	

## MEMORANDUM

**DATE:** April 14, 2014

**TO:** The Policy Committee

**FROM:** Jennifer VanDyke, Planner  
John Rogerson, Senior Zoning Officer

**SUBJECT:** Case No. ZO-0008-2013. Accessory Apartments

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At its meeting on February 13, 2014, the Policy Committee discussed revising the Zoning Ordinance definition, provisions and procedures relating to accessory apartments. Staff received feedback from the Policy Committee indicating an interest in considering revisions to allow for detached accessory apartments. The Policy Committee also indicated that staff should examine and provide recommendations for expanding allowances for accessory apartments within residential zoning districts.

In response to the Policy Committee's request, staff has drafted revised ordinance language. The following items highlight the proposed changes within the definitions section and Special Regulations requirements:

- A new definition for detached, accessory apartments. The proposed changes include defining accessory apartments as either attached or detached with performance standards outlined for each. The existing definition for accessory apartment would largely remain the same; the one proposed change would attribute the existing definition to attached, accessory apartments. The current definition limits accessory apartments to no more than 35 percent of the floor area of the single-family dwelling; staff proposes no changes to the outlined limitations.
- Under Special Regulations, additional language would be added to include new requirements for detached, accessory apartments. In the interest of preserving the character of the neighborhood, staff recommends including a cap of 400 square feet on the size of the accessory apartment and a cap on the allotment of floor area at 50 percent dedicated to the apartment within the accessory structure. The proposed language would require that detached, accessory apartments meet all setback, yard and height regulations of the zoning district in which it is located. In addition, compatibility in size and scale with surrounding structures would be required.
- Additional requirements for detached, accessory apartments under Special Regulations would require that the property owner, or an immediate family member, occupy either the single-family dwelling or the accessory apartment in the interest of ensuring proper upkeep of the property be maintained.
- Any application proposing a detached, accessory apartment would be required to obtain approval from the Health Department for those properties that have individual well and/or sewer disposal systems in Zoning districts which are located outside the Primary Service Area or are not otherwise required to connect to public utilities.
- Off-street parking is currently required for all accessory apartments in accordance with Sec. 24-54 of the Ordinance. This would be maintained as a requirement for both attached and detached, accessory apartments.

Currently, accessory apartments are allowed as a permitted use on properties that are zoned A-1, R-2, R-3, R-4, R-8, MU and PUD and are allowed as a specially permitted use on land that is zoned R-1 and R-6.

Staff recommends the following changes:

- Attached, accessory apartment in accordance with section 24-32 – permitted use in: A-1, R-1, R-2, R-3, R-4, R-6, R-8, MU and PUD.  
If approved, the revisions would permit attached, accessory apartments in each residential district, except for R-5, the Multifamily Residential District. The R-5 district is intended for moderate to high-density residential development; therefore, is not a suitable fit for accessory apartments.
- Accessory apartment, detached, in accordance with section 24-32 – specially permitted in: A-1, R-1, R-2, R-3, R-4, R-6, R-8, and PUD.  
If approved, the revisions would specially permit detached, accessory apartments in each residential district, except for MU, Mixed Use and R-5, the Multifamily Residential District. Staff did not include the two districts on account of the intended density within each district.

**Recommendation:**

Staff recommends allowing detached, accessory apartments upon issuance of a special use permit from the Board of Supervisors, and thereby building discretionary measures into the approval process. In this way, all detached, accessory apartments would be legislatively approved, allowing neighbors to offer comment on proposed apartments as well as a careful review on a case-by-case basis.

Staff requests the Policy Committee review the enclosed material and provide staff with input and direction.

**Attachments:**

1. Draft amendments to Article I, In General, definitions
2. Draft amendments to Article II, Special Regulations
3. Draft amendments to General Agricultural District, A-1
4. Draft amendments to Limited Residential District, R-1
5. Draft amendments to General Residential District, R-2
6. Draft amendments to Residential Redevelopment District, R-3
7. Draft amendments to Residential Planned Community, R-4
8. Draft amendments to Low-Density Residential District, R-6
9. Draft amendments to Rural Residential District, R-8
10. Draft amendments to Planned Unit Development District, PUD-R
11. Draft amendments to Mixed Use, MU
12. Responses to online survey

  
Jennifer Van Dyke

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John Rogerson