

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

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

1. August 10, 2017 Meeting Minutes

D. OLD BUSINESS

1. Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II
2. Potential Amendments to the R-8, Rural Residential and Cluster Overlay Districts - Stage I

E. NEW BUSINESS

1. Adoption of a Revised Policy for Remote Participation in Meetings by Commission Members
2. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Cover Memo - Stage I
3. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Streetscape Policy - Stage I
4. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Bicycle and Pedestrian Accommodations and Transportation Impact Analysis - Stage I
5. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Archaeological Policy - Stage I
6. Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items: Natural Resource Policy - Stage I

F. ADJOURNMENT

AGENDA ITEM NO. C.1.

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Paul D. Holt, III, Secretary

SUBJECT: August 10, 2017 Meeting Minutes

ATTACHMENTS:

	Description	Type
▣	August 10, 2017 Meeting Minutes	Minutes

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	8/25/2017 - 11:29 AM
Policy	Holt, Paul	Approved	8/25/2017 - 2:37 PM
Publication Management	Burcham, Nan	Approved	8/25/2017 - 3:00 PM
Policy Secretary	Secretary, Policy	Approved	8/25/2017 - 3:37 PM

MINUTES
JAMES CITY COUNTY POLICY COMMITTEE REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
August 10, 2017
4:00 PM

A. CALL TO ORDER

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

B. ROLL CALL

Present:

Ms. Robin Bledsoe

Mr. Rich Krapf

Mr. Jack Haldeman

Absent:

Mr. Heath Richardson

Mr. Danny Schmidt

Staff:

Mr. Paul Holt, Planning Director

Ms. Ellen Cook, Principal Planner

Mr. Tom Leininger, Community Development Assistant

C. MINUTES

1. July 13, 2017, Meeting Minutes

Mr. Jack Haldeman made a motion to approve the May 11, 2017, meeting minutes.

The motion passed 2-0-1, with Ms. Robin Bledsoe abstaining, as she was not present at the meeting.

D. OLD BUSINESS

There was no old business.

E. NEW BUSINESS

1. Preliminary Review & Discussion of the R-8, Rural Residential, District and the Residential Cluster Overlay District

Ms. Robin Bledsoe opened the discussion.

Mr. Paul Holt stated that in the staff report, a definitive schedule has been

created and added staff is looking into other localities' use tables with respect to age-restricted housing and the Cluster Overlay District. He stated that the changes in R-8, Rural Residential District are part of the Board of Supervisors' initiating resolution. He stated that the Board wanted staff and the Policy Committee to determine if clusters in the R-8, Rural Residential District would be appropriate. Mr. Holt stated that staff is currently working on those benchmarks and will present their analysis to the Policy Committee at the September meeting. He stated that staff is looking for the Policy Committee's thoughts on the R-8 and the cluster overlay. He stated that the staff report will be set up to primarily talk about the changes to the R-8 and the Cluster Overlay District to accommodate the request from the Board's initiating resolution.

Mr. Rich Krapf stated that the genesis of discussion began during the Williamsburg Landing application.

Ms. Robin Bledsoe asked how the Williamsburg Landing application resulted in the changes.

Mr. Holt stated that the Williamsburg Landing request involves a rezoning, Special Use Permit (SUP) and a height waiver application to expand their campus. He stated that all of Williamsburg Landing is zoned R-5 and has a master plan. He stated that Williamsburg Landing is wanting to purchase land from the airport which is zoned R-8 and that the land is designated for airport use. He stated that staff drafted a staff report that was deferred at the Planning Commission (PC) meeting pending a balloon test and other visual simulations that citizens in Kingpoint requested. He stated that the Board asked if age-restricted housing and additional density in the R-8 could be accommodated within R-8. He stated that this would result in the applicant not needing to rezone the property, but would require an SUP and a height waiver. He stated that the staff report may address the initiating resolution to amend the cluster ordinance. He stated that the cluster ordinance is restricted to R-1 and R-2 residential zoning districts. He stated that the ability to use the cluster in the R-8 would need to be added along with new uses and possibility new structure types and that it is possible to add duplexes and apartments to the use.

Ms. Bledsoe asked if the changes are being brought forward for one applicant.

Mr. Holt stated that there are a series of changes to address in the initiating resolution. He stated that as part of staff's analysis, there is a new set of changes needed regarding the Williamsburg Landing application. He stated that in addition to the new uses to the R-8 use table and changing cluster, staff may need to look at allowable densities and to revisit the density bonus table as well as height limits.

Mr. Krapf stated that the minimum lot size in R-8 is three acres. He stated that in James City County proffers are prohibited on residential rezonings as a result of changes in legislation. He stated that the applicant is looking for work-arounds to make that project happen.

Mr. Holt stated that in R-5, the base height limit is 35 feet. He stated that Williamsburg Landing is requesting 60 feet. He stated that 60 feet is allowed with a height waiver in R-5, but not in R-8. He stated that the maximum density in a cluster is four units an acres and the proposal is nine units an acre.

Mr. Krapf stated that the Virginia Department of Aviation had some concerns with the height of some of the proposed buildings.

Mr. Holt stated that there were many reasons that were unrelated to the R-8 zoning districts.

Mr. Jack Haldeman asked if it has been decided to make the changes.

Mr. Holt stated that the request was to have the Policy Committee consider and then make a recommendation. Mr. Holt stated that the Policy Committee is not making a change for one piece of property. He stated that the changes are applied County-wide. He stated that the staff report will include a map of all of the R-8 property in the County. He stated that there are other reasons why the R-8 zoning district may not work for this applicant and that the Policy Committee will have to decide if they want to change the height restrictions and other R-8 characteristics.

Mr. Krapf stated that the Statement of Intent for R-8 says that the district is intended to maintain a rural environment suitable for farming, forestry and low-density rural residence, together with certain recreational and public amenities. He asked when do the possible amendments change what the R-8 is intended for.

Mr. Haldeman stated that the R-8 parcels are located all across the County. He asked how the changes would affect the R-8 parcels that are in more rural areas of the County.

Ms. Bledsoe stated there are a lot of properties that would be affected by these changes.

Mr. Krapf stated that it is important to keep in mind the existing height waiver procedures. He stated that a possible route would be to look at different waivers applicants can apply for instead of changing the specific characteristics of the R-8.

Mr. Holt stated that staff will walk the Policy Committee through all the options. He stated that one option may be that a height waiver can be applied to just an age-restricted application.

Mr. Haldeman asked if the density in the R-8 were to be increased, would that rapidly increase the population in the County.

Mr. Krapf asked if the current adult daycare uses tie into what Williamsburg Landing is proposing.

Mr. Holt stated that the proposal is regarding independent dwellings and independent living.

Mr. Krapf stated that the addition of some specially permitted uses would be a way to address the issues.

Mr. Holt asked if there are any additional items that the Policy Committee wanted staff to look into and present to them.

Mr. Krapf asked why the cluster ordinance only applied to the R-1 and R-2.

Mr. Holt stated that the larger R-8 parcels would create issues with density.

Mr. Haldeman stated that the Williamsburg Community Action Plan on Aging recommends age-restricted housing have access to public transportation and access to common places such as banks and grocery stores. He asked if there were changes to R-8 to include age-restricted living, would the other uses need to be added as well.

Mr. Holt stated that some definitions such as continuing care retirement community and independent living facility include other amenities, however, they are not guaranteed without adopted proffers.

Ms. Bledsoe asked if there were any other questions.

2. Process Overview: Policy Committee review of proposed amendments to the Zoning Ordinance

Ms. Bledsoe asked what items were lost through proffers.

Mr. Holt stated that the items for the September Policy Committee meeting would be the changes to the R-8 and the cluster as well as the revisions to the submittal requirements and the improvements that normally come through proffers. He stated that the other items added to the Policy Committee's schedule are Airbnbs and a discussion topic regarding the remote participation policy. He stated that there are several big topics coming up and staff is looking to continue the same process that had been used in the previous years. He stated that for a few topics in the past, the Policy Committee requested a public comment forum. He stated if there were any questions on the process.

Ms. Bledsoe stated that she has not had a problem with the process. She stated that there seemed to be more work in the previous years.

Mr. Krapf stated that the current process put more work upfront on staff and he appreciated staff starting the first meeting with the background and the benchmarks on the topic. He stated that he realized that there is more work for staff that previously did not exist. He stated that he does like the current process with the different phases and then depending on complexity, there could be a fast track process.

Mr. Holt stated that in year's past, when changes are straight-forward such as parking, the process can be moved through faster. He stated that staff will use the process that the Policy Committee wants.

Ms. Bledsoe stated that she does not have an issue with the process and asked if there were any other questions on topic two.

Mr. Krapf stated that he did not have any questions on topic two; however, he stated that he would like to continue to talk about the first topic. He stated that he would like staff feedback on the next steps for the R-8 changes and the cluster changes. He stated that each of them are large topics with many factors. He stated that he keeps associating Williamsburg Landing with the changes. Mr. Krapf asked what staff anticipates moving forward on the topics.

Mr. Holt stated that he hopes that the conversation stays clear and separates the County-wide changes verses the specific application. He stated that the body of the staff report will include the initiating resolution and the proposed changes. He stated that there will be specific decision points included. He stated that in the attachment to the staff report, there will be points regarding the specific Williamsburg Landing application. He stated that some changes could be applied to the R-8 and cluster overlay because the application needed the specific changes to resolve their issues.

Mr. Krapf asked if staff anticipates having feedback regarding the possible shortcomings in the cluster ordinance.

Mr. Holt stated that the next month's meeting will include that conversation. He stated that the Comprehensive Plan would need to be changed depending on the proposed changes.

Ms. Bledsoe stated that she has concerns the changes are applicant-driven. She stated that there are concerns about the precedent being set with the applicant behind the changes.

Mr. Holt stated that staff did not want there to be two changes and then at the end there are still unresolved issues such as height limits and density.

Ms. Bledsoe stated that it is important for the Policy Committee to look at the possibilities of the scenario happening County-wide. She stated that she does not think the Policy Committee should look at the changes from the perspective of the applicant.

Mr. Haldeman asked if there is a need to address the need for senior housing.

Mr. Holt stated that the County has done a lot of work recently such as completing the Housing Condition Study that documents some of the housing needs. He stated that four years ago, there was a rural lands effort the Board requested and that effort produced a lot of high quality information on the new rural economic strategy. He stated that the Policy Committee is asked whether

or not to expand the Use Table and if the R-8, Rural Residential District is an appropriate location for those changes.

Mr. Haldeman asked if the Housing Condition Study is online.

Mr. Holt confirmed.

Ms. Bledsoe asked if the Rural Lands Study is online.

Ms. Ellen Cook stated that it is currently not online, but it can be sent out.

Ms. Bledsoe stated that there are Board members that may not have read it. She stated that the Statement of Intent for R-8 is clear for the direction to be headed.

Mr. Haldeman stated that it is clear that it should be rural now and it is clear that it is to be used as urban development in the future.

Ms. Bledsoe stated that the Rural Lands Study had a big impact on herself.

Mr. Holt stated that the R-8's original intent is to be used as a holding zone. He stated that a legislative process would begin when a master plan and specific development details are applied for. Mr. Holt stated that both of the documents will be put online. He stated that staff will include Comprehensive Plan references to the staff report.

Mr. Haldeman stated that there is a large number of aging people and it is important not to add too much age-restrictive housing units. He stated it is important to look at where the population will come from.

Ms. Bledsoe asked if there were any questions.

F. ADJOURNMENT

Mr. Krapf made a motion to adjourn. By verbal vote, the motion passed unanimously.

Ms. Bledsoe adjourned the meeting at approximately 5:00 p.m.

Ms. Robin Bledsoe, Chair

Mr. Paul Holt, Secretary

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Roberta Sulouff, Planner and Lauren White, Planner

SUBJECT: Zoning Ordinance Revisions to Permit Short-Term Residential Rentals - Stage II

ATTACHMENTS:

	Description	Type
▣	Staff Memorandum	Staff Report
▣	Homestay Use Matrix	Backup Material
▣	Existing Use Matrix	Backup Material
▣	Narrative Draft Definitions and Special Regulations Language	Backup Material
▣	Draft Administrative Policy Language	Backup Material
▣	City of Arlington Homestay Ordinance Language	Backup Material
▣	Town of Blacksburg Homestay Ordinance Language	Backup Material
▣	City of Charlottesville Homestay Ordinance Language	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 2:36 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:39 PM
Publication Management	Burcham, Nan	Approved	9/8/2017 - 2:41 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:41 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: Roberta Sulouff, Planner
Lauren White, Planner

SUBJECT: Zoning Ordinance Revisions to Permit Short-Term Residential Rentals, Stage II

HISTORY

The Policy Committee met on July 13, 2017, to discuss initial planning for policies and ordinance amendments to address the emerging topic of short-term residential rentals. At that meeting, the Committee expressed interest in pursuing a hybrid approach to permitting such rentals, similar to the approach taken during the recent amendment process addressing rural event facilities. The hybrid approach would create a system in which short-term residential rental uses would be subject to permitting and performance standards based on the intensity of the given application. At that meeting, the Committee also asked staff to further research specific performance standards and to provide a chart or matrix comparing existing and proposed uses, permitting and performance standards. In response to this direction, staff researched the ordinances of other localities that take a tiered approach to permitting the use or permit the use by-right. Staff used that research and the feedback received at the previous meeting to create the attached matrices (Attachment Nos. 1 and 2) and to create narrative versions of draft ordinance language for the Committee's review.

Staff intends to use feedback from this meeting, as well as further feedback from the offices of the Commissioner of the Revenue and the County Attorney, to create formal draft language for review at a future Policy Committee meeting. Staff also intends to use feedback received at this meeting to bring an initiating resolution forward to the Planning Commission in the near future.

CURRENT ZONING ORDINANCE LANGUAGE

As discussed at the July 13 meeting, short-term rentals in residential settings are currently addressed under two separate uses in the Zoning Ordinance: rental of rooms and tourist home. The attached matrix (Attachment No. 2) details how those uses are permitted throughout all residential districts. The Tourist Home Use has often been applied to situations in which an applicant wishes to rent an entire home, or for rentals where the applicant may not consider the subject property their primary residence and may not intend to remain on premises during the time of rental. While not defined in the Ordinance, the use of rental of rooms has traditionally been applied to both home-sharing applications and applications for traditional bed and breakfasts; both uses involve a higher level of oversight or management of renters than tourist homes. However, the rental of rooms use does not currently delineate between a homeowner in their primary residential dwelling versus a manager of a commercial bed and breakfast. Per further discussions with the Zoning Administrator, the use can also apply to long-term rentals of rooms exceeding the definition of family, not including group homes.

PROPOSED CHANGES TO DEFINITIONS AND USE LISTS

Since the Stage I meeting, staff has drafted the attached narrative versions of potential ordinance language using the July 13 Policy Committee memorandum as base material and incorporating feedback and direction from that meeting in the draft text. In response to that discussion, staff focused specifically on ways to differentiate between denser Zoning Districts and districts which are more rural in character. Likewise, staff

also focused on delineating the intensity of different uses and the potential for varying levels of intensity within the newly created Homestay Use. Staff also worked to clarify existing uses so as to address issues of potential overlap in application. Staff proposes the following changes to create definitions and amend Use Lists in Residential Districts, as reflected in the attached draft language (Attachment No. 3):

1. Changes to Section 24-2, Definitions

- Create a definition for “homestay”
- Create a definition for “rental of rooms”
- Add language to the “tourist home” use to clarify its application
- Create a definition for “transient”

2. Changes to Use Lists of Residential Districts

- Add “Homestay–1 Room, in accordance with Section 24-50” as a permitted use in the Use Lists of all Residential Zoning Districts, excepting A-1, General Agricultural; R-8, Rural Residential; R-4 Residential Planned Community; and MU, Mixed-Use
- Add “Homestay, in accordance with Section 24-50” as a permitted use in the Use Lists of the A-1, R-8, R-4 and MU Districts
- Add “Homestay ≥ 2 Rooms” as a specially permitted use in all Residential Districts, excepting A-1, R-8, R-4 and MU (see above)

PROPOSED CHANGES TO SPECIAL REGULATIONS

Staff proposes adding a new section to Chapter 24, Article II. Special Regulations, Division 1. In General to outline criteria for the permitting and operation of Homestays. This criteria would apply to both by-right applications and would serve to further distinguish the Homestay use from other short-term rental uses as one that is limited in intensity and distinctly residential in character. Staff drafted the following permitting and performance standards based on direction received at the Stage I meeting as well as feedback from the Planning Commission and Board of Supervisors over the course of past public hearing cases pertaining to this use:

- Primary Residence: Applicants must demonstrate the site of the proposed Homestay is their primary residence. Such a regulation would limit operators to one Homestay in the County and also aims to ensure that the site remains primarily residential in use and character.
- Limit on the Number of Nights Rented/Year: Operation of the Homestay is limited to 180 days per a 12-month period. Again, this standard aims to limit the intensity of the use and preserve the residential character of the dwelling and neighborhood.
- Limits on the Number of Contracts/Night: Operators may not conduct simultaneous rentals under separate contracts.
- Parking: Requires operators to provide one off-street parking space for each room rented.
- Signage: Prohibits any signage related to the Homestay use.

- Registration: Specifies that Homestays must register with the Planning Division and Commissioner of the Revenue per §15.2-983 of the Code of Virginia, and imposes a \$500 fine for failing to register.
- Revocation: Permits can be revoked for failure to comply with the registration requirement, permitting process and/or performance standards.

PROPOSED ADMINISTRATIVE POLICY LANGUAGE

At the direction of both the Planning Commission and the Board of Supervisors during previous public hearing processes and at the May 23, 2017 Joint Work Session, staff also proposes the creation of a new Administrative Policy to address Special Use Permit (SUP) applications for the Homestay use. This policy, like other policies addressing the Day Care use, would provide guidance to applicants and to the Planning Commission and Board in their respective reviews of such applications. The SUP process allows for individualized review of applications that may vary greatly in intensity, such as in the proposed number of rooms to be rented, in the size of the lot or in the density of the area surrounding the Homestay. The proposed policy would create a transparent set of expectations for those who wish to apply for the use and would also provide consistent guidance for the review of those applications. Staff mirrored the draft language after conditions of previously approved applications for short-term residential rentals. Staff also considered feedback received from the Planning Commission and Board regarding potential impacts of the use in the writing of the draft policy. Staff has included draft language of the proposed policy as Attachment No. 4 to this memorandum. Should the Policy Committee wish to consider a similar Administrative Policy for the review of tourist homes, staff can provide draft language of that policy at the October Policy Committee meeting.

RECOMMENDATION

Staff is seeking Policy Committee guidance on the proposed changes discussed in this memorandum and on the attached draft ordinance and policy language. Staff is also seeking direction on the inclusion of any additional performance standards, such as those found in the attached sample ordinances from peer localities. Based on feedback from this meeting, staff will revise the draft language and provide final ordinances for review at the next Policy Committee meeting.

RS/LW/gt

ZORevShrtTmRental-mem

Attachments:

1. Homestay Use Matrix
2. Existing Rental Use Matrix
3. Narrative Draft Definitions and Special Regulations Language
4. Draft Administrative Policy Language
5. City of Arlington Homestay Ordinance Language
6. Town of Blacksburg Homestay Ordinance Language
7. City of Charlottesville Homestay Ordinance Language

Homestay Use Matrix

	Homestay	
Definition	The short term rental of a portion or the entirety of a primary residence that is clearly secondary to the primary residential use. This use is subject to additional homestay permitting requirements.	
Example	Applicant (primary resident) wants to list one bedroom for nightly rental.	Applicant (primary resident) wants to list an entire dwelling unit for nightly rental.
Zoning Districts:	Administrative Permit (Renewed Annually)	SUP
A-1	All short term rentals by-right	N/A
R-1	1 room maximum	>1 room
R-2	1 room maximum	>1 room
R-3	1 room maximum	>1 room
R-4	All short term rentals by-right	N/A
R-5	1 room maximum	>1 room
R-6	1 room maximum	>1 room
R-8	All short-term rentals by right	N/A
PUD	1 room maximum	>1 room
MU	1 room maximum	>1 room
Permitting Requirements:	Administrative Permit (Renewed Annually)	SUP
Primary Residency ¹	Required	Required
Limited to one rental contract per night	Required	Required
Limited to 180 days per year	Required	Required
Off-Street Parking ²	Required	Required
Restriction on vehicle type ³	Required	Required
Limits on type of use (no commercial activities)	Required	Required
No Signage	Required	Required
Registry	Required	Required
Ability to revoke permit	Yes, Administratively	Yes, BOS Action

¹Primary Residency is defined as the primary location that a person inhabits as evidenced by the address on a government issued I.D. such as a driver’s license or passport or other appropriate documentation. The applicant will certify to primary residency through an affidavit at the time of application. Primary residency does not require the owner to be present at the time of the rental.

² Homestays will be required to provide one space per bedroom. No homestay shall provide less than two spaces.

³No recreational vehicles, buses or trailers may be parked on the street or visible from the property in conjunction with the homestay use.

Existing Use Matrix

	Rental of Rooms		Tourist Home	
Definition	The non-transient rental of rooms in a residential dwelling in circumstances exceeding the definition of family (refer to the definition of “family”). This term shall not apply to group homes, timeshares, homestays, or the rental of rooms in a dwelling which meets the definition of family.		A dwelling where lodging and lodging and meals are provided to transient occupants for compensation. This term shall not apply to homestays or rental of rooms. This use may include but shall not be limited to bed & breakfasts, boarding houses and the transient rental of an entire residential home which is not a primary residence.	
Example	Applicant wants to rent up to three bedrooms in a dwelling unit while present at the time of rental.		Applicants wants to rent the entire home on a year-round basis while not present at the time of rental.	
Zoning Districts:	By-Right	SUP	By-Right	SUP
A-1	Not Permitted	Permitted	Not Permitted	Permitted
R-1	Not Permitted	Permitted	Not Permitted	Not Permitted
R-2	Not Permitted	Permitted	Not Permitted	Permitted
R-3	1 room maximum Not Permitted	>1 room Permitted	Not Permitted	Permitted
R-4	Permitted Not Permitted	Not Permitted Permitted	Permitted	Not Permitted
R-5	1 room maximum Not Permitted	>1 room Permitted	Permitted Not Permitted	Not Permitted
R-6	Not Permitted	Permitted	Not Permitted	Not Permitted
R-8	Not Permitted	Permitted	Not Permitted	Permitted
PUD	Not Permitted	Not Permitted Permitted	Not Permitted	Not Permitted
MU	1 room maximum Not Permitted	>1 room Permitted	Not Permitted	Permitted
Homestay Permitting Requirements:				
Primary Residency ¹	Not required	Not required	Not required	Not required
Limited to one rental contract per night	Not required	Not required	Not required	Not required
Limited to 180 days per year	Not required	Not required	Not required	Not required
Off-Street Parking ²	One more parking space than the total number of rooms to be rented.	Subject to SUP conditions	One space per rental unit plus four parking spaces for every 50 rental units plus one space per five persons to the maximum capacity of each public meeting and/or banquet room.	Subject to SUP Conditions
Restriction on vehicle type ³	Not required	Subject to SUP conditions	Not required	Subject to SUP conditions
Limits on type of use (no commercial activities)	Not required	Subject to SUP conditions	Not required	Subject to SUP conditions
No Signage	Not required	Subject to SUP conditions	Not required	Subject to SUP conditions
Ability to revoke permit	None	Yes, BOS Action	None	Yes, BOS Action

*Proposed changes to current definitions and use table are italicized

**Typical Rental of Rooms and Tourist Home SUP conditions include: limits on the number of vehicles, restrictions on vehicle type and no additional signage.

Narrative Draft Definition and Special Regulations Language

Sec. 24-2. Definitions

Homestay. The incidental and secondary use of a residential dwelling by residents of that dwelling to provide short-term lodging to transient occupants in exchange for a charge for that occupancy. Such accessory or secondary use shall not create a landlord-tenant relationship. The primary use of the homestay unit shall remain residential.

Rental of Rooms. The non-transient rental of rooms in a residential dwelling in circumstances exceeding the definition of family (refer to the definition of “family”). This term shall not apply to group homes, timeshares, homestays, or the rental of rooms in a dwelling which meets the definition of family.

Tourist Home. A dwelling where lodging or lodging and meals are provided to transient occupants for compensation. This term shall not apply to homestays or rental of rooms (refer to the definition of “rental of rooms”). This use may include but shall not be limited to bed & breakfasts, boarding houses, timeshares, and the transient rental of an entire residential home which is not a primary residence.

Transient. A period of less than 30 days, specifically in relation to the lodging of occupants.

Sec. 24-50. Special Regulations—Homestay

The following regulations shall apply to the permitting and operation of homestays.

- (a) *Administration.* The operation of homestays on appropriately zoned properties shall be permitted by administrative permit. This requirement shall not apply to properties where homestay is a specially permitted use; in such cases the issuance of a Special Use Permit by the Board of Supervisors is required prior to operation of the homestay. Written application for a homestay permit shall be made to the planning director or his designee.

Such application shall be on forms provided by the county and shall be accompanied by a \$25 fee and a written affidavit of address, which shall serve as proof of the operator’s permanent residence at the property subject to the application.

Any operator of a homestay shall register the homestay with the planning division and the Commissioner of the Revenue. Failure to register the homestay will result in a penalty of \$500 per §15.2-983 of the Code of Virginia.

Upon review and determination that the homestay operation complies with the standards set forth in this section, the planning division shall issue a permit. Any permit that is found in violation or not in compliance with this section may be revoked. The administrative permit shall be valid for a period not to exceed one (1) year from date of issuance, at which time the operator may apply to renew their permit.

- (b) *Performance Standards.* The following standards and conditions shall apply to the operation of homestays:

- (1) *An approved homestay application will permit a maximum of 180 days of rentals in each calendar year.*
- (2) *A homestay shall not conduct simultaneous rentals under separate contracts.*

- (3) *Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited.*
- (4) *Homestays shall provide off-street parking of a minimum one space per rooms rented, with a minimum of two total.*
- (5) *No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the homestay use.*
- (6) *Signs, advertising, or any other display on the property indicating that the homestay unit is being utilized, in whole or in part, as a homestay are not permitted.*

Draft Administrative Policy Language

Purpose:

The purpose of the Homestay Special Use Permit Guidelines is to provide clear guidelines to the application for and review of special use permits allowing homestays in appropriately zoned areas.

Review Criteria:

In addition to demonstrating compliance with all performance standards found in Sec. 24-50 of the James City County Zoning Ordinance, any application for a homestay requiring a special use permit shall demonstrate substantial conformance to the following provisions:

- i. The intensity of the proposed homestay operation, including the number of rooms proposed for rental, the amount of parking permitted, or the number of days of operation per year should complement the residential character of the area; and
- ii. Have traffic, noise, lighting, and other impacts similar to surround residential uses; and
- iii. Generally be located on collector or arterial roads; and
- iv. Provide adequate screening or buffering of guest parking or outdoor common areas.

Permit Conditions:

In consideration of such an application, and given the unique qualities of each proposed site, the Board of Supervisors may require conditions, in addition to the homestay permitting requirements found in Section 24-50, intended to limit the intensity and impacts of the use, including but not limited to the following:

- i. Access: No additional access, other than existing driveways or entries, shall be added to the subject property.
- ii. Occupancy: Occupancy of the homestay, at the time of rental, shall not exceed the total occupancy equal to double-occupancy for each bedroom at the subject property.
- iii. Parking: No on-street parking shall be allowed for this use.
- iv. Homestay Rooms: The Board of Supervisors may require a condition which limits the number of rooms for rent at a subject property.
- v. Length or Timing of Operation: The Board of Supervisors may require a condition which limits the operation of the proposed homestay to certain days of the week or which prohibits single-night rentals.
- vi. Rental Allowance: The Board of Supervisors may require a conditions which further restricts the number of rental nights allowed per 12-month period, beyond those restrictions enumerated in Section 24-50 of the James City County Zoning Ordinance.

Adopted Zoning Ordinance Amendment: ZOA-2016-13

- Text to be added is shown with underline and text to be deleted is shown with ~~strikethrough~~. Text shown with double-underline> is text to be added that was not included in the advertisement; text shown with ~~double-strikethrough~~ is text to be deleted that was not included in the advertisement.
- Text shown in yellow boxes is explanatory only and is not intended to be adopted.

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Article 5. Residential (R) Districts

§5.1. Residential (R) Districts Use Tables

* * *

§5.1.3. Residential (R) districts accessory use table

Accessory uses in residential (R) districts shall include the following uses, activities and structures:

RESIDENTIAL (R) DISTRICTS ACCESSORY USE TABLE

Use Types	R-20	R-10	R-10T	R-8	R-6	R-5	R15-30T	R2-7	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted									
Accessory dwellings	P	P	P	P	P	P	P	P	§12.9.2
Commercial vehicle parking	P U	P U	P U	P U	P U	P U	P U	P U	§12.9.4
Crematoriums	U	U	U	U	U	U	U	U	§12.9.6
Family day care homes (six to nine children)	U	U	U	U	U	U	U	U	§12.9.9
Family day care homes (up to five children)	P	P	P	P	P	P	P	P	§12.9.9
Family/caregiver suites	P	P	P	P	P	P	P	P	§12.9.8
Guest house	P	P	P	P	P	P	P	P	§12.9.10
Home occupations	P	P	P	P	P	P	P	P	§12.9.11
<u>Homestay, accessory</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>§12.9.12</u>
Mortuaries and funeral homes	U	U	U	U	U	U	U	U	§12.9.14
Swimming pools, private	P	P	P	P	P	P	P	P	§12.9.17
Telecommunications antennae, building and ground mounted	U	U	U	U	U	U	U	U	
Recreational vehicle or trailer parking	P	P	P	P	P	P	P	P	§12.9.16
Vehicle maintenance and minor repairs, routine	P	P	P	P	P	P	P	P	§12.9.18
Vehicle, unlicensed and/or uninspected.	P	P	P	P	P	P	P	P	§12.9.19

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Article 6. Multiple-Family (RA) Districts

§6.1. Multiple-family (RA) Districts Use Tables

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§6.1.3. Multiple-family (RA) districts accessory use table

Accessory uses in residential apartment (RA) districts shall include the following uses, activities and structures:

MULTIPLE-FAMILY (RA) DISTRICTS ACCESSORY USE TABLE

Use Types	RA 14-26	RA 8-18	RA 7-16	RA 6-15	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted					
Commercial vehicle parking	P U	P U	P U	P U	§12.9.4
Convenience service areas	U	U	U	U	§12.9.5
Crematoriums	U	U	U	U	§12.9.6
Family day care homes (six to nine children)	U	U	U	U	§12.9.9
Family day care homes (up to five children)	P	P		P	§12.9.9
Home occupations	P	P	P	P	§12.9.11
Homestay, accessory	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	§12.9.12
Mortuaries and funeral homes	U	U	U	U	§12.9.14
Swimming pools, private	P	P	P	P	§12.9.17
Recreational vehicle or trailer parking	P	P	P	P	§12.9.16
Telecommunications antennae, building and ground mounted	U	U	U	U	
Vehicle maintenance and minor repairs, routine	P	P		P	§12.9.18
Vehicle, unlicensed and/or uninspected	P	P		P	§12.9.19

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Article 7. Commercial/ Mixed Use (C) Districts

§7.1. Commercial/Mixed Use (C) Districts Use Tables

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§7.1.3. Commercial/mixed use (C) districts accessory use table

Accessory uses in commercial/mixed use (C) districts shall include the following uses, activities and structures:

COMMERCIAL/MIXED USE (C) DISTRICTS ACCESSORY USE TABLE

Use Types	RA-4.8	R-C	RA-H	RA-H-3.2	C-1-R	C-1	MU-VS *	C-1-O	C-O-1.0	C-O-1.5	C-O-2.5	C-O	C-O-A	C-O ROSSLYN	C-O CRYSTAL CITY	C-2 *	C-TH *	C-3 *	C-R *	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted																				
Crematoriums	U S	U	U S	U S	U	U		U	U	U	U	U	U	U		U		U	U	§12.9.6
Convenience service areas		U	U S	U																§12.9.5
Drive-through windows						U										U		U	U	
Family day care homes (six to nine children)	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	§12.9.9
Family day care homes (up to five children)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	§12.9.9
Garage, private parking garage for exclusive use of occupants			P																	
Home occupations	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	§12.9.11
Homestay, accessory	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	§12.9.12
Live entertainment and/or dancing						U	U		U	U	U	U	U	U	U	U	U	U	U	§12.9.13
Mortuaries and funeral homes	U	U	U	U	U	U		U	U	U	U	U	U	U		U		U	U	§12.9.14
Outdoor café associated with a restaurant on private property	P			P		P	P		P	P	P	P	P	P	P	P	P	P	P	§12.9.15
Outdoor café associated with a restaurant on public right-of-way or easement for public use	U			U		U	U		U	U	U	U	U	U	U	U	U	U	U	§12.9.15
Swimming pools, private	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P		P	P	§12.9.17
Recreational vehicle or trailer parking	P	P	P	P	P	P	P	P	P	P	P	P	P	P		P		P	P	§12.9.16
Telecommunications antennae, building and ground mounted	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	
Vehicle maintenance, routine	P	P		P	P	P		P	P	P	P	P	P	P		P		P	P	§12.9.18
Vehicle, unlicensed and/or inspected	P	P		P	P	P		P	P	P	P	P	P	P		P		P	P	§12.9.19

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Article 12. Use Standards

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§12.9. Accessory Use Standards

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§12.9.11. Home occupation

Home occupations are permitted in dwelling units subject to R, RA and C district regulations when such use is clearly subordinate or incidental to the principal use of the premises for dwelling purposes and as follows:

- A. Home occupations which are conducted as limited by ~~§12.9.11.C~~ ~~subsection §12.9.12.C~~, below, and which have the general character of the following uses are permitted:

1. Accessory homestay, subject to the provisions of this §12.9.11 and §12.9.12.

* * *

- C. Home occupation uses shall be subject to the following limitations. All limitations apply together. No limitation shall be interpreted as relaxing another limitation.

1. Home occupation operators shall apply for and enter into an agreement with the zoning administrator certifying that they will comply with the requirements for a home occupation in the zoning ordinance. The zoning administrator shall approve the agreement only upon finding that the home occupation will comply with the zoning ordinance and that it will be clearly subordinate to the principal use of the premises for dwelling purposes.
2. There shall be no evidence on the exterior of the premises or visible from the exterior of the premises that the property is used in any way other than for a dwelling.
3. There shall be no signs.
4. There shall be no outside display, storage, or sale of merchandise or equipment.
5. With the exception of accessory homestay, only one person, at any time, who is not a bona fide resident of the dwelling, may be employed or perform work on the premises. Nonresident employees are prohibited for accessory homestay, provided, however, hired service for normal maintenance, repair and care of the residence or site, such as yard maintenance or house cleaning, is allowed. In addition, a disabled resident may employ assistance from one person at a time who is not a resident and whose assistance is limited to overcoming the effect of the disability. A written statement identifying the person who will give the assistance, the kind of assistance that will be given and the time the person will be in the dwelling must be filed in the office of the zoning administrator as to each person permitted to be employed as an assistant to a disabled person before that person may be employed in the dwelling. If the dwelling is an accessory dwelling, persons who are not bona fide residents of the dwelling may not be employed or perform work on the premises except one non-resident employee may be employed or perform work on the premises providing assistance to a disabled resident, as above.
6. Instruction of students (including delivery of materials clearly incidental to training) and service to clients or customers shall be limited to 12 persons per day but under no circumstances more than four persons at any one time, except as provided in §12.9.12.A.2 below, which shall govern the number of lodgers allowed for accessory homestay.
7. With the exception of accessory homestay, the total floor area on any premises to be used for home occupation(s) shall not exceed a figure calculated by taking 25 percent of the total floor area of the principal dwelling on the premises, excluding attached garages provided,

however, that under no circumstances shall more than 10 percent of the total floor area of the principal dwelling be used for specified storage of stock-in-trade.

8. The storage of hazardous materials is prohibited.

9. There shall be no stocks-in-trade displayed or sold on the premises, except for those produced at the premises.

10. Each application for a home occupation agreement shall be accompanied by a sketch of all existing and proposed new parking spaces. Existing parking spaces, unless illegal, shall be permitted to remain. All new parking spaces shall comply with all applicable requirements in §14.2 and §14.3. No vehicles shall be parked or stored in any other spaces unless they comply with all provisions of the zoning ordinance.

11. The lot or property on which the home occupation is conducted shall not have any parking space added to it during the time the home occupation is being conducted; nor shall any parking space be used that was not customarily used prior to that time. The application for approval shall show a sketch of the parking spaces customarily in use at the time of application and agree that parking shall not be increased during the period the approval is in effect. During the period the approval is in effect, no motor vehicle shall be parked at any place on the lot or property not represented as a parking space on the sketch attached to the application.

12. No equipment may be used on the premises other than that which is usual for purely domestic or hobby purposes, or what is usual for a small business, professional, or medical office.

* * *

§12.9.12. Homestay, accessory

Accessory homestay is allowed subject to the home occupation provisions in §12.9.11 and subject to the provisions below. For the purposes of this §12.9.12, the term resident shall mean either the owner or a tenant.

A. Standards

1. Accessory use. Accessory homestay shall be accessory only to household living use as defined in §12.2.3.A.1, and shall be allowed only where:

(a) The dwelling unit is used by the ~~resident owner~~ of the dwelling unit as his/her primary residence, which means that he or she resides there for at least 185 days during each year; and

(b) The bedroom(s) rented to overnight lodgers shall be within the main building of the dwelling unit that the ~~resident owner~~ occupies as his/her primary residence and shall not be in a detached accessory building.

2. Maximum number of overnight lodgers.

(a) The maximum number of overnight lodgers on any night of an accessory homestay shall be determined based on the greater of six lodgers, or two lodgers per number of

City of Arlington

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bedrooms in the dwelling, provided, however, under no circumstances shall the number of lodgers exceed that allowed by the Building Code

~~(b) An accessory homestay shall not include simultaneous rentals under separate contracts.~~

Paragraph (a) above will be combined with paragraph 2

3. Accessory homestay shall be allowed in dwelling units that have an accessory dwelling, subject to the following

(a) Either the main dwelling, the accessory dwelling, or both may be rented to lodgers by the resident owner, ~~provided, however, simultaneous rental of both the main and accessory dwelling at the same time shall be allowed only when subject to a single contract;~~ and

(b) Occupancy in the accessory dwelling is limited to a maximum of two lodgers;

4. An accessory homestay shall have working fire extinguishers, smoke detectors and, if applicable, carbon monoxide detectors, and all such equipment shall be accessible to all overnight lodgers of the homestay at all times.
5. Any sleeping room used for an accessory homestay shall have met the requirements for a sleeping room at the time it was created or converted.
6. Commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation are prohibited pursuant to an accessory homestay permit.
7. An accessory homestay shall comply with requirements of the applicable version of the Virginia Uniform Statewide Building Code, as determined by the Building Official.

B. Accessory homestay application

The following shall be filed with the zoning administrator with the application for an accessory homestay permit:

1. Contact information for a responsible party. If the resident owner is not the responsible party who will be available during use of the accessory homestay, then the responsible party shall be identified and must sign the application.
2. Proof of the applicant's ~~ownership of, and~~ permanent residence of, the property that is the subject of the application. Acceptable proof of permanent residence includes: applicant's driver's license or voter registration card or U.S. passport showing the address of the property, or other document(s) which the zoning administrator determines provides equivalent proof of permanent residence by the applicant at the property that is the subject of the application.

C. Accessory homestay permit.

Use of an accessory homestay shall require an accessory homestay permit issued by the zoning administrator. The resident owner of the accessory homestay shall operate the accessory homestay under all conditions of the accessory homestay permit, and subject to the following:

1. An accessory homestay permit shall be valid for one year from date of issuance.
2. It is the responsibility of the resident owner to renew the permit upon expiration, by submitting an updated application, as required in §12.9.12.B above.
3. The accessory homestay permit requires the resident owner, and responsible party if the responsible party is not the resident owner, to agree to abide by all requirements of this zoning ordinance, and all other applicable federal, state and local laws and regulations.
4. With his/her signature on an application for accessory homestay, the resident owner authorizes the zoning administrator and his/her designee to enter the dwelling unit upon reasonable advance notice in response to a complaint(s), to verify that the accessory homestay is being operated in accordance with the provisions of this §12.9.12 and the home occupation provisions in §12.9.11, and all conditions of the accessory homestay permit.
5. An accessory homestay permit may be revoked by the zoning administrator as set forth below; an applicant whose accessory homestay has been revoked pursuant to this paragraph shall not be eligible to receive any new accessory homestay permit for one year:
 - (a) In the event that there are three or more violations recorded by the County within a one year period; or
 - (b) For failure to comply with the regulations set forth in this ~~§12.9.11~~ §12.9.12, the home occupation provisions in ~~§12.9.10~~ §12.9.11 and any permit conditions; or
 - (c) For refusal to cooperate with the County in a complaint investigation, including allowing the Zoning Administrator or his/her designee to enter the dwelling unit upon reasonable advance notice in accordance with §12.9.12.C.4 above.

* * *

Article 18. Definitions

* * *

§18.1. General Terms Defined

For the purposes of this zoning ordinance certain terms and words used herein shall be defined and interpreted as follows.

Accessory homestay. See Homestay, accessory.

* * *

Home occupation. An accessory use conducted pursuant to §12.9.11, in or from a residential dwelling or its accessory building by person(s) whose principal residence is on the premises. See also.

Homestay, accessory. A home occupation in which an owner(s) or tenant(s) of a dwelling unit who uses such dwelling unit as his/her primary residence, rents to a lodger, either such dwelling unit, or any portion thereof.

* * *

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Lodger. Any individual who contracts with an owner or tenant(s) of a dwelling unit, for compensation, for not more than 30 days within one year. This definition shall not apply to hotel or motel or guest room as defined in this zoning ordinance.

* * *

Responsible party. The owner or tenant, or an individual or business entity designated by the owner or tenant, of a dwelling unit in which an accessory homestay is permitted, who is available 24 hours a day, 7 days a week to respond to and resolve issues and complaints that arise during all times in which the dwelling unit is being used for an accessory homestay, so that a reasonably prompt, in-person response can be made at the accessory homestay when necessary.

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Town of Blacksburg

ARTICLE VI. - HOMESTAY REGULATIONS

Section 6-601. - Definitions.

As used in this article, unless the context requires a different meaning:

Booking transaction means any transaction in which there is a charge to a transient by a host for the occupancy of any dwelling, sleeping, or lodging accommodations.

Hosting platform means any person or entity that is not a host but facilitates reservations or collects payments for any booking transaction on behalf of a host through an online digital platform.

Guest or *transient* means a person who occupies a homestay unit.

Homestay means the accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for short term transient rental purposes in exchange for a charge for the occupancy. The primary use of the homestay unit shall remain residential. For each booking transaction, all applicable taxes must be collected and remitted to the town as required by chapter 22 by either the host or the associated hosting platform. Such accessory or secondary use shall not create a landlord/tenant relationship.

Host means the person who is the primary resident of a homestay unit offered for homestay lodging. In determining compliance with these regulations, the host has the burden of demonstrating that the dwelling unit is his or her primary residence.

Primary resident means the owner of the homestay unit who occupies the property as his or her principal place of residence and domicile.

Residential dwelling unit means a residence where one (1) or more persons maintain a household.

Type A rentals means rentals where the host is present during the homestay and no more than two (2) bedrooms of the homestay unit are rented.

Type B rentals means all other rentals, including ones where more than two (2) bedrooms of the homestay unit are rented or the host is not present during the homestay.

([Ord. No. 1807, § 1, 12-13-16](#))

Section 6-602. - Registration and other requirements.

- (a) No host shall operate a homestay unit or advertise a residential property for homestay use without the host first having registered with the department of planning and building.
- (b) The registration form shall include the following information:
 - (1) The name, telephone number, address, and email address of the host.
 - (2) A reminder about the importance of having appropriate levels of insurance that covers the homestay unit, the host and the guests.
 - (3) If the homestay unit shares a common wall or a common driveway with another property owner, proof of written notification to such neighboring property owner(s) prior to filing the registration application.

- (c) Signs, advertising, or any other display on the property indicating that the homestay unit is being utilized, in whole or in part, as a homestay are not permitted.
- (d) The host shall register with the finance department to collect and remit the town's transient lodging tax as set forth in chapter 22, article V.
- (e) A host may only register and operate one (1) residential dwelling unit as a homestay in the town.
- (f) The registration shall be valid January 1st (or from whatever date the registration first occurs) through December 31st of the calendar year, and shall be renewed annually.
- (g) A valid registration will permit a maximum ninety (90) days of type A and type B rentals in each calendar year. Of these ninety (90) days of rentals, no more than thirty (30) days may be type B rentals. On each lodging tax return form filed with the director of finance, the number of type A and type B rentals shall be listed.

([Ord. No. 1807, § 1, 12-13-16](#))

Section 6-603. - Safety.

- (a) The unit shall have smoke alarms and carbon monoxide detectors meeting current Underwriters Laboratory standards installed as follows:
 - (1) In all sleeping areas.
 - (2) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
 - (3) In each story within the sleeping unit, including basements.
- (b) Any sleeping area must have one (1) other adequate method of egress beyond the entrance point.
- (c) As part of the registration process, the host shall certify that the homestay unit meets the requirements of this section. The registration forms shall also provide that, as part of the registration, the host is agreeing to permit inspections of the home (at reasonable times and after notice has been provided) to address complaints. The failure to permit such an inspection is grounds for registration suspension.

([Ord. No. 1807, § 1, 12-13-16](#))

Section 6-604. - Use regulations.

- (a) No recreational vehicles, buses, or trailers shall be parked on the adjoining street or visible on the property in conjunction with the homestay use.
- (b) The dates for trash and recycling collection shall be posted prominently in the homestay unit.
- (c) During each stay at the homestay unit, a principal guest shall be designated as the contact person for town officials in the event of safety or behavioral issues at the unit. The host shall provide this information upon request to authorized town officials.
- (d) The host shall not permit occupancy of a homestay unit for a period of less than twenty-four (24) hours.
- (e) The name and telephone number of the host or the host's designee shall be conspicuously posted within the homestay unit. The host shall answer calls twenty-four (24) hours a day, seven (7) days a week for the duration of each short term rental to address any problems associated with the homestay unit.

- (f) The principal guest of a homestay unit shall be at least eighteen (18) years of age.
- (g) The maximum number of adult guests in a homestay unit is limited to six (6).

([Ord. No. 1807, § 1, 12-13-16](#))

Section 6-605. - Registration suspension or cancellation.

- (a) A registration may be suspended or cancelled for the following reasons:
 - (1) Failure to collect and/or remit the transient occupancy tax.
 - (2) Three (3) or more substantiated complaints (including, but not limited to, parking on grass, noise, excess trash) within a twelve-month period.
 - (3) The failure of any homestay host to maintain his or her principal place of residence or domicile at the dwelling unit used as a limited residential lodging.
- (b) Before any suspension or cancellation can be effective, a duly designated officer of the town shall give written notice to the homestay host. The notice of suspension or cancellation issued under the provisions of this chapter shall contain:
 - (1) A description of the violations constituting the basis of the suspension or cancellation;
 - (2) If applicable, a statement of acts necessary to correct the violation; and
 - (3) A statement that if no request for a hearing is made within ten (10) days from the date of the notice, the registration will be suspended or cancelled;
- (c) The notice shall be given to the host by delivering a copy of the notice in person. If the host cannot be found, such notice shall be sent by:
 - (1) Certified mail or e-mail to the addresses in the registration form; and
 - (2) A copy of the notice shall be posted in a conspicuous place on the premises.
- (d) If requested, a hearing shall be held before a deputy town manager or the deputy manager's designee. It is the burden of the host to demonstrate, by a preponderance of the evidence, why the suspension or cancellation should not go into effect. The decision of the deputy town manager or designee may be appealed to the town council.

([Ord. No. 1807, § 1, 12-13-16](#))

Section 6-606. - Penalty.

It shall be unlawful to operate a homestay without registering as required by this article, after a registration has been suspended or cancelled or in violation of any other requirement of this article; the penalty shall be a fine of one thousand dollars (\$1,000.00) per occurrence.

([Ord. No. 1807, § 1, 12-13-16](#))

City of Charlottesville

Sec. 34-1172. - Standards—Home occupations.

A home occupation authorized by a provisional use permit shall be subject to the following regulations:

- (1) A home occupation shall be permitted only where the character of such use is such that it is clearly subordinate and incidental to the principal residential use of a dwelling.
- (2) In addition to the resident of the dwelling, not more than one (1) other individual may be engaged in the activities of the home occupation business on the property at any given time. There must be off-street parking available for this other individual.
- (3) No more than three (3) customers or clients of a home occupation business shall be present on the premises at the same time; for homestays: no more than six (6) adult overnight guests are allowed, per tax map parcel, per day. No customers, clients or employees shall be allowed to visit the property on which a home occupation business is conducted earlier than 8:00 a.m. or later than 9:00 p.m.; these hours of operation shall not apply to a homestay.
- (4) Deliveries of supplies associated with the home occupation business shall occur only between the hours of 8:00 a.m. and 9:00 p.m.
- (5) No mechanical or electrical equipment shall be employed within or on the property, other than machinery or equipment customarily found in a home.
- (6) No outside display of goods, and no outside storage of any equipment or materials used in the home occupation business shall be permitted.
- (7) There shall be no audible noise, or any detectable vibration or odor from activities or equipment of the home occupation beyond the confines of the dwelling, or an accessory building, including transmittal through vertical or horizontal party walls.
- (8) The storage of hazardous waste or materials not otherwise and customarily associated residential occupancy of a dwelling is prohibited.
- (9) There shall be no sales of any goods, other than goods that are accessory to a service delivered on-premises to a customer or client of the home occupation business.
- (10) With the exception of homestays: (i) a home occupation business must be conducted entirely within the dwelling, an accessory building or structure, or both and (ii) not more than 25% of the total floor area of the dwelling shall be used in the conduct of the home occupation business, including storage of stock-in-trade or supplies.
- (11) For pet grooming services, all animals must be kept inside during the provision of services and no animals may be boarded or kept overnight.
- (12) All parking in connection with the home occupation business (including, without limitation, parking of vehicles marked with advertising or signage for the home business) must be in driveway and garage areas on the property, or in available on-street parking areas.
- (13) Homestays may not have any exterior signage. For other home occupation businesses: one (1) exterior sign, of dimensions no greater than two (2) square feet, may be placed on the exterior of the dwelling or an accessory structure to indicate the presence or conduct of the home business: and (i) this sign may not be lighted; and (ii) in all other respects the property from which a home occupation business is to be conducted must be in compliance with the sign regulations set forth within Division 4, section 34-1020, et seq.

- (14) Except for a sign authorized by subparagraph (13) above, there shall be no evidence or indication visible from the exterior of the dwelling that the dwelling or any accessory building is being utilized in whole or in part for any purpose other than residential occupancy.
- (15) Applicants for a provisional use permit authorizing a home occupation shall provide evidence of a city business license (or a statement from the commissioner of revenue that no city business license is required), proof of payment of taxes required by City Code, Chapter 30, if any, and a certificate of occupancy or other written indication from the city's building code official that use of the dwelling or accessory building for the home occupation business is in compliance with all applicable building code regulations.

(16) In addition to the provisions of subparagraphs (1)—(16), above, the following regulations shall apply to homestays:

- a. An individual who applies for a provisional use permit to authorize the operation of a homestay shall present proof of:***
- (i) Such individual's ownership of, and permanent residence at, the property that is the subject of the application. Acceptable proof of permanent residence includes: applicant's driver's license, voter registration card or U.S. passport, showing the address of the property, or other document(s) which the zoning administrator determines provide equivalent proof of permanent residence by the applicant at the property that is the subject of the application.***
 - (ii) Contact information for a responsible party. If the owner is not the responsible party who will be available during the time of service, then the responsible party must be identified and must sign the application form.***
- b. No food shall be prepared for or served to guests of the homestay by the owner or the owner's agent(s) or contractor(s).***
- c. Every homestay shall have working smoke detectors, carbon monoxide detectors and fire extinguishers, and all such equipment shall be accessible to overnight guests of the homestay at all times. Every homestay shall comply with requirements of the applicable version of the Virginia Uniform Building Code, as determined by the City's Building Code Official.***
- d. By his or her application for a provisional use permit for a homestay, an applicant authorizes city inspectors to enter the subject property, upon reasonable advance written notice to the applicant, at least one (1) time during the calendar year for which the permit is valid, to verify that the homestay is being operated in accordance with the regulations set forth within this section.***
- e. Each provisional use permit for a homestay will be valid from January 1 (or such other date during a calendar year on which such permit is issued) through December 31 of the calendar year in which the permit is issued. During this period of validity, the owner of the homestay must occupy the dwelling as his or her residence for more than one hundred eighty (180) days.***
- f. A provisional use permit for a homestay may be revoked by the zoning administrator (i) in the event that three (3) or more substantiated complaints are received by the city within a calendar year, or (ii) for failure to maintain compliance with any of the regulations set forth within this section. A property owner whose provisional use permit has been revoked pursuant to this paragraph shall not be eligible to receive any new provisional use permit for a homestay, for the remaining portion of the calendar year in which the permit is revoked, and for the entire succeeding calendar year.***

(17) The following are specifically prohibited, and shall not be deemed or construed as activities constituting a home occupation:

- a. Auto detailing, where more than two (2) vehicles being serviced are present on the property at any given time.
- b. Barber shops or beauty salons having more than two (2) chairs.
- c. Funeral home with or without chapel.
- d. Medical or dental clinic (other than psychiatric or psychological counseling services).
- e. Motor vehicle sales, repair, equipment installation, and similar activities.
- f. Nursing homes and adult care facilities.
- g. Offices or staging facilities for any non-professional service-oriented businesses (for example, maid services, landscaping and lawn maintenance services, construction services, etc.), except where the sole activity on the premises would be telephone order/dispatching functions and there would be no vehicles, equipment, workers, or customers on the premises at any time.
- h. Repair or testing of machinery, including internal combustion engines.
- i. Restaurants.
- j. Retail or wholesale sales, where any goods or merchandise are (i) displayed or otherwise offered or available on-site for sale or purchase, or (ii) delivered to or picked-up by purchasers on-site, including, without limitation: antique shops, sales of firearms, computer sales, and similar activities.
- k. Schools, nursery schools, and day care facilities.
- l. Veterinary clinics and animal kennels.

(9-15-03(3); 9-8-15(2))

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Alex Baruch, Planner, Jose Ribeiro, Senior Planner II, Ellen Cook, Principal Planner

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

ATTACHMENTS:

	Description	Type
▣	Memorandum	Cover Memo
▣	Attachment 1 Initiating resolution	Backup Material
▣	Attachment 2 Minutes 4.11.17 BOS	Backup Material
▣	Attachment 3 R-8 Rural Residential District	Backup Material
▣	Attachment 4 Cluster Overlay Ordinance	Backup Material
▣	Attachment 5 Age-Restricted Housing Benchmarking Information	Backup Material
▣	Attachment 6 R-8 Map	Backup Material
▣	Attachment 7 Williamsburg Landing Proposal Information	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 2:23 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:26 PM
Publication Management	Trautman, Gayle	Approved	9/8/2017 - 2:32 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:32 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: Alex Baruch, Planner
Jose Ribeiro, Senior Planner II
Ellen Cook, Principal Planner

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

History

On April 11, 2017, the Board of Supervisors adopted an initiating resolution, stating: “the Board of Supervisors does hereby initiate amendment of the James City County Code, Chapter 24, Zoning, Article V, Districts, Division 8, Rural Residential District, R-8 and James City County Code, Chapter 24, Zoning, Article VI, Overlay Districts, Division 1, Residential Cluster Development, in order to address the provision of age-restricted housing, independent living facilities and specially permitted density bonuses. The Planning Commission shall hold at least one public hearing on the consideration of amendment of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.” This initiating resolution and the minutes from the April 11, 2017 meeting are included as Attachment Nos. 1 and 2.

The following memorandum provides background information about age-restricted housing, independent living facilities, the R-8 District and the Cluster Overlay District. It also provides information about the potential amendments that could result from the language of the initiating resolution. Lastly, it requests feedback from the Policy Committee on next steps.

I. Background Information

Age-Restricted and Independent Living Facilities

The Comprehensive Plan encourages provision of housing for aging populations in the Housing and Population Needs Chapters. When the Zoning Ordinance was updated in 2011 and 2012, staff, the Commission and Board made a number of amendments to the Zoning Ordinance to accommodate various types of housing for the aging population. In the definitions section, and for those districts that were updated in 2011/2012, the Ordinance includes uses for independent living facilities, assisted living facilities and skilled nursing facilities, which reflect a continuum of increasing care for the residents. The Ordinance also includes the use Continuing Care Retirement Community (CCRC) for those proposed communities that include elements of all three uses. The definitions for these four uses are as follows:

- Independent living facility. A facility containing independent dwelling units providing housing and supportive services such as meals, housekeeping, social activities and transportation to residents.
- Assisted living facility. Any congregate care residential setting that provides or coordinates personal and health care services, 24-hour supervision and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirmed or disabled in a primarily residential setting. For the purpose of this definition, an assisted living facility is an institutional use; therefore, it does not count toward the residential calculation.

- Skilled nursing/nursing home facilities. Any facilities or any identifiable component of any facility in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature such as convalescent homes, skilled care facilities, intermediate care facilities, extended care facilities and infirmaries.
- Continuing care retirement community. An age-restricted development that is planned, designed and operated to provide a full range of accommodations for senior citizens, including independent living, assisted living and a skilled nursing component.

These uses are accommodated in James City County in many of the County Zoning Districts, reflecting the Comprehensive Plan's guidance. The following table shows the districts where these uses are permitted and specially permitted. Several of the districts that allow them (PUD, MU) also accommodate nearby commercial uses, encourage master-planned pedestrian and transportation facilities and include other amenities such as open space. For the R-5 District, most proposals would likely occur in areas designated Moderate Density Residential (MDR) on the Comprehensive Plan; these MDR areas were designated with similar considerations in mind for their placement.

Zoning District	Use	Permitted	SUP
A-1	*		
R-1	N/A		
R-2	N/A		
R-3	Skilled Nursing Facilities		X
	Independent Living Facilities		X
	Assisted Living Facilities		X
	CCRC		X
R-4	Skilled Nursing Facilities	X	
	Independent Living Facilities		X
	Assisted Living Facilities	X	
	CCRC	X	
R-5	Skilled Nursing Facilities		X
	Independent Living Facilities		X
	Assisted Living Facilities		X
	CCRC		X
R-6	N/A		
R-8	*		
LB	N/A		
B-1	Skilled Nursing Facilities		X
M-1	Skilled Nursing Facilities		X
M-2	N/A		
RT	N/A		
PUD	Skilled Nursing Facilities	X	
	Independent Living Facilities	X	
	Assisted Living Facilities	X	
	CCRC	X	
MU	Skilled Nursing Facilities	X	
	Independent Living Facilities	X	
	Assisted Living Facilities	X	
	CCRC	X	
PL	*		
EO	Skilled Nursing Facilities		X

* District not updated in 2011/2012, lists use terms that had been used previously

There are three other important items to note in this section of the memorandum. First, while originally planned, not all districts ended up being updated in 2011/2012. Therefore, there are several districts which list uses that are not consistent with the other districts or the current definitions. R-8 was one of those districts, so it currently lists “rest homes for fewer than 15 adults” as permitted and “nursing homes for the residence and/or care of the aged” and “rest homes for 15 or more adults” as specially permitted. When the other districts were updated, these terms were discontinued and the Skilled Nursing Facilities and Assisted Living Facilities uses were used instead.

The second item of note is that the Land Use Section of the Comprehensive Plan considers the uses differently, with independent living developments being considered residential in nature and skilled nursing and assisted living facilities being considered more institutional/commercial in nature (page 167). This distinction has significant implications, since independent living developments must then adhere to the permitted residential unit types of the district they are in (which could be some or all of the following: single-family, multi-family, apartments) and must also adhere to the density requirements and maximums of the district they are in. Also, in terms of legislative cases (rezonings or Special Use Permits), residential projects may not submit proffers to offset impacts typically associated with residential growth (e.g., schools, roads, etc.).

The third item of note is that as shown in the definitions above, in the current language, the only use definition that specifies age-restriction is CCRC. While most developments with these uses have in the past been age-restricted, the commitment to that status has come through proffers offered by a developer during the rezoning process. Without proffers, the Zoning Ordinance currently does not have any tools with which to enforce or ensure an age-restricted community.

R-8, Rural Residential District

The Statement of Intent for the R-8 Residential District reads as follows: “Generally, the Rural Residential District, R-8, is intended for application to rural areas of the county which remain inside the primary service area where utilities and urban services are planned but not yet fully available and where urban development may be expected in the near future. The district may also be applied to certain outlying areas where residences exist at similar densities or may be appropriate in view of housing needs. The district is intended to maintain a rural environment suitable for farming, forestry and low-density rural residence, together with certain recreational and public or semipublic and institutional uses, until such time as an orderly expansion of urban development is appropriate.”

As described in the Statement of Intent, for those areas of R-8 inside the primary service area (PSA), the district is intended to maintain a rural environment suitable for farming, forestry and low-density rural residence until such time as an orderly expansion of the urban development is appropriate. In essence, the R-8 District inside the PSA has functioned as a “holding zone” until appropriate infrastructure has been put in place and pending Commission and Board consideration and approval of rezoning applications after evaluation of the applications for consistency with the Comprehensive Plan (allowing for the “orderly expansion”).

The various requirements of the R-8 District reflect the Statement of Intent. Many of the listed permitted/specially permitted uses relate to agriculture, timbering or open space/recreation uses with a limited number of additional commercial uses. The permitted residential unit types are single-family dwellings (permitted) and two-family dwellings (specially permitted). The area requirement for a new lot is currently set at three acres and there are fewer development design requirements (open space, etc.) than in the typical residential districts such as R-2.

Cluster Overlay District

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

The Cluster Overlay District of the Zoning Ordinance is designed to be applied over a base Zoning District. Currently, the Cluster Overlay can be applied to the R-1 and R-2 Zoning Districts. In terms of process, this most typically occurs through submission of a Special Use Permit (SUP) concurrent with a rezoning request, as R-1 and R-2 list residential unit types as needing an SUP for cluster development at any density above one unit per acre.¹ It is important to note that as currently written, the Cluster Overlay can only be applied inside the PSA as stated in Section 24-540.

As also stated in Section 24-540, the Cluster Overlay requirements shall govern where there is a conflict with the requirements of the underlying district. The Cluster Overlay contains, and therefore supersedes, most of the typical R-1 and R-2 requirements (lot size, setbacks, density, open space), but does not contain sections on permitted/specially permitted uses or on height limits. As described in the Statement of Intent, the Cluster Overlay allows for developers to request greater density than would otherwise be allowed in R-1 or R-2 alone, but links greater density to use of open space design principles and to the inclusion of elements beneficial to the community. As currently written, the Cluster Overlay provides for achieving a density of up to four dwelling units per acre using density bonuses. The density range of one to four dwelling units per acre is intentionally calibrated with the Low Density Residential designation of the Comprehensive Plan, which contains the same recommended density range.

II. Potential Amendments and Implications

The following amendments could be made to provide for age-restricted housing, independent living facilities and specially permitted density bonuses in the R-8, Rural Residential and Cluster Overlay Districts.

- In the Definitions section of the Zoning Ordinance, the definition of independent living facilities could be amended as follows:
 1. Re-examined to potentially specify that the independent living facility units be restricted in terms of age or certain classifications of need, such as persons with disabilities. The definition

¹ In R-1 and R-2, the maximum permitted by-right density is one dwelling unit per acre. To achieve a density of up to two dwelling units per acre, an applicant can either seek an SUP for the increased density within the R-1 or R-2 Districts, or can seek an SUP to apply the Cluster Overlay. For any density above two dwelling units per acre, the only option is to seek an SUP to apply the Cluster Overlay.

could also be re-examined generally to ensure that it is up-to-date. Staff has been examining definitions from other localities and it appears that some refinements could be made to the County's definitions for greater clarity (Attachment No. 5).

2. Re-examined to potentially include specific details on the services and nature of the use so as to lessen the possibility that an independent living facility would become used for typical residential use.
 3. Re-examined to potentially further clarify in the language that the independent living units must take the form of the unit type(s) that are listed as permitted in the district (in the case of R-8 currently, this would be single-family dwellings or two-family dwellings with an additional SUP).
- In R-8, add "Independent Living Facility contained within residential cluster development in accordance with article VI, division 1 of this chapter" as a specially permitted use in the use list.
 - In Cluster Overlay, amend Section 24-540 to allow for the Cluster Overlay to be applied to the R-8 District as well as the current R-1 and R-2 Districts. As noted above, the Cluster Overlay as currently written can only be applied to land inside the PSA. A map showing R-8 parcels over two acres (the minimum size for a Cluster Overlay) inside the PSA is included as Attachment No. 6.

The table below shows a comparison between the existing R-8, Rural Residential District and a potential R-8 Rural Residential District with Cluster Overlay.

Comparison of the Current R-8 (Base District) and a Potential R-8 with Cluster Overlay

	Existing R-8	Potential R-8 with Cluster Overlay
Uses	Single-family by-right and multi-family of up to two units with SUP	<i>Same (Cluster does not contain its own use list)</i>
Buffer Requirement		
From right-of-way	150 feet for Community Character Corridors or 75 feet for other roads	<i>Same</i>
Perimeter	35 feet	<i>Same</i>
Lot Setbacks	Front: 35 feet Side: 15 feet Rear: 35 feet	<i>Same, but may be reduced to zero, provided no building within 25 feet of the interior edge of the perimeter buffer (creating a 60-foot total setback)</i>
Minimum Lot Width	Lots up to one acre: 100 feet Lots one acre or more: 150 feet	<i>None</i>
Density	One dwelling unit per three acres (or 0.33 dwelling units per acre) maximum	<i>Four dwelling units per acre max (with density bonus points)</i>
Open Space	No minimum requirement	<i>Linked to proposed density—ranges from 25% up to 35% of developable acreage. Cluster includes open space development design elements guidance.</i>
Height	45 feet Height Limit with 25-foot side setbacks	<i>Same (Cluster does not contain its own height limits section)</i>
	No ability to request waiver for apartments	<i>Same (Cluster does not contain its own height limits section)</i>

One of the most significant differences between these two scenarios is the density. In R-1 and R-2, there is a stepped progression of density from one unit per acre in the base districts to two to four units per acre with the Cluster Overlay, as compared with the R-8 versus R-8 with Cluster scenario above.

Per the initiating resolution, staff could draft ordinance language as described in the bullet points above. *Does the Committee have feedback on pursuing the bullets listed above? Does the Committee have any guidance on alternative or additional possible approaches?*

III. Next Steps

For the Committee's information, a comparison between a potential R-8 with Cluster (as would be provided for by the bullets above) and the Williamsburg Landing proposal has been included as Attachment No. 7. As shown in the attachment, there are many differences (allowed use types, density, open space, height limits) between the two scenarios. *In considering this attachment, does the Committee have any additional feedback for staff regarding amendments to address other ordinance requirements in the R-8 or Cluster Overlay Districts?*

Last, staff seeks feedback from the Committee on the possible revision of the R-8 Use List to bring it into consistency with the terms used in the other Zoning Districts. As noted above, the R-8 District currently lists "rest homes for fewer than 15 adults" as permitted and "nursing homes for the residence and/or care of the aged" and "rest homes for 15 or more adults" as specially permitted. The district could be updated to include skilled nursing and assisted living as permitted or specially permitted uses. The implications of making amendments to these uses would likely be minor since the district has similar uses currently and the changes would bring consistency with the other residential districts. As discussed above, both of these uses are viewed as institutional/commercial (of a limited nature). *Does the Committee have feedback on pursuing these amendments to the Use List?*

Staff requests feedback from the Policy Committee on the italicized questions listed above and any other guidance on desired next steps.

AB/JR/EC/gt

R8amend-mem

Attachments:

1. Initiating Resolution
2. Minutes of the April 11, 2017, Board of Supervisors meeting
3. R-8, Rural Residential District Ordinance
4. Cluster Overlay Ordinance
5. Age-Restricted Housing Benchmarking Information
6. R-8 Map
7. Williamsburg Landing Proposal Information

RESOLUTION

INITIATION OF CONSIDERATION OF AMENDMENTS TO THE RURAL RESIDENTIAL DISTRICT, R-8, AND THE RESIDENTIAL CLUSTER DEVELOPMENT OVERLAY DISTRICT OF THE ZONING ORDINANCE TO ADDRESS AGE-RESTRICTED HOUSING AND INDEPENDENT LIVING FACILITIES

WHEREAS, Virginia Code § 15.2-2286 and County Code § 24-13 permit the Board of Supervisors of James City County, Virginia (the "Board") to, by resolution, initiate amendments to the regulations of the Zoning Ordinance that the Board finds to be prudent; and

WHEREAS, the Board is of the opinion that the public necessity, convenience, general welfare and good zoning practice warrant the consideration of amendments to the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of James City County Code, Chapter 24, Zoning, Article V, Districts, Division 8, Rural Residential District, R-8 and James City County Code, Chapter 24, Zoning, Article VI, Overlay Districts, Division 1, Residential Cluster Development, in order to address the provision of age-restricted housing, independent living facilities and specially permitted density bonuses. The Planning Commission shall hold at least one public hearing on the consideration of amendment of said Ordinance and shall forward its recommendation thereon to the Board of Supervisors in accordance with the law.



Kevin D. Onizuk
Chairman, Board of Supervisors

ATTEST:


Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	✓	—	—
SADLER	✓	—	—
HIPPLE	✓	—	—
LARSON	—	—	—
ONIZUK	✓	—	—

Absent

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of April, 2017.

InitResAgeRest-res

MINUTES
JAMES CITY COUNTY BOARD OF SUPERVISORS
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
April 11, 2017
5:00 PM

A. CALL TO ORDER

B. ROLL CALL

Ruth M. Larson, Vice Chairman, Berkeley District
Michael J. Hipple, Powhatan District
P. Sue Sadler, Stonehouse District
John J. McGlennon, Roberts District
Kevin D. Onizuk, Chairman, Jamestown District

Adam R. Kinsman, County Attorney
Bryan J. Hill, County Administrator

ADOPTED

APR 25 2017

**Board of Supervisors
James City County, VA**

C. MOMENT OF SILENCE

D. PLEDGE OF ALLEGIANCE

1. Pledge Leader – Alexis Musselman, a second grade student at Clara Byrd Baker and a resident of the Jamestown District

E. PUBLIC COMMENT

1. Ms. Betty Walker, 101 Locust Place, addressed the Board in regard to the Federal Reserve.
2. Ms. Isabella Kennedy, 7681 Thacher Drive, addressed the Board in regard to an attack on her leashed dog by a dog running loose.
3. Mr. Jim Kennedy, 7681 Thacher Drive, addressed the Board in regard to a dog attack that wounded his dog and traumatized his daughter.
4. Mr. Jay Everson, 103 Branscome Blvd., addressed the Board in regard to the proposed school contract listed on the Agenda.
5. Mr. Chris Henderson, 101 Keystone, addressed the Board in regard to the agenda format and start time of the Board meetings.

F. PRESENTATIONS

1. Fair Housing Month Contest

Ms. Rebecca Vinroot, Director of Social Services stated that in honor of Fair Housing Month students in the Before and After School Recreation Program were asked to build their dream house out of popsicle sticks. The awards for the first and second

place winners were accepted by Greg Tarbox, Recreation Program Coordinator. Pictures of all the entries are available on the County website.

2. Awards Presentation from Communications

Mr. Hill announced that the Communications Division has won a national video production award for their documentary, "Mainland Farm: Historic Land, Historic Yield." The video won a bronze Telly Award in the General History category. He thanked all those that participated in the video, and the production team.

G. CONSENT CALENDAR

A motion to Approve was made by Michael Hipple, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Hipple, McGlennon, Sadler, Onizuk

Absent: Larson

1. Minutes Adoption – March 19, 2017, Joint Meeting with Williamsburg City Council and WJCC School Board.
2. Middle Peninsula Juvenile Detention Commission Service Agreement Amendments.
3. Contingency Transfer to Merrimac Juvenile Detention Center.
4. Clean County Commission Amended Bylaws/Keep James City County Beautiful Resolution.
5. Contract Award – Asphalt Paving Repairs, Sealing and Line Striping – JCC Recreation Center, JCC Government Center and Sanford B. Wanner Stadium – \$130,819.
6. Virginia Department of Transportation Project No. UPC 98823. Hick's Island Road Bridge over Diascund Creek – Resolution of Support.

H. PUBLIC HEARING(S)

1. FY2018 County Budget

Ms. Suzanne Mellen, Director of Financial and Management Services addressed the Board stating that once the James City County Service Authority's (JCSA) Meeting has been called to order and the public hearing opened, then a video overview of the FY 2018 Proposed Budget will be shown.

Once the Board of Directors meeting and Public Hearing were open, Mr. Onizuk opened the Public Hearing for the Board of Supervisors.

A video overview of the FY 2018 Proposed Budget was then shown to the Board and the citizens.

As there were no questions for staff, Mr. Onizuk opened the floor to the registered speakers.

1. Mr. Jim Duke, 86627 Barnes Road, Lanexa, addressed the Board voicing concerns over the proposed budget. He stated that while there is not a tax increase, citizens will be paying more for water, and real estate assessments will continue to increase. He stated that there are too many other opportunities available instead of the citizens having to bear the increase.
2. Mr. Frank Polster, 420 Hempstead Road, addressed the Board in support of the FY 2018 Proposed Operational Budget and Capital Improvement Projects (CIP). He described the process that is used by staff and the Stormwater Program Advisory Committee to inform their Stormwater CIP recommendations. He requested that the Board approve the projects as part of the FY 2018-2022 CIP.
3. Ms. Barbara Henry, 141 Devon Road, addressed the Board requesting an online checkbook register. She stated that since the budget includes funds for computer system updates, now would be the time to install the software on new systems.
4. Mr. Chris Henderson, 101 Keystone, addressed the Board stating that all of the stormwater projects should be eliminated from the budget as they are private property issues and not the responsibility of the County. All of those funds could be diverted to the postponed Enterprise Software Initiative.
5. Mr. David Coe, 3975 Guildford Lane, Executive Director of Colonial Behavioral Health, addressed the Board in regard to the funding needs of Colonial Behavioral Health. He thanked the Board and the County for their continued support.

As there were no other registered speakers, Mr. Onizuk closed the Budget Public Hearing.

At 6:03 p.m., Mr. Onizuk recessed the Board of Supervisors for the completion of the JCSA Board of Directors meeting.

At 6:05 p.m., Mr. Onizuk reconvened the Board of Supervisors.

I. BOARD CONSIDERATION(S)

1. Adoption of the Parks & Recreation Master Plan Update 2017

A motion to Approve was made by John McGlennon, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Hipple, McGlennon, Sadler, Onizuk

Absent: Larson

Mr. John Carnifax, Director of Parks & Recreation, addressed the Board giving an overview of the memorandum included in the Agenda packet.

Mr. McGlennon thanked Mr. Carnifax, the Parks & Recreation Advisory Commission, citizens and staff for their efforts in updating and bringing forth this very well crafted and thorough document. He stated that he appreciated the emphasis of looking at equity of services across the County. One thing that comes through is the absence of a number of facilities in the Roberts District. He noted that staff is aware of the inequity and looking into ways to remedy it.

Ms. Sadler questioned if individual projects would still come before the Board for approval or if approval of the Master Plan covers them all.

Mr. Carnifax stated yes, individual projects would come back before the Board for approval. The Master Plan is just a guiding document for staff and for the Board. It is tied into the Comprehensive Plan and to the County's Strategic Plan.

Mr. Onizuk thanked staff and the citizens that participated in the update process. He stated that the Parks & Recreation offerings are one of the things that he loves most about living here.

2. Joint Resolution to Amend the Restated Contract for the Joint Operation of Schools, City of Williamsburg and County of James City

A motion to Postpone was made by Kevin Onizuk, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Hipple, McGlennon, Sadler, Onizuk

Absent: Larson

Mr. Onizuk recommended that this item be postponed until Ms. Larson is present as she is part of the School Liaison Committee and a former School Board member.

Mr. McGlennon recommended that it be postponed until the April 25 meeting when the Board plans to adopt their budget.

The rest of the Board voiced their agreement.

J. BOARD REQUESTS AND DIRECTIVES

Mr. Hipple stated that as the Board goes through the Budget process, he would like to see the additional deputy position be filled that was requested by the Sheriff. He would also like to see \$10,000 added for the Neighborhood Basketball League that was removed last year. He clarified that he would like to see that program record names and addresses to see how many of the participants are from James City County.

Mr. Hipple continued stating that he went to Miami for the Hampton Roads Transportation Accountability Commission (HRTAC) to look at what is being proposed for the Hampton Roads Bridge Tunnel. He discussed some of the particulars of the potential project and the positive impact it would have on the Hampton Roads Community. The I-64 expansion will also have a significant impact on our area.

Mr. Onizuk stated that any suggestions for the budget be discussed during the Budget Work Sessions.

Ms. Sadler voiced her agreement for the funding of the additional Sheriff's position through the contingency fund. She also voiced her support for the online checkbook register, and that perhaps it could be incorporated when new software is brought online. Ms. Sadler stated that she would like to revisit the start time of the meetings. Perhaps moving the meeting to 6 p.m. would make it little easier for the citizens to get to the meetings. Ms. Sadler asked for an update on the Enterprise Software system.

Mr. Hill stated that staff is in the process of starting the conversion to the new permitting software. The conversion begins in June, but will not be fully operational until March of next year. He stated that the software has nothing to do with finances per se; however, it will allow staff to easily call up information.

Ms. Sadler asked when the periodic rate increases for the JCSA went into effect.

Mr. Hill stated that several years ago the JCSA conducted a rate study. The study recommended a fixed charge and periodic rate increases. Those went into effect in FY 2016. These were proposed to help maintain an aging system without being dependent on new growth and because there are fixed costs.

Mr. Powell, General Manager of the JCSA, stated that having a fixed charge was recommended by the rate study and the by the Bond Rating Agencies because there are fixed costs associated with the system. Having that fixed charge and periodic increase was a factor in the increased Bond Rating for the JCSA.

Mr. Onizuk stated that he was Chairman of the Board of Directors at that time and the fixed charge was a major component in the increased Bond Rating. The periodic increase is set to prepare for our future infrastructure needs. We know that something else needs to come because our water permit is only for 10 years. This periodic increase will plan for those needs in smaller, more affordable changes now rather than a large increase down the line when something needs to happen.

Ms. Sadler asked for clarification on the House Bill that relates to Stormwater Utilities and how that may or may not affect the County.

Mr. Kinsman stated that the House Bill would amend the code by saying that Stormwater Utilities would have to give waivers to certain stormwater operators. For example, Ford's Colony has, and maintains, their own stormwater bio-retention pond and under this amendment would be given a waiver. However, the County does not have a Stormwater Utility and has chosen to fund stormwater projects out of the General Fund.

Mr. McGlennon recognized several pillars of the community that had recently passed away.

Mr. Onizuk recognized Mona Foley, Clerk of the Circuit Court, and Heath Richardson, Planning Commission Representative. Mr. Onizuk stated that he believes the meeting time is working out well and he has not heard from citizens who could not get to the meeting at 5 p.m. if they wanted to. He discussed a recent meeting at a retreat for the Williamsburg Area Destination Marketing Committee (WADMC). He noted that WADMC is underfunded in comparison to their counterparts in other areas. There is a large return on investment for dollars spent on tourism marketing. He asked for some form of audit to ensure that all of the hotels/motels/timeshares are collecting the required \$2 a night room tax. He noted that tourist season is upon us and there are more cars on the highways and in town.

1. Initiating Resolution

A motion to Approve was made by John McGlennon, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Hipple, McGlennon, Sadler, Onizuk

Absent: Larson

Mr. McGlennon stated that there is a case coming before the Planning Commission for Williamsburg Landing. They are contracted to purchase some land surrounding their site that is currently zoned R-8, and they are asking to have it rezoned to R-5 in order to construct more units for their facility. The problem is that the Board has signaled that they will not be considering residential rezoning cases because of the State change to Proffers and that the County can no longer accept them to help mitigate the impacts of residential development. Recognizing that this application from Williamsburg Landing is not really what the Board was hoping to address through Proffers previously, Mr. McGlennon stated that he would like to propose an initiation of consideration of amendments to the R-8, rural residential district and the residential cluster development overlay district of the Zoning Ordinance to address age-restricted housing and independent living facilities. Perhaps there is some way to address the needs of this application by Special Use Permit instead of rezoning.

Mr. McGlennon stated that Mr. Kinsman has drafted an initiating resolution for that purpose. He would move the approval of the resolution.

K. REPORTS OF THE COUNTY ADMINISTRATOR

1. County Administrator's Report

Mr. Hill announced the upcoming Easter Egg Extravaganza being coordinated by Parks & Recreation. He also noted that the County has a seasonal photo contest underway that is accepting entries until May 1.

Mr. Hill announced that the James Terrace Water Quality Improvement Project recently won an award for the Best Urban BMP in the Bay Area from the Chesapeake Stormwater Network in the retrofit category.

Mr. Hill announced that the Hermes Creative Awards recognized the James City County government website for outstanding achievement in their 2017 awards competition. He thanked the web development staff for all their hard work.

L. CLOSED SESSION

1. Consideration of a personnel matter, the appointment of individuals to County Boards and/or Commissions pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia, concerning the Economic Development Authority.

A motion to Enter a Closed Session was made by Michael Hipple, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1
Ayes: Hipple, McGlennon, Sadler, Onizuk
Absent: Larson

At 6:51 p.m. the Board entered Closed Session for both items listed on the Agenda.

2. Consideration of a personnel matter, the appointment of individuals to County Boards and/or Commissions pursuant to Section 2.2-3711 (A)(1) of the Code of Virginia, concerning the Social Services Advisory Board.

3. Certification of Closed Session

A motion to Certify the Closed Session was made by John McGlennon, the motion result was Passed.

AYES: 0 NAYS: 0 ABSTAIN: 0 ABSENT: 1
Absent: Larson

At 6:55 p.m., the Board left Closed Session and reconvened in Open Session.

4. Actions resulting from Closed Session

A motion to Appoint Individuals to Boards and Commissions was made by John McGlennon, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1
Ayes: Hipple, McGlennon, Sadler, Onizuk
Absent: Larson

Mr. McGlennon made a motion to appoint Ms. Tara Cooke and reappoint Mr. Oscar Ligin to the Social Services Advisory Board for four year terms that will expire on April 11, 2021.

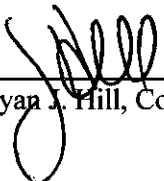
M. ADJOURNMENT

1. Adjourn until the 4 p.m. Budget Work Session on April 18, 2017

A motion to Adjourn was made by Sue Sadler, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 0 ABSENT: 1
Ayes: Hipple, McGlennon, Sadler, Onizuk
Absent: Larson

At 6:58 p.m., Mr. Onizuk adjourned the Board.



Bryan J. Hill, County Administrator

DIVISION 8. - RURAL RESIDENTIAL DISTRICT, R-8

Sec. 24-347. - Statement of intent.

Generally, the Rural Residential District, R-8, is intended for application to rural areas of the county which remain inside the primary service area where utilities and urban services are planned but not yet fully available and where urban development may be expected in the near future. The district may also be applied to certain outlying areas where residences exist at similar densities or may be appropriate in view of housing needs. The district is intended to maintain a rural environment suitable for farming, forestry and low-density rural residence, together with certain recreational and public or semipublic and institutional uses, until such time as an orderly expansion of urban development is appropriate.

(Ord. No. 31A-88, § 20-35, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90)

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.

Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that utilize alternative mounting structures; or multi-antenna systems up to a height of 35 feet. All facilities shall be in accordance with article II, division 6 of this chapter.

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.

(Ord. No. 31A-88, § 20-36, 4-8-85; Ord. No. 31A-99, 10-6-86; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90; Ord. No. 31A-131, 6-3-91; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-167, 3-26-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-202, 12-21-99; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-293, 8-12-14; Ord. No. [31A-319](#), 11-8-16)

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 apartments, 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.

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.

Communications facilities (public or private), including, but not limited to, antennas, towers and support structures, that are camouflaged; or multi-antenna systems greater than a height of 35 feet. All facilities shall comply with article II, division 6 of this chapter.

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.

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.

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.

(Ord. No. 31A-88, § 20-36.1, 4-8-85; Ord. No. 31A-104, 10-5-87; Ord. No. 31A-110, 9-12-88; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-122, 6-18-90; Ord. No. 31A-131, 6-3-91; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-153, 11-1-93; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-202, 12-21-99; Ord. No. 31A-208, 8-13-02; Ord. No. 31A-220, 10-11-05; Ord. No. 31A-242, 7-14-09; Ord. No. 31A-259, 1-10-12; Ord. No. 31A-293, 8-12-14; Ord. No. [31A-319](#), 11-8-16)

Sec. 24-350. - Area requirements.

Minimum lot size. The minimum lot size shall be three acres.

(Ord. No. 31A-88, § 20-37, 4-8-85; Ord. No. 31A-99, 10-6-86; Ord. No. 31A-202, 12-21-99)

Sec. 24-351. - Setback requirements.

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line," except that the following shall apply:

- (1) Where 40 percent or more of frontage on one side of street within the same block is improved with buildings, no building shall project beyond the average front yard so established.
- (2) No building shall be required to have a front yard greater than that of one of two existing buildings on the immediately adjoining lots on each side, whichever is the farthest removed from the street.
- (3) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, will be allowed to adhere to these established setback lines.

(Ord. No. 31A-88, § 20-38, 4-8-85; Ord. No. 31A-202, 12-21-99)

Sec. 24-352. - Minimum lot width.

- (a) Lots of up to 43,560 square feet shall have a minimum width at the setback line of 100 feet.
- (b) Lots of 43,560 square feet or more shall have a minimum width at the setback line of 150 feet.

(Ord. No. 31A-88, § 20-39, 4-8-85)

Sec. 24-353. - Yard regulations.

- (a) *Side*. The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet.
- (b) *Rear*. Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet.

(Ord. No. 31A-88, § 20-40, 4-8-85)

Sec. 24-354. - Height limits.

Structures may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:

- (1) The height limit for buildings may be increased to 45 feet and to three stories; provided, that the two side yards for the building are increased to a minimum of 15 feet plus one foot for each additional foot of the building's height over 35 feet.
- (2) A public or semipublic building such as a school, church or library may be erected to a height of 60 feet from grade, provided that the required front, rear and side yards shall be increased one foot for each foot in height above 35 feet.
- (3) Church spires, belfries, cupolas, monuments, water towers, athletic field lighting, chimneys, flues, flagpoles, home television antennas, home radio aerials, silos and other structures normally associated with and accessory to farming operations may be erected to a total height of 60 feet from grade. 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 for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure upon finding that:
 - a. Such structure will not obstruct light to adjacent property;
 - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
 - c. Such structure will not impair property values in the surrounding area;
 - d. 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 building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
 - e. Such structure will not be contrary to the public health, safety and general welfare.
- (4) No accessory building which is within 15 feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 45 feet in height; except that silos, barns and other structures normally associated with and accessory to farming operations are controlled by subsection (3) above and may exceed the height of the main structure and may exceed 45 feet in height.
- (5) Heights of communications facilities shall be permitted in accordance with division 6, communications facilities, antennas, towers and support structures.

(Ord. No. 31A-88, § 20-40.1, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-166, 1-23-96; Ord. No. 31A-176, 5-26-98; Ord. No. 31A-215, 2-22-05; Ord. No. 31A-223, 4-11-06; Ord. No. 31A-232, 12-11-07; Ord. No. 31A-259, 1-10-12; Ord. No. [31A-319](#), 11-8-16)

Sec. 24-355. - Special provisions for corner lots.

- (a) For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.
- (b) No structures shall be located closer than 35 feet to the side street.
- (c) Each corner lot shall have a minimum width at the setback line of 125 feet or more.

(Ord. No. 31A-88, § 20-41, 4-8-85)

Sec. 24-356. - Sign regulations.

To assure an appearance and condition which is consistent with the purposes of the Rural Residential District, R-8, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

(Ord. No. 31A-88, § 20-41.1, 4-8-85; Ord. No. 31A-122, 6-18-90)

Sec. 24-357. - BMP requirements.

To assure an appearance and condition which is consistent with the purpose of the Rural Residential District, R-8, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

(Ord. No. 31A-202, 12-21-99)

Sec. 24-358. - Buffer requirements.

- (a) *Right-of-way buffer.* Within any major subdivision approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:
 - (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
 - (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
 - (3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.
- (b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-94(a) of this chapter.

- (c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning commission may reduce the buffer depth requirements of this section for residential developments when:
- (1) The development is less than five acres and a majority of the development=s units are dedicated to affordable housing; or
 - (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
 - (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.
- In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.
- (d) *Modifications to the landscape requirements.* The planning commission may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.
- (e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning commission under the following circumstances:
- (1) The buffer in which the temporary stockpile is to occur is nonwooded, defined as having no mature trees.
 - (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
 - (3) Stockpiles shall not exceed 35 feet in height.
 - (4) Stockpiles shall be temporary, with a time limit of six months.
 - (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
- (f) *Limitations on stormwater management facilities within buffers.* Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:
- (1) The need is necessitated by site conditions rather than economic factors; and
 - (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.
- (g) *Improvements allowed within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon the recommendation of the environmental director and the approval of the planning commission.
- (h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of

structures within the development from the adjoining primary or secondary road as determined by the planning commission.

(Ord. No. 31A-202, 12-21-99)

Secs. 24-359—24-366. - Reserved.

DIVISION 1. - RESIDENTIAL CLUSTER DEVELOPMENT

Sec. 24-538. - Statement of intent.

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

(Ord. No. 31A-88, § 20-153.1, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-539. - Residential cluster development defined.

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

(Ord. No. 31A-88, § 20-153.2, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99)

Sec. 24-540. - Where permitted.

A residential cluster development is permitted in the R-1 and R-2 zoning districts inside the primary service area. The requirements of this article shall govern where there is a conflict with the requirements of the underlying district.

(Ord. No. 31A-88, § 20-153.3, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-541. - Minimum site size.

The minimum site size for a residential cluster development is five acres, except that extensions to an existing cluster development may be less than five acres. The planning director may waive the minimum site size requirements for residential cluster developments which provide affordable and workforce housing set forth in section 24-549 below. However, in no case shall such development be less than two acres. Such a waiver may be considered upon the applicant providing a written request to the planning director to waive the minimum acreage requirement demonstrating to the satisfaction of the planning director that:

- (1) The proposed development is consistent with the comprehensive plan;
- (2) Verification of affordable and workforce housing is provided; and

(3) Evidence that the property can be subdivided as proposed.

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

(Ord. No. 31A-88, § 20-153.4, 4-8-85; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-542. - Permitted uses.

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

(Ord. No. 31A-88, § 20-153.5, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-543. - Utilities.

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

(Ord. No. 31A-88, § 20-153.6, 4-8-85)

Sec. 24-544. - Buffer requirements.

- (a) *Right-of-way buffer.* Within any residential cluster approved under this division, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:
 - (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
 - (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
 - (3) The right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along community character corridor roads shall also adhere to the community character corridor buffer treatment guidelines and map.
- (b) *Perimeter buffers.* Within any residential cluster approved under this division, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-96 of this chapter.
- (c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements specified in (a) and (b) of this section for residential developments when:

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

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

- (d) *Modifications to the landscape requirements.* The planning director may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.
- (e) *Requirements for buffers.* All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the planning director or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning director under the following circumstances:
 - (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
 - (2) The stockpile shall not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
 - (3) Stockpiles shall not exceed 35 feet in height.
 - (4) Stockpiles shall be temporary, with a time limit of six months.
 - (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.
 - (6) Stockpiling shall conform with any applicable requirements of the Virginia erosion and sediment control regulations, the Virginia Erosion and Sediment Control Handbook and county erosion and sediment control program policies.
- (f) *Limitations on buffers.* Structural BMPs such as wet and dry ponds shall not generally be permitted in the buffers, except that the planning director may approve them under the following circumstances:
 - (1) The need is necessitated by site conditions rather than economic factors; and
 - (2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.
- (g) *Improvements allowable within buffers.* An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning director. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at a different angle to the property line upon approval of the planning director.
- (h) *Roads within buffers.* Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning director.

- (i) *Appeals.* In the event the planning director disapproves the items specified in (c), (d), (e), (f), (g), and (h) in this section or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. Any appeal shall be in writing and may be subject to fees as specified in article I of this chapter.

(Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-545. - Setback requirements.

The minimum setback from the right-of-way shall be shown on the plan of development and on the recorded subdivision plat. The minimum setback from external streets shall be the same as that required by the zoning district in which the lot is located, except as superseded by section 24-544. The minimum setback from internal streets may be reduced to zero, provided that no building in a residential cluster shall be closer than 25 feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

(Ord. No. 31A-88, § 20-153.8, 4-8-85; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

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

There are no lot width or area requirements.

(Ord. No. 31A-88, § 20-153.9, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99)

Sec. 24-547. - Yard requirements.

The rear and side yards may be reduced to zero feet subject to the following conditions:

- (a) The minimum distance between any two buildings within the residential cluster development shall be governed by the Virginia Uniform Statewide Building Code.
- (b) No building in a residential cluster development shall be closer than 25 feet to the internal edge of perimeter buffers.
- (c) Easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Documents establishing such easements or covenants shall be satisfactory to the county attorney and submitted prior to approval of the development plan.

(Ord. No. 31A-88, § 20-153.10, 4-8-85; Ord. No. 31A-89, 9-9-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-548. - Density.

The density of a proposed subdivision shall be calculated as the number of units divided by the gross acreage. For the purposes of this section, the gross acreage shall be calculated as follows:

Percent non-developable	Percent of gross acreage added to the developable land
0 - 20 percent	Use total parcel acreage
21 - 40 percent	20
41 - 70 percent	15
71 - 100 percent	10

Illustration of Gross Acreage Calculation

- (a) If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.
- (b) If a 50-acre parcel has 14 acres of non-developable land, then the non-developable area of the site is 28 percent. Because 28 percent is between 21 percent and 40 percent, the total developable area of the parcel (36 acres) and 20 percent of the total parcel acreage (ten acres) are added together to obtain the total acreage used to calculate allowed density (46 acres).

In this example, if an applicant sought a density of two dwelling units per acre, they would yield a maximum of 100 units in (a) and 92 units in (b).

(Ord. No. 31A-88, § 20-153.11, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-175, 3-25-97; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-549. - Density standards.

No project shall have a density (including bonuses) of more than four units per acre. In order to achieve the densities listed below, the developer shall provide at least the minimum amount of open space, and shall make assurances in a master plan, proffers, or other document approved by the county attorney, for the density bonus items. The approval process for cluster development shall be as stated in section 24-556.

Density	Percent of developable acreage as open space	Required density bonus points from list below
Up to 1	25 percent	None
More than 1, but no more than 2	25 percent	2

More than 2, but no more than 3	30 percent	4
More than 3, but no more than 4	35 percent	6

	Bonus Item Options	Bonus Points
A.	For every 10 percent of the units committed to provision of affordable and workforce housing (starting above the threshold set in the county's housing opportunities policy, as amended)	2, up to a max of 4
B.	Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of better site design/low impact development techniques, as approved by the engineering and resource protection division	1.5
C.	Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division	1.5
D.	Meeting a majority of items (a) - (d) listed in section 24-551, Open space development design elements, as determined by the planning director	1.5
E.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units	1
F.	Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee	1
G.	Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved greenway master plan, the Virginia outdoors plan, or such other useful and logical location as approved by the parks and recreation director or designee	1
H.	Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size within the developable portion of the site. The planning director may	1

	request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present	
I.	Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size	1
J.	Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least five percent of the developable area of the site.	1
	1. <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer;	
	2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer</u> (retain at least 50 percent of these soils on site);	
	3. <u>Conservation area as identified by an approved watershed management plan</u> ; or	
	4. <u>Wildlife habitat corridors</u> that:	
	a. Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and	
	b. Consist of mature forestland	
K.	Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements set forth in section 24-35 of this chapter	1
L.	Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director	0.5

M.	Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least five percent of the developable area of the site)	0.5
N.	Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the comprehensive plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA	0.5

(Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-550. - Open space.

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

- (a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected through a conservation easement dedicated to the county or other legal entity approved by the county attorney.
- (b) In addition, a percentage of the developable area shall also be set aside as open space, as specified in section 24-549. The developable area open space may include, but is not limited to:
 - (1) Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
 - (2) Areas on site used to achieve density bonus points in accordance with section 24-549;
 - (3) The following areas, up to the percent specified:
 - a. Golf courses cannot exceed 30 percent of the developable open space required
 - b. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 - c. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).
- (c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:
 - (1) Area on any individual private lots, or in the case of condominiums, within 15 feet of the units, or
 - (2) Land within public road rights-of-way and utility or drainage easements.
- (d) Conceptual and/or master plans shall include a table with the open space information as follows:

Open space	
Nondevelopable open space, as defined	Acreage
Developable open space required	Acreage
Developable open space provided	Acreage
• Area(s) used to meet county policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable)	
• Area(s) on site used to achieve density bonus points in accordance with section 24-549	
• Area of golf courses	
• Area in required right-of-way and perimeter buffers	
• Area in stormwater management facilities	
• Other qualifying open space area	
Total nondevelopable and developable open space	

(e) Open space shall be arranged on the site in a manner that coordinates with section 24-551, Open space development design elements. While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the open space:

(1) Conservation/general open space:

- a. Located to preserve existing significant natural and historic features and scenic viewsheds such as ponds and views to open water, particularly those that can be seen from public roads;

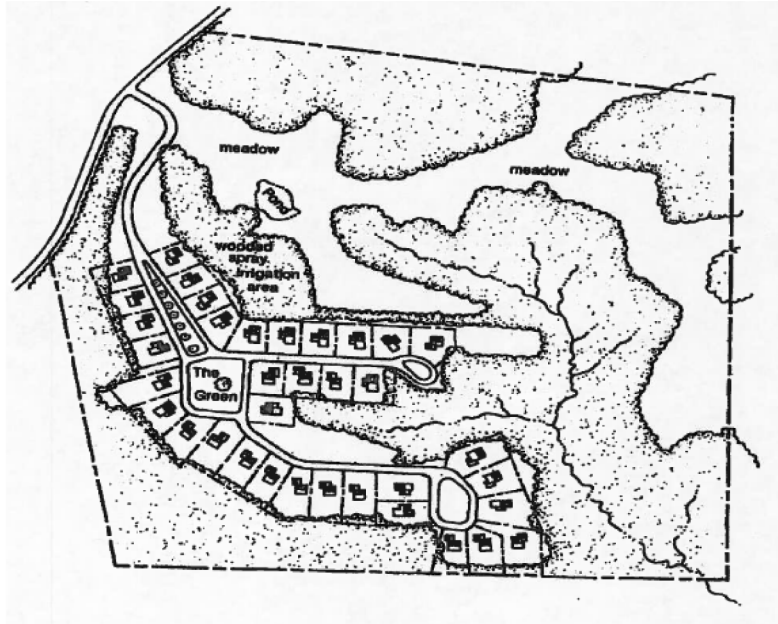


Figure 1

(Graphic provided by Natural Lands Trust with permission)

- b. Located to adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future protected open space;

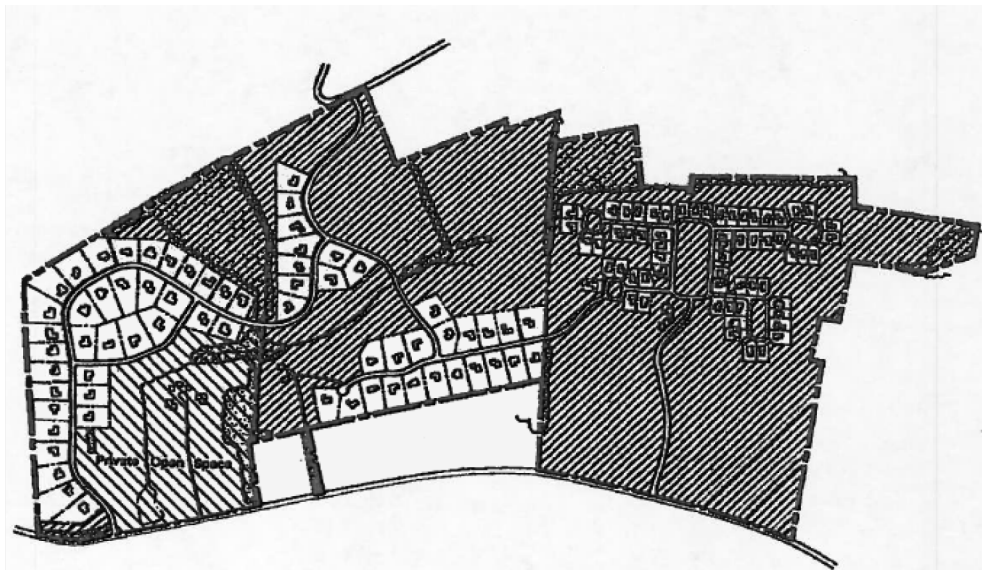


Figure 2

(Graphic provided by Natural Lands Trust with permission)

- c. Located to be interconnected and contiguous to the extent possible, and located to benefit and be accessible to the maximum number of units; and
- d. Prominently located within the development (for example, at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within the residential area).

(2) Recreation

- a. Cluster developments shall adhere to the parks and recreation master plan proffer guidelines. Any additional land intended for recreation shall be useable for the purpose intended, and also follow the design specifications in the parks and recreation master plan proffer guidelines.

(Ord. No. 31A-88, § 20-153.14, 4-8-85; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-551. - Open space development design elements.

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

- (a) The design should take advantage of the compact design by clustering development into a walkable scale neighborhood and preserving significant open space and natural features;
- (b) The development should be designed to complement existing topography and minimize the need for alteration of the landscape;
- (c) The development should use a mixture of diverse unit types, lot sizes, and/or unit prices; and
- (d) The design should use a creative layout. Examples include:
 - (1) Fronting on open space;
 - (2) Constructed with one side exterior wall along the side property line to allow side or rear yard garages;
 - (3) Detached or attached homes on loop lanes;
 - (4) Use of better site design techniques such as group or shared parking, and shared driveways; and
 - (5) Clear access from the units to the open space by abutting it, or via sidewalks or trails.

(Ord. No. 31A-279, 11-27-12)

Sec. 24-552. - Establishment of homeowners association.

A homeowners association shall be established in accordance with chapter 19 of the county code. The homeowners association documents shall set forth the nature (recreation or conservation) and location of the open space(s) either through illustration or through incorporation by reference of the development's master plan. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan.

(Ord. No. 31A-88, § 20-153.15, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-553. - BMP requirements.

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

(Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-554. - Performance assurance.

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

(Ord. No. 31A-88, § 20-153.13, 4-8-85; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-279, 11-27-12)

Sec. 24-555. - Pedestrian accommodations.

Pedestrian accommodations shall be provided in accordance with section 24-35.

(Ord. No. 31A-279, 11-27-12)

Sec. 24-556. - Review and approval process.

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

- (1) Depiction and/or documentation of the items that the applicant plans to pursue when a bonus density above the base density is sought;
- (2) Conceptual development design, including required setbacks and buffers, and illustration of the features listed above in the open space and open space development design sections;
- (3) Marginal data and depiction which shows the gross acreage of the site, the nondevelopable area, the total number of dwelling units and/or lots, and, in the table format specified in section 24-550, the amount of open space required and the amount of open space provided; and
- (4) Conceptual stormwater design, illustrating use of better site design and low impact development techniques, where possible.

(b) *Approval process.*

- (1) In instances where a special use permit is not required by the residential district, a master plan shall be filed with the planning director who shall recommend action on the plan to the development review committee, which shall forward a recommendation to the planning commission. The planning commission shall approve the master plan upon finding that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the Comprehensive Plan.
- (2) In instances where a special use permit is required by the residential district:
 - a. Prior to submission of a master plan for legislative action, the applicant is strongly encouraged to file a conceptual plan for review by the development review committee. The development review committee shall provide a recommendation on the conceptual plan based upon its findings regarding the extent that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the comprehensive plan.
 - b. A master plan in accordance with section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the planning commission.

(Ord. No. 31A-88, § 20-153.16, 4-8-85; Ord. No. 31A-97, 6-2-86; Ord. No. 31A-112, 2-6-89; Ord. No. 31A-137, 2-18-92; Ord. No. 31A-197, 5-25-99; Ord. No. 31A-233, 12-11-07; Ord. No. 31A-279, 11-27-12)

Secs. 24-557—24-563. - Reserved.

Age-Restricted Housing Benchmarking Information

Rather than providing definitions for “age-restricted housing” some localities in Virginia define the facilities which provides housing and other different levels of services for the elderly (ex. congregate care, adult assisted living, nursing homes, etc.). Other localities, however, provide a definition of age-restricted housing/senior housing associated with limitations on age.

Albemarle County

- **Congregate care facility:** A residential facility for persons who are elderly or of impaired functional ability. Such facilities are characterized by a variety of elements that include common dining, social and recreational features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways, and doors designed to accommodate wheelchairs. A congregate care facility must provide on an appropriate, regular basis at least two of the following to qualify for the parking standard: meal services, transportation, housekeeping or organized social activities.

Fauquier County

- **Continuing Care Facility:** This type of facility may consist of three (3) types of care, or any one or two types:
 - (1) Congregate Living Facility: Facility which provides independent living which may be affiliated with, or located near health care facilities.
 - (2) Adult Assisted Living: a facility for people who cannot live independently and who need assistance with daily chores and housekeeping.
 - (3) Nursing Home: a facility for individuals who require specialized nursing care on a regular basis but who do not need to be hospitalized. Such facilities may include as an integral part accessory commercial and other facilities and uses primarily for the use of residents and their guests, including but not limited to beauty shop, pharmacy, banking facilities, gift shop and similar facilities.

Loudoun County

- **Continuing Care Facility:** This type of facility may consist of three (3) types of care, or any one or two types:
 - (1) Congregate Living Facility: a facility which provides independent living which may be affiliated with, or located near health care facilities.
 - (2) Adult Assisted Living: a facility for people who cannot live independently and who need assistance with daily chores and housekeeping.
 - (3) Nursing Home: a facility for individuals who require specialized nursing care on a regular basis but who do not need to be hospitalized.

Henrico County

- **Life care facility:** A residential facility for the continuing care of the elderly, providing for transitional housing progressing from independent living in various dwelling units, with or without kitchen facilities, and culminating in nursing home-type care, where all related uses are located on the same lot. Such facility shall include other services integral to the personal and therapeutic care of the residents thereof and shall be licensed and regulated as a home for adults under Code of Virginia, title 63.1, as amended, or any successor legislation. The facility shall be administered in such a manner as to restrict

occupancy of residential dwelling units only to persons 62 years of age or older. When two persons desire to live together as a family in a life care unit, only one of such person must satisfy the 62 years of age or older requirement.

New Kent County

- **Senior housing:**

- (1) Housing provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or
- (2) Intended for, and solely occupied by, persons sixty-two years of age or older; or
- (3) Intended for, and solely occupied by, at least one person fifty-five years of age or older per unit.

City of Williamsburg

- **Senior housing:**

- (1) Housing provided under any state or federal program that is specifically designed and operated to assist elderly or disabled persons, as defined in the state or federal program; or
- (2) Housing for persons 62 years of age or older, or for the disabled, provided that an enforceable regulatory agreement exists to assure the continued operation of the housing for its intended use.
- (3) Assisted living facilities and nursing homes are excluded from this definition.

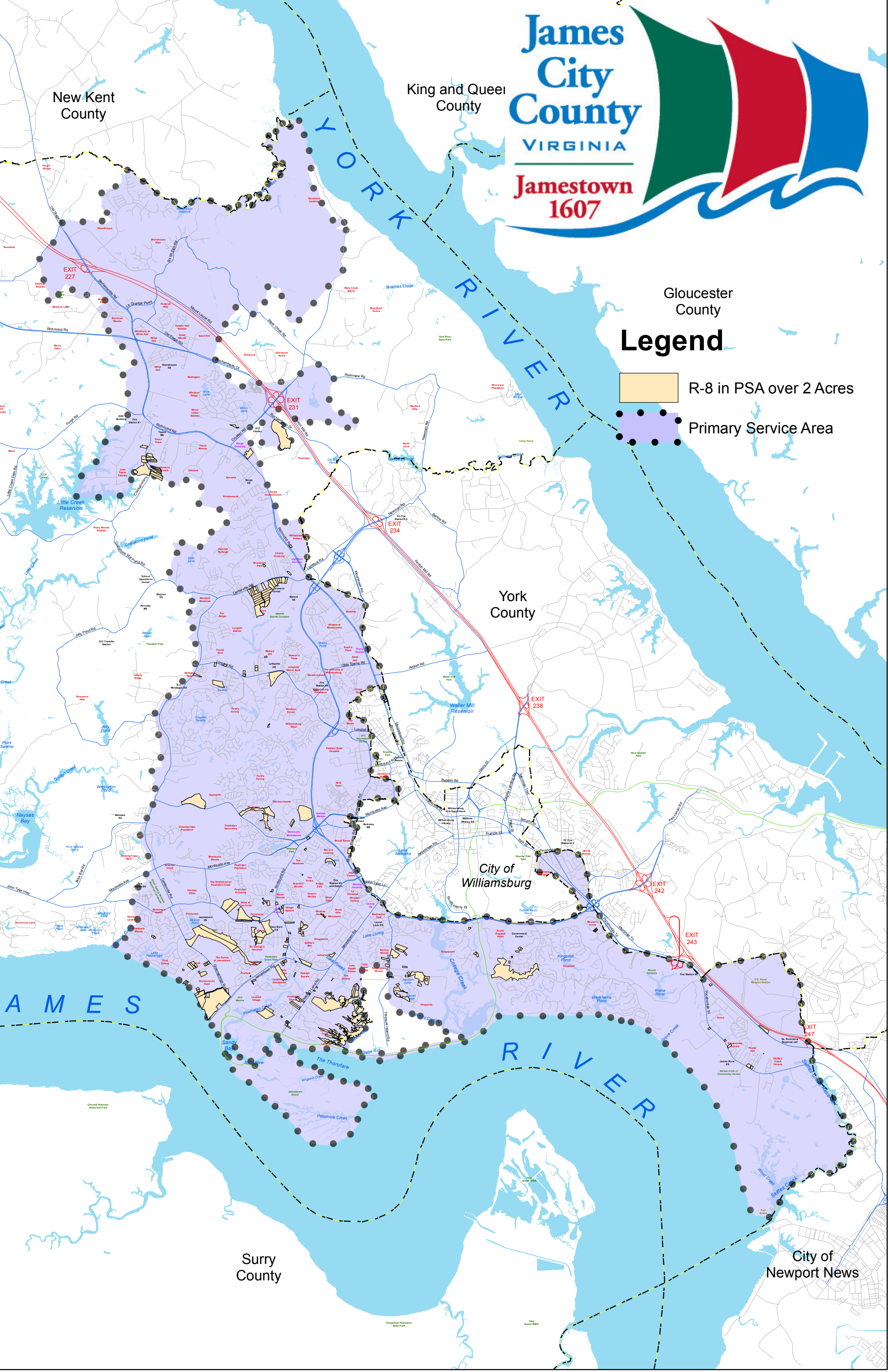
York County

- **Senior Housing :**

As permitted by the terms of the Virginia Housing Law, Section 36-96.7 of the Code of Virginia (1950, as amended) and the federal Housing for Older Persons Act of 1995 (HOPA), senior housing or housing for older persons can include: i) that which is provided under any state or federal program that is designed and operated to assist elderly persons, as defined by such program; or (ii) a housing community or facility wherein at least 80% of the units are occupied by at least one person fifty-five (55) years of age or older and wherein none of the residents in the community or facility are under the age of nineteen (19). The requirements of "Housing for Older Persons" as set forth in the Virginia Fair Housing Law and HOPA shall control as to any allowable exemptions to the occupancy rules. The developer, owner, property owners association and/or manager of the housing community or facility shall establish, make available and adhere to policies and procedures which implement the occupancy criteria. Senior housing arrangements may be further distinguished as one or more of the following categories:

- (1) **Independent Living Facility:** A building or series of buildings containing independent dwelling units intended to provide housing for older persons not requiring health or other services offered through a central management structure/source. The facility may include ownership or rental units and must be subject to appropriate covenants, conditions, management policies or other procedures to ensure that the facility provides only housing for older persons, as defined above.
- (2) **Congregate Care Facility:** A building or series of buildings containing residential living facilities intended as housing for older persons and which offers the residents of such facility the opportunity to receive their meals in a central dining facility, to receive housekeeping services and to participate in activities, health services, and other services offered through a central management structure/service.

- (3)** Assisted Living Facility: A building or series of buildings containing residential living facilities for older persons and which provides personal and health care services, 24-hour supervision, and various types of assistance (scheduled and unscheduled) in daily living and meeting the requirements of Section 63.2-1800, et. seq. of the Code of Virginia (1950), as amended.
- (4)** Continuing Care Retirement Community (CCRC). A senior housing development that is planned, designed and operated to provide a full range of accommodations for older persons, including independent living, congregate care and assisted living facilities, and which may also include a nursing home (skilled-care facility) component. Residents may move from one level to another level of housing accommodations as their needs change. CCRCs may include ownership and rental options but must be subject to appropriate covenants, conditions, management policies or other procedures to ensure that the facility provides only housing for older persons, as defined above.



New Kent
County

King and Queen
County

Gloucester
County

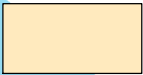
York
County

Surry
County

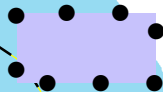
City of
Newport News

City of
Williamsburg

Legend



R-8 in PSA over 2 Acres



Primary Service Area

Attachment 7 Williamsburg Landing Proposal Information

- 5550, 5660 and 5700 Williamsburg Landing Road comprise the Williamsburg Landing Continuing Care Retirement Community (CCRC). The land included as part of the current application is not a part of the Williamsburg Landing Master Plan. The application seeks to integrate the proposed project through complementary zoning use and access.
- Williamsburg Landing is proposing to rezone a portion of the property located at 20 Marclay Road to R-5, and for a Special Use Permit (SUP) to allow up to 135 independent living facility units, along with a Height Waiver for the proposed apartment buildings to be constructed up to 60 feet from grade. If adopted, the proposed Master Plan would permit 65 duplex/townhome units (Type B) and 70 apartments (Type D). The proposed overall density would be 8.71 units per acre.

The Williamsburg Landing proposal had many favorable factors and there were many impacts that could not be mitigated due to the County's inability to accept proffers. There were also other issues associated with Comprehensive Plan consistency and the Virginia Department of Aviation review.

The table below shows a comparison of the ordinance requirements between a potential R-8, Rural Residential District with Cluster Overlay, and the R-5, Multi-Family Residential Zoning District as embodied in the Williamsburg Landing proposal.

Comparison of Potential R-8 with Cluster and the R-5 Williamsburg Landing project		
	Potential R-8 with Cluster	Current R-5 Williamsburg Landing Proposal
Use	Single family by-right, and multi-family of up to two-units with SUP	Multi-family and Apartments
Minimum Lot Size	2 acres	3 acres
Buffer Requirement		
-From right-of-way	150' for Community Character Corridors or 75' for other roads	150' for Community Character Corridor or 75' for other roads
-Perimeter	35'	35' adjacent to R-5
		50' adjacent to R-8
Lot Setbacks	Front: 35' Side: 15' Rear: 35' Setbacks may be reduced to zero provided no building within 25' the interior edge of the perimeter buffer (creating a 60' total setback)	No setback, just perimeter buffer
Minimum Lot Width	None	None
Density	4 dwelling units per acre max (with density bonus points)	10 dwelling units per acre (up to 12 in R-5)
Open Space	Linked to proposed density – ranges from 25% up to 35% of developable acreage. Cluster includes open space development design elements guidance.	10% of the developable acreage, which equates to 1.35 acres for this proposal
Height	45' Height Limit w/25' side setbacks	60 feet (up to 35' Height Limit in R-5 – but see box below)
	No ability to request Height Limitation Waiver for residential structures (such as apartments)	Can request Height Limitation Waiver for residential structures (such as apartments)

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Max Hlavin, Assistant County Attorney

SUBJECT: Adoption of a Revised Policy for Remote Participation in Meetings by
Commission Members

ATTACHMENTS:

	Description	Type
▣	Memorandum	Cover Memo
▣	1. Current Planning Commission Policy for Remote Participation	Backup Material
▣	2. Proposed Edits to the Policy	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 12:37 PM
Publication Management	Burcham, Nan	Approved	9/8/2017 - 1:33 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 1:54 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: Max Hlavin, Assistant County Attorney

SUBJECT: Adoption of a Revised Policy for Remote Participation in Meetings by Commission Members

The Planning Commission (the “Commission”) currently has a policy, pursuant to Virginia Code Section 2.2-3708.1(B)(1), governing remote participation in Commission meetings by Commission members due to emergencies, personal matters or a disability (the “Policy”). This Policy was adopted by the Planning Commission on May 6, 2015 (Attachment No. 1).

Virginia Code Section 2.2-3708.1 was recently amended during the 2017 General Assembly Legislative Session such that the Policy should be amended to reflect the new legislation.

Namely, the General Assembly removed language in Virginia Code Section 2.2-3708.1 pertaining to emergencies and limited the number of times a member of a public body could remotely participate in a meeting because of a personal matter to two meetings each calendar year. Previously, remote participation by a member because of an emergency or personal matter was limited each calendar year to two meetings or 25% of the meetings of the public body, whichever was fewer.

The proposed revised Policy, presented in Attachment No. 2, is in conformance with the new legislation such that reference to emergencies is removed and remote participation because of a personal matter is limited to two meetings each calendar year. There are also minor revisions to clarify certain portions of the Policy.

MH/gt
RemotePartcptn-mem

Attachments:


1. Current Planning Commission Policy for Remote Participation
2. Proposed Edits to the Policy

PLANNING COMMISSION POLICY FOR REMOTE PARTICIPATION

In accordance with the Planning Commission Bylaws and pursuant to § 2.2-3708.1 of the Code of Virginia, the following policy is established for members' remote electronic participation in Planning Commission meetings due to:

1. An emergency or personal matter
 - a. As expeditiously as possible on or before the day of a meeting, the member shall notify the chair of the Commission that the member is unable to attend the meeting due to an emergency or a personal matter. The member must identify with specificity the nature of the emergency or personal matter. The member should also notify the Commission's Secretary (i.e., the Director of Planning) if the member is unable to attend a meeting due to an emergency or personal matter that prevents the member's physical attendance.
 - b. A quorum of the Commission must be physically assembled at the primary or central meeting location. The Commission members present must approve the remote participation by a majority vote, which shall be recorded in the Commission's minutes. The decision shall be based solely on the criteria in this resolution, without regard to the identity of the member or matters that will be considered or voted on during the meeting. The Secretary shall record in the Commission's minutes the specific nature of the emergency or personal matter and the remote location from which the absent member participated. If the absent member's remote participation is disapproved because such participation would violate this policy, such disapproval shall be recorded in the Commission's minutes.
 - c. Remote participation by the absent member due to an emergency or a personal matter shall be limited in each calendar year to two (2) meetings or 25 percent (25%) of the meetings of the Commission, whichever is fewer.
2. A temporary or permanent disability
 - a. As expeditiously as possible on or before the day of a meeting, the member shall notify the chair of the Commission that the member is unable to attend the meeting due to a temporary or permanent disability or medical condition that prevents his or her physical presence. The member should also notify the Commission's Secretary (i.e., the Director of Planning) if the member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance.
 - b. A quorum of the Commission must be physically assembled at the primary or central meeting location. The Secretary shall record in the Commission's minutes the fact of the disability or other condition and the remote location from which the absent member participated.
3. For any remote participation, the Secretary shall make arrangements for the voice of the absent member or members to be heard by all persons in attendance at the meeting location.

4. The above provisions shall also be applicable to committee meetings of the Commission, to include the Development Review Committee and the Policy Committee.



Robin Bledsoe
Chair

Adopted by the Planning Commission of James City County, Virginia, this 6th day of May, 2015.

PLANNING COMMISSION POLICY FOR REMOTE PARTICIPATION

In accordance with the Planning Commission Bylaws and pursuant to § 2.2-3708.1 of the Code of Virginia, the following policy is established for members' remote electronic participation in Planning Commission meetings due to *a personal matter or a disability*. *A member may participate in a meeting through electronic communication means from a remote location that is not open to the public only as follows:*

1. ~~An emergency or~~ personal matter

a. On or before the day of a meeting, the member shall notify the chair of the Commission that the member is unable to attend the meeting due to ~~an emergency or~~ a personal matter. The member must identify with specificity the nature of the ~~emergency or~~ personal matter. The member should also notify the Commission's Secretary (i.e., the Director of Planning) if the member is unable to attend a meeting due to ~~an emergency or~~ personal matter that prevents the member's physical attendance.

b. A quorum of the Commission must be physically assembled at the primary or central meeting location. The Commission members present must approve the remote participation by a majority vote, which shall be recorded in the Commission's minutes. The decision shall be based solely on the criteria in this resolution, without regard to the identity of the member or matters that will be considered or voted on during the meeting. The Secretary shall record in the Commission's minutes the specific nature of the ~~emergency or~~ personal matter and the remote location from which the absent member participated. If the absent member's remote participation is disapproved because such participation would violate this policy, such disapproval shall be recorded in the Commission's minutes.

c. Remote participation by the absent member due to ~~an emergency or~~ a personal matter shall be limited in each calendar year to two (2) meetings ~~or 25 percent (25%) of the meetings of the Commission, whichever is fewer.~~

2. A temporary or permanent disability

a. On or before the day of a meeting, the member shall notify the chair of the Commission that the member is unable to attend the meeting due to a temporary or permanent disability or medical condition that prevents his or her physical presence. The member should also notify the Commission's Secretary (i.e., the Director of Planning) if the member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance.

b. A quorum of the Commission must be physically assembled at the primary or central meeting location. The Secretary shall record in the Commission's minutes the fact of the disability or other condition and the remote location from which the absent member participated.

3. For any remote participation, the Secretary shall make arrangements for the voice of the absent member or members to be heard by all persons in attendance at the meeting location.

4. The above provisions shall also be applicable to committee meetings of the Commission, to include the Development Review Committee and the Policy Committee.

Richard Krapf
Chair

Adopted by the Planning Commission of James City County, Virginia, this 4th day of October, 2017.

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Planning Division Staff

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

ATTACHMENTS:

	Description	Type
▣	Memorandum	Staff Report
▣	Attachment 1 June 28, 2016 BOS Memo	Backup Material
▣	Attachment 2 June 28, 2016 BOS Resolution	Backup Material
▣	Attachment 3 September 13, 2016 Memo	Backup Material
▣	Attachment 4 September 13, 2016 Ordinance	Backup Material
▣	Attachment 5 May 23, 2017 BOS/PC Joint Work Session Memo	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 1:51 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:21 PM
Publication Management	Trautman, Gayle	Approved	9/8/2017 - 2:22 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:22 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: Planning Division Staff

SUBJECT: Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items – Cover Memo Stage I

At its 2016 Session, the Virginia General Assembly approved Senate Bill 549, which was signed into law by the Governor as Chapter 322. Chapter 322 created new Section 15.2-2303.4 to the *Code of Virginia*, 1950, as amended (the “Virginia Code”) which fundamentally changed the conditional zoning system in the Commonwealth of Virginia. In response to the Virginia General Assembly actions, the following took place in James City County:

- The County Attorney’s Office forwarded a memorandum and resolution to the Board of Supervisors on June 28, 2016, outlining the implications of the new law, recommending that the Board no longer accept proffers associated with residential rezonings and initiate revision of those Codes and policies that must be changed to reflect this position (Attachment Nos. 1 and 2). The resolution also repealed certain policies as they apply to new residential rezoning applications.
- The Planning Commission and Board of Supervisors subsequently reviewed an amendment of Section 24-16 of the Zoning Ordinance to codify the County’s position on proffers. The amendments were adopted by the Board of Supervisors on September 13, 2016 (Attachment Nos. 3 and 4).

These actions have resulted in the following:

- The County no longer accepts proffers for new residential rezoning applications or the residential component of multi-use rezoning applications. This affects the ability of developers to offer guarantees to the community and to mitigate impacts associated with these proposals.
- The County will process all applications for *amendments* to residential rezoning applications or the residential component of multi-use rezoning applications in accordance with the laws in existence prior to July 1, 2016.
- The County can accept proffers for commercial rezoning applications.
- Where triggered by the Zoning Ordinance, the County can still process Special Use Permits and put in place conditions to address some impacts.

At the May 23, 2017, Joint Board of Supervisors and Planning Commission Joint Work Session, the Commission and Board reviewed potential work program items for FY 18. The memorandum provided a list of the typical items associated with residential proffers and possible paths forward (Attachment No. 5). The Commission and Board requested that staff move forward with examining possible updates to binding Master Plan elements and reviewing and revising the Zoning Ordinance to more fully capture the following items:

archaeological studies and plans; natural resources studies and plans; water conservation guidelines; streetscape guidelines and on-site traffic and pedestrian/bicycle improvements.

Staff has prepared memorandums addressing four of these five topics for the Committee's review and feedback today. For the fifth topic, water conservation guidelines, the James City Service Authority has indicated that it will address this item in 2018 through incorporating these guidelines into its own regulations.

This cover memo has been prepared to provide background information and context, and no specific feedback is sought from the Committee for this memo; however, staff looks forward to the Committee's feedback for the four topical memos.

Staff/nb
FProfP-Mitgtn-mem

Attachments:

1. June 28, 2016, Board of Supervisors Memorandum
2. June 28, 2016, Board of Supervisors Resolution
3. September 13, 2016, Memorandum
4. September 13, 2016, Ordinance
5. May 23, 2017, Board of Supervisors/Planning Commission Joint Work Session Memorandum

MEMORANDUM

DATE: June 28, 2016

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Changes in Response to Senate Bill 549, Conditional Zoning

At its 2016 Session, the Virginia General Assembly approved Senate Bill 549, which was signed into law by the Governor as Chapter 322. Chapter 322 created new Section 15.2-2303.4 to the *Code of Virginia*, 1950, as amended (the “Virginia Code”) which fundamentally changes the conditional zoning system in the Commonwealth of Virginia. Consequently, James City County must also make immediate changes to a number of policies, procedures and Code sections relating to proffers and conditional zoning.

History

Conditional zoning was first approved by the General Assembly in 1978. In its declaration of legislative policy, the General Assembly stated that “more flexible and adaptable zoning methods are needed to permit differing land uses and at the same time to recognize effects of change. It is the purpose of [conditional zoning] to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.” Chapter 320, 1978 Acts of Assembly.

Localities are not required to accept proffers and many, including James City County, may even choose the section of the Virginia Code under which they accept proffers. Currently, the County accepts proffers pursuant to § 15.2-2303 of the Virginia Code, which is the enabling authority for rezoning property in high growth localities like James City County.

The first recorded proffers in James City County occurred on November 16, 1983, with the Board’s approval of Olde Towne Farms, Inc.’s application for a 239-unit development along Olde Towne Road, now known as Chisel Run. There were two proffers offered to and accepted by the Board - one limiting the development to “single family dwellings, duplexes, triplexes and townhouses” and one limiting the development to 239 total units. Following the Olde Towne Farms case, developers have offered increasing numbers of proffers with each development, including school cash proffers, school sites, workforce housing, stream restoration, turf management and others. Since 1983, the County has accepted and recorded more than 190 proffer documents.

Chapter 322 of the 2016 Acts of Assembly

Chapter 322 adds new § 15.2-2303.4 to the Virginia Code, which creates a myriad of prohibitions upon and penalties against, localities who continue to accept residential proffers. Specifically, this section prohibits localities from requiring, requesting, accepting or even *suggesting* an “unreasonable proffer” associated with an application for new residential development.

Restrictions

There are a number of new restrictions contained in Chapter 322. In summary, they greatly reduce the ability of developers to offer “outside the box” proffers or those that are not accompanied by extensive data that proves their need. All proffers designed to address on-site issues are automatically deemed “unreasonable” unless they address an impact that is “specifically attributable” to a proposed new residential development or other new residential use. In the past, on-site proffers proposed by developers include signage and aesthetic improvements to the development; whether those are “specifically attributable” impacts caused by the development is questionable.

All proffers designed to address offsite issues, including all cash proffers, are deemed “unreasonable” unless they: 1) address an impact to an offsite public facility (now limited to a public transportation facility, public safety facility, public school facility or a public park) such that the new residential development creates a need, or identifiable portion of a need, for one or more public facility improvements in excess of existing capacity at the time of rezoning or proffer condition amendment; and 2) each new residential development receives a direct and material benefit from a proffer made with respect to a public facility improvement. This new language requires that the developer and the County staff engage in a series of tests, including the “specifically attributable” test, existing capacity analyses and a determination of “direct and attributable” benefit to the development, among others. Each of these tests, and the results therefrom, are subject to a court challenge after the rezoning.

Penalties

The new Code section also set up a new penalty system that appears impossible to avoid. If the County has required, requested, accepted or even suggested an “unreasonable proffer” and the proposed rezoning is not approved, the denial may be challenged in court. In that challenge, the court is required to presume that the refusal or failure to submit the “unreasonable proffer” was the basis for the denial. The court may then award attorney’s fees and costs to the applicant and the matter will be remanded back to the County with an order to approve the application.

Most concerning is that there is neither a definition of a “suggested proffer” in this new section of the Virginia Code, nor any explanation of who from the County has authority to make a “suggestion” to the applicant. It is the County’s current procedure to work with applicants to improve proposed developments from the pre-application stage up to an including the night of the Board of Supervisors meeting. A “suggestion” may mean that anything said during one of those meetings by a member of County staff or a Planning Commissioner could be a “suggestion” in violation of the statute. Additionally, all of the Board’s adopted policies on legislative cases outlined above may be considered a “suggested proffer,” which may be considered “unreasonable” in some legislative cases.

Conclusion

When Chapter 322 becomes effective on July 1, 2016, the liabilities associated with accepting voluntary proffers for residential development now outweigh the benefits. This new section now requires that the County navigate a minefield of tests, analyses and concerns about illegal “suggestions” prior to accepting a voluntary proffer whose very purpose was to “provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned.” Chapter 320, 1978 Acts of Assembly. Once accepted, the County must then be concerned with a legal challenge to any portion of the process. If challenged, all presumptions rest with the developer who submitted the proffer and the County is required to not only defend the process by which the development was considered, but also the tests, analyses and spoken words that led to the ultimate disposition of the application.

I recommend that the Board of Supervisors adopt the attached resolution, which states that the Board will no longer accept proffers associated with residential rezonings, initiates revision of those Codes and policies that must be changed to reflect this new position, initiates a staff study to determine which of the existing legislative policies related to residential rezonings may be incorporated into the County Code and sets forth the procedure by which the Board will consider amendments to previously-approved residential proffers.

RESOLUTION

A RESOLUTION TO TAKE ACTION IN RESPONSE TO CHAPTER 322 OF THE

2016 VIRGINIA ACTS OF ASSEMBLY RELATING TO CONDITIONAL ZONING

FOR RESIDENTIAL REZONINGS AND PROFFER AMENDMENTS

- WHEREAS, James City County, Virginia (the “County”) currently allows applicants to voluntarily proffer reasonable conditions for all rezonings and zoning map amendments pursuant to Section 15.2-2303 of the Code of Virginia and Section 24-16 of the County Code; and
- WHEREAS, SB 549, which was passed by the General Assembly, approved by the Governor, and incorporated as Chapter 322 of the 2016 Virginia Acts of Assembly (“Chapter 322”), added Section 15.2-2303.4 to the Code of Virginia which fundamentally changes the conditional zoning law in the Commonwealth; and
- WHEREAS, the Board of Supervisors (the “Board”) strongly opposed SB 549 (and its companion bill HB 770) due to its significant negative impacts on the County and other localities; and
- WHEREAS, Chapter 322 becomes effective on July 1, 2016, is prospective only and will only apply to any residential rezoning and proffer amendment applications filed on or after July 1, 2016; and
- WHEREAS, Chapter 322 imposes significant liabilities upon localities that continue to accept voluntarily-proffered conditions associated with residential rezonings, including a new cause of action against localities for requiring, requesting, accepting or even *suggesting* an “unreasonable proffer” as defined by Chapter 322; and
- WHEREAS, the Board has adopted various policies and guidelines to assist developers with the creation of voluntary proffers, including: the Route 5 Road Improvement Proffer Policy, adopted on May 28, 1996, to provide guidance for rezonings in the Route 5 corridor; the Natural Resources Policy adopted on July 27, 1999, to provide a guideline for protecting habitats for rare species and natural communities in special use permit and rezoning cases; the Cash Proffer Policy for Schools adopted on July 24, 2007, to provide guidelines for proportionate contributions to reduce impacts to schools; the Residential Redevelopment Policy adopted on November 27, 2012, to provide guidelines for the proffer of conditions for residential redevelopment projects and the Housing Opportunities Policy adopted on November 27, 2012, to provide guidelines for the creation of affordable and workforce housing in rezoning cases; and
- WHEREAS, all of the above-mentioned policies and guidelines, in whole or in part, could now be determined to be inconsistent with Section 15.2-2303.4 of the Virginia Code; and

WHEREAS, in order to reduce potential liability to the County, the Board desires to cease its acceptance of all proffered conditions associated with a new residential rezoning or zoning map amendment, or any new residential component of a multi-use district rezoning or zoning map amendment filed after July 1, 2016; and

WHEREAS, in accordance with Chapter 322, the County will process all applications for amendments to previously-approved residential rezoning or zoning map amendment, or any residential component of a multi-use district rezoning or zoning map amendment in accordance with the laws in existence prior to July 1, 2016.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, hereby will no longer accept any voluntarily proffered conditions pursuant to Virginia Code Section 15.2-2303 as part of any new application for residential rezoning or zoning map amendment, or any residential component of a multi-use district rezoning or zoning map amendment; provided, however, that the County will process all applications for amendments to previously-approved residential rezoning or zoning map amendments, or any previously-approved residential component of a multi-use district rezoning or zoning map amendment, in accordance with the laws in existence prior to July 1, 2016.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby repeals the following policies as they apply to new applications for residential rezonings filed on or after July 1, 2016: the Route 5 Road Improvement Proffer Policy adopted on May 28, 1996; the Natural Resources Policy; adopted on July 27, 1999; the Cash Proffer Policy for Schools adopted on July 24, 2007; the Residential Redevelopment Policy adopted on November 27, 2012; the Housing Opportunities Policy adopted on November 27, 2012 and the Outstanding Specimen Tree Option Guidelines adopted on November 22, 2011.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby initiates amendments to Section 24-16 of the County Code to explicitly state that the County will only accept voluntarily proffered conditions associated with non-residential rezonings and zoning map amendments, and further directs staff to have such amendments brought before the Planning Commission at its first meeting in August, to be forwarded to the Board of Supervisors for adoption at its first meeting in September.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, hereby directs staff to study the ability to incorporate the following policies into the James City County Code and bring back recommendations for the Board's consideration at a work session in September: the Archaeological Policy adopted on September 22, 1998; the Community Character Corridor Buffer Treatment Guidelines adopted on November 22, 2011; the Design Guidelines for the Toano Community Character Area adopted on February 14, 2006; the Economic Opportunity District Construction Phasing Guidelines adopted on September 13, 2011; the Environmental Constraints Analysis for Legislative Cases adopted on June 12, 2012; the Multiple Use Districts and Mixed Use Construction Phasing Policy adopted on September 11, 2012; the Outstanding Specimen Tree Option Guidelines adopted on November 22, 2011.

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 28th day of June,
2016.

SB549ProfferChngs-res

MEMORANDUM

DATE: September 13, 2016
TO: The Board of Supervisors
FROM: Adam R. Kinsman, County Attorney
SUBJECT: ZO-0008-2016. Article 1, Section 24-16, Proffer of Conditions

At its regular meeting on June 21, 2016, the James City County Board of Supervisors (the “Board”) approved a resolution stating that the County would no longer accept proffers associated with applications for any portion of a rezoning application that included a residential component. In addition, the resolution initiated the amendment of Section 24-16 of the James City County Code to clarify this new position.

At its meeting on August 3, 2016, the Planning Commission voted to recommend approval by a vote of 5-0.

I recommend that the Board approve the attached ordinance amendment.

ARK/ab
ZO-8-16-Art1Sec24-16-mem

Attachment

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-16, PROFFER OF CONDITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-16, Proffer of conditions.

Chapter 24. Zoning

Article I. In General

Sec. 24-16. Proffer of conditions.

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions, prior to a public hearing before the board of supervisors, which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the county's zoning map. *No proffers shall be submitted or accepted for any new residential rezoning or zoning map amendment, or any new residential component of a multi-use district rezoning or zoning map amendment field after July 1, 2016.*

Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:

Bryan J. Hill
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	_____	_____
LARSON	_____	_____	_____
ONIZUK	_____	_____	_____
SADLER	_____	_____	_____
HIPPLE	_____	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of September, 2016.

Ch24Art1Sec24-16-ord

MEMORANDUM

DATE: May 23, 2017

TO: The Board of Supervisors
The Planning Commission

FROM: Paul D. Holt, III, Director of Community Development and Planning

SUBJECT: Joint Board of Supervisors and Planning Commission Work Session – Update on Major Planning Division Work Program Items

Executive Summary

This Joint Work Session provides an opportunity for the Planning Commission and staff to obtain the Board of Supervisors' guidance on the prioritization and development of work program items. This memorandum provides details on potential work program items, and the two lists below provide an initial grouping of the work program items by timeframe, pending additional guidance from the Board.

Proposed Work Program Items for FY 18 Using Existing Available Resources

- Zoning Ordinance amendments to address family and group homes
- Density bonuses and age-restricted housing in the R-8, Rural Residential District
- Location standards for short-term rentals (Airbnb homes)
- Because proffers are not accepted for residential rezonings, updates to binding Master Plan elements and reviewing and revising Zoning Ordinance to more fully capture the following items:
 - Archaeological studies and plans
 - Natural resources studies and plans
 - Water Conservation Guidelines
 - Streetscape Guidelines
 - On-site traffic and pedestrian/bicycle improvements
- Strategic Plan Operational Initiative: Workforce Housing Task Force
- Permit fee structure (as part of the FY 19-20 budget process)
- Payment of streetlight fees to Virginia Dominion Power (as part of the FY 19-20 budget process)

Items to Be Considered at a Future Date

- LB/B-1 setback waivers and building coverage (previously discussed with PC/BOS)
- Mixed Use District flexibility and infill and redevelopment (previously discussed with PC/BOS)
- Places of Public Assembly, including those used primarily as event facilities, in the A-1 and R-8 Districts (previously discussed with PC/BOS)
- Parking Ordinance revisions (previously discussed with PC/BOS)
- Cash proffers for schools and public facilities/infrastructure
- Residential Redevelopment Policy
- Recreation facilities per the Parks & Recreation Guidelines
- Outstanding Specimen Tree Guidelines
- Landscaping per the Community Character Corridor (CCC) Buffer Treatment Guidelines
- Off-site traffic and pedestrian/bicycle improvements

- Elevations/Design Guidelines
- Green building practices
- Special Stormwater Criteria
- Economic Opportunity District Construction Phasing Guidelines
- Mixed Use District Construction Phasing Guidelines
- Density bonuses
- Ice cream trucks
- Home Occupation regulations
- Appeal of Zoning Administrator decisions

Introduction

Over the past year the Planning Division has worked toward implementing the Comprehensive Plan, advancing the Strategic Plan and responding to requests and changes in state code. Today's Joint Work Session provides an opportunity for the Planning Commission and staff to obtain the Board of Supervisors' guidance on the prioritization and development of work program items in four main areas:

- I. In-Process Ordinance Updates
- II. Other Board-Initiated Ordinance Updates
- III. Proffer-Related Topics for Potential Ordinance Updates
- IV. Other Miscellaneous Potential Ordinance Updates

Summaries of these items, including their scopes and progress, are provided below. Staff looks forward to discussion on these items with the Planning Commission and Board of Supervisors.

I. In-Process Ordinance Updates

In 2015 and 2016, a group of Zoning and Subdivision Ordinance amendments was initiated, and staff, the Policy Committee and the Commission began the process of examining the possible amendments. An update on the progress of the amendments was brought to the Board at the Joint Planning Commission/Board Work Session on July 26, 2016. Since that time, several of the Ordinance amendments have been adopted by the Board, including those related to:

- Development Review Committee's review criteria and processes;
- Subdivision plat monument notation;
- Electric vehicle charging stations;
- Mobile food vending vehicles; and,
- Communications facilities.

One of the Ordinance amendments, proposing changes to the LB, Limited Business, and B-1, General Business districts, was indefinitely deferred by the Board. Several of the Ordinance amendments were recommended for approval by the Planning Commission but have not yet been reviewed by the Board. The Ordinance amendments that were deferred or not yet considered by the Board are listed in the following table.

Item	Summary	Legislative Vote(s) and Staff Report Link(s)
LB/B-1 setback waivers and building coverage	<p>1. Revisions to sections dealing with setback reductions for both the LB and B-1 Zoning Districts, Sections 24-371 and 24-392, respectively. The revisions do not change the substance of the setback reduction requirements, but rather organize existing information, making it clearer and also more comprehensive. In addition, the language describing the criteria and standards for setback reductions in LB and B-1 was proposed to be the same for consistency between similar districts.</p> <p>2. Revisions to sections dealing with building coverage limit requirements for both the LB and B-1 Zoning Districts, Sections 24-375 and 24-397, respectively. Building coverage is defined as the ratio of the building(s) area divided by the area of the lot in which it is located. Currently, both sections require building coverage not to exceed 30% of the total lot area. The proposed amendments would increase the building coverage to 60%. The proposed amendments would also remove the floor area ratio specification.</p>	<p>PC Recommendation of Approval 7-0 (6.1.16) BOS Deferral (7.26.16) BOS Deferral (9.13.16) BOS Indefinite Deferral (11.8.16) Staff Report Materials for the 9.13.16 BOS Meeting</p> <p>In deferring this item, the Board had expressed interest in seeing examples of higher coverage sites from other localities.</p>
Mixed Use District flexibility for infill and redevelopment	<p>Revisions to Sections 24-517, 24-519, 24-520 and 24-523 to provide additional flexibility based upon interest shown over the past several years in development of mixed use structures (i.e., “vertical mixed use”) or mixed use development on parcels or groups of parcels less than five acres total as well as mixed use development in an infill or redevelopment context. Revisions would allow mixed-use development on parcels less than five acres, clarify the mix of uses requirement calculation, add specifications for mixed use zoned development in areas designated Neighborhood Commercial or Community Commercial on the Comprehensive Plan, revise language related to required open space and clarify the right-of-way and perimeter buffer standards.</p>	<p>PC Recommendation of Approval 7-0 (10.5.16) Staff Report Materials for the 10.5.16 Commission Meeting</p>
Places of Public Assembly, including event facilities in A-1 and R-8	<p>In other Zoning Districts, privately-run, for-profit event facilities are one of the uses considered to fall under the “Places of Public Assembly” use listed in the districts’ use lists; however, since A-1 and R-8 had not been updated with the rest of the districts in past years, this use has not yet been added. Proposed revisions would add “Places of Public Assembly” to the use lists in A-1 and R-8 as a specially permitted use. For the subcategory of Places of Public Assembly used primarily as an event facility, the use would be listed as specially permitted unless certain performance criteria were met, in which case the use would be permitted “by-right.” The Special Regulations section of the Ordinance would be updated to include a section listing the performance criteria for those event facilities following the “by-right” path.</p>	<p>PC Recommendation of Approval 4-3 (10.5.16) Staff Report Materials for the 10.5.16 Commission Meeting</p>

Item	Summary	Legislative Vote(s) and Staff Report Link(s)
Parking Ordinance revisions	Revisions to parking standards in Sections 24-2, 24-55 and 24-59 to efficiently use land, enhance economic development activity and reduce impervious surface. Revisions would adjust the definition of retail and office floor area; address the ability for re-use of buildings with non-conforming parking spaces; update the required parking numbers for residential uses, barber shops and beauty parlors, and nursing homes; formally allow for residential uses to be considered for shared parking arrangements; simplify requirements for applicants pursuing mass transit plans; and broaden the applicability of the appeal process currently provided for in the Ordinance.	PC Recommendation of Approval 7-0 (9.7.16) Staff Report Materials for the 9.7.16 Commission Meeting

II. Other Board-Initiated Ordinance Updates

The following table represents items for which the Board of Supervisors has already adopted an initiating resolution.

Item	Current	Proposed	History
Family and group home definitions	The Zoning Ordinance currently defines family and group homes.	Amend the Zoning Ordinance to comply with the Code of Virginia and Federal Fair Housing Act.	Initiating Resolution adopted by BOS (11.8.16)
Density bonuses and age-restricted housing in the R-8, Rural Residential Zoning District	The minimum lot size in the R-8, Rural Residential Zoning District is three acres. Further, there no current provisions in the Ordinance to guarantee age-restricted housing absent proffers.	Amend the R-8, Rural Residential District and the Cluster Overlay District provisions in order to address the provision of age-restricted housing, independent living facilities, and specially permitted density bonuses.	Initiating Resolution adopted by BOS (4.11.17)

III. Proffer-Related Topics for Potential Ordinance Updates

When the General Assembly approved State Bill 549, Conditional Zoning, in 2016, it changed the conditional zoning and proffer system for residential development in Virginia, and subsequently led the Board of Supervisors to adopt a resolution stating that the County would no longer accept proffers associated with residential rezonings. The resolution also initiated revision of codes and policies to reflect this new position as well as a staff study to determine which of the existing legislative policies related to residential rezonings could be incorporated into the County Code.

The table below presents a list of the typical items associated with residential proffers and possible paths forward.

Item	Purpose	Possible Paths Forward
Binding Master Plan	Graphically depicts the schematic layout and other information (density, dwelling unit cap, uses and mixes on-site and within land bays).	<ul style="list-style-type: none"> - Review and revise Ordinance to more fully capture this item. - Require all new residential development to have a Special Use Permit (SUP) and set as a condition. Explore methods to handle expirations of SUPs.
Cash proffers (schools, JCSA, other County facilities and infrastructure)	Seeks to offset the projected impacts of proposed developments on the capital costs of public facilities and infrastructure.	No alternatives identified at this time.
Archaeological studies and treatment plans per the Archaeological Policy	Calls for the study of areas with significant archaeological potential and the development of treatment plans for sites that are eligible for nomination to the National Register of Historic Places.	<ul style="list-style-type: none"> - Review and revise Ordinance to more fully capture this item. - Require all new residential development to have an SUP and set as a condition. Explore methods to handle expirations of SUPs.
Affordable and workforce dwelling units per the Housing Opportunities Policy	Seeks to increase the range of housing choices in the County through the provision of certain percentages of affordable and workforce housing in all residential rezoning applications, reductions in cash proffers for those units and retention methods. Cash contributions to the Housing Fund are allowed as an alternative.	Outline policy, Ordinance and other possible County actions through the efforts of the Workforce Housing Task Force, set to begin later this summer.
Residential Redevelopment Policy	Sets expectation that R-3 zoned projects be located in the PSA, increase conformance, provide or improve public infrastructure, and provide a certain percentage of affordable/workforce units.	Outline policy, Ordinance, and other possible County actions through the efforts of the Workforce Housing Task Force, set to begin later this summer.
Studies and conservation management plans per the Natural Resources Policy	Calls for the study and inventory of areas with significant existing or potential natural heritage resources and the development of conservation management plans for confirmed sites.	<ul style="list-style-type: none"> - Review and revise Ordinance to more fully capture this item. - Require all new residential development to have an SUP and set as a condition. Explore methods to handle expirations of SUPs.

Item	Purpose	Possible Paths Forward
Recreation facilities per the Parks & Recreation (P&R) Guidelines	Seeks to provide the anticipated P&R facility needs of residential developments within the development.	<ul style="list-style-type: none"> - Recently revised in the 2017 P&R Master Plan to remove the cash in-lieu option. No alternative identified to reinstate this option. - Review and revise Ordinance to more fully capture this item. - Require all new residential development to have an SUP and set as a condition. Explore methods to handle expirations of SUPs.
Water conservation measures per the Water Conservation Guidelines	Aims to reduce reliance on the James City Service Authority public water supply by incorporating water conservation practices into proposed residential developments.	Add into Subdivision Ordinance regulations or JCSA regulations.
Street trees per the Streetscape Guidelines Policy	Works to preserve or establish street trees in new residential areas.	Add into landscaping regulations in Zoning Ordinance.
Outstanding Specimen Tree Option Guidelines	Encourages the identification, maintenance and protection of outstanding specimen trees through credits and recognition.	Add into landscaping regulations in Zoning Ordinance.
Landscaping per the CCC Buffer Treatment Guidelines	Provides guidance on the landscape treatment expected for each type of CCC.	Add into landscaping regulations in Zoning Ordinance.
Traffic improvements	Seeks to mitigate on-site and off-site traffic improvements necessitated in whole or in part by the development.	<ul style="list-style-type: none"> - Amend the Zoning Ordinance to reflect VDOT regulations. - Require all new residential development to have an SUP and set as a condition for on-site impacts. Explore methods to handle expirations of SUPs. - No alternatives for off-site impacts identified at this time, unless the County pursues impact fees.
Improvements per the Pedestrian Accommodations Master Plan and/or the Bicycle Facilities Plan	Aims to provide safe and convenient pedestrian and bicycle access and to mitigate traffic improvements necessitated in whole or in part by the development.	<ul style="list-style-type: none"> - Add into Zoning Ordinance. - Require all new residential development to have an SUP and set as a condition for on-site impacts. Explore methods to handle expirations of SUPs. - No alternatives for off-site impacts identified at this time, unless the County pursues impact fees.

Item	Purpose	Possible Paths Forward
Elevations/design guidelines (including those associated with Toano Community Character Area)	Implements the design guidelines for various areas through special architectural and site considerations to maintain and enhance community character.	<ul style="list-style-type: none"> - Reflect residential design standards in Comprehensive Plan in Zoning Ordinance. - Create design overlay districts. - Adopt basic form-based elements into Zoning Ordinance.
Green building practices (i.e., siting, energy, water, materials and resources)	Increases the use of green building practices in residential development.	Require all new residential development to have an SUP and set as a condition. Explore methods to handle expirations of SUPs.
Special Stormwater Criteria Practices per the Special Stormwater Criteria and Offsite Open Space Program	Seeks more sensitive site design to reduce water quality and hydrologic impacts resulting from development.	Add into Chesapeake Bay Preservation Ordinance as needed.
Nutrient Management Plan (Turf)		Require all new residential development to have an SUP and set as a condition. Explore methods to handle expirations of SUPs.
Stream Restoration		<ul style="list-style-type: none"> - Require all new residential development to have an SUP and set as a condition for on-site impacts. Explore methods to handle expirations of SUPs. - No alternatives for off-site impacts identified at this time.
Economic Opportunity District Construction Phasing Guidelines	Sequences construction to ensure the majority of commercial/industrial development takes place before residential development.	Add into Zoning Ordinance.
Multiple Use Districts and Mixed Use Construction Phasing Policy	Sequences construction to ensure the majority of commercial/industrial development takes place before residential development.	Add into Zoning Ordinance.
Density bonuses for various districts (cluster bonuses as an example)	Examples of density bonus items listed in the Ordinance include dedication of land to the County for a public use site, preservation and rehabilitation of historic structures, preserving specific environmental features or constructing public greenway trails.	<ul style="list-style-type: none"> - Review and revise Ordinance to more fully capture these items, where applicable. - Require all new residential development to have an SUP and set as a condition. Explore methods to handle expirations of SUPs.

IV. Other Miscellaneous Potential Ordinance Updates

Other items that have surfaced through discussions with Board and Commission members, case review and deliberation, or identification by staff are noted below.

Item	Current	Proposed
Ice cream trucks	Ice cream trucks are not currently permitted to operate in James City County.	Amend and revise the current County code to permit ice cream trucks.
Permit fee structure	The current fee structure has not been updated for several years.	Amend and revise the current fee structure for development permits. An updated fee structure could incorporate a technology fee to fund critical enhancements needed with hardware and software to implement technology improvements in the permitting process, including online plan review and submission as well as greater functionality with online transactions. Such a technology fee would also support on-going maintenance with the new online permitting software currently under development that will go online in March 2018. Finally, the fee structure could be structured to better react to applications which require more than three reviews. Staff anticipates greater efficiencies will occur with existing resources if those resources can better focus on initial permit reviews and minor resubmittals. This should greatly reduce backlogs and improve initial response times.
Location standards for short-term rentals	There are no location standards for short-term rentals (Airbnb homes).	Staff would develop location standards for the Planning Commission and Board of Supervisors to consider when reviewing future short-term rental SUP applications.
Home occupation regulations	The current home occupation regulations are written such that home occupations or activities must occur so that they are clearly incidental and secondary to the use of the premises for dwelling purposes. Existing performance criteria are in place to ensure there is no such evidence of a home occupation or impacts to adjacent properties.	Update the standards and code to allow for more flexibility and in recognition of the growing sharing and work-from-home economy.
Appeal of Zoning Administrator decisions	The Zoning Ordinance states that an appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of the Zoning Administrator. Further, such appeal shall be taken within 30 days after such decision.	Pursuant to enabling provisions contained within the Code of Virginia, a Zoning Ordinance may prescribe an appeal period of less than 30 days, but not less than 10 days, for a notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in residential zoning districts, maximum occupancy limitations of a residential dwelling unit, or similar short-term, recurring violations.

Item	Current	Proposed
Payment of streetlight fees to Virginia Dominion Power	When streetlights are installed in newly constructed subdivisions, the developer deposits with the County one year's worth of fees charged by Virginia Dominion Power. If the streets within the subdivision are not accepted by VDOT prior to the end of the one-year billing period covered by the deposit, the developer is required to compensate the County for any additional charges incurred prior to the release of the subdivision surety. Currently, there are a number of subdivisions in the County where the streets are not yet in the state system and streetlights have existed for many, many years. Accordingly, monthly charges have continued to accrue, which the County is paying on behalf of the developer. The developer is responsible for paying streetlight fees while the subdivision is under construction (payable through James City County) and the County incurs costs for the streetlights once the roads are publicly maintained.	Amend the Subdivision Ordinance to allow for periodic billing back to the developer (e.g., monthly, quarterly or yearly). This would limit the amount the County is paying on behalf of the developer and it would reduce the total amount of the reimbursement due by the developer at the end of the project.

Conclusion

The Planning Commission and Planning staff will present this information to the Board at the meeting and look forward to discussions with the Board of Supervisors on these items.

PH/gt

JtWS-PlanWkUpd-mem

ITEM SUMMARY

DATE: 9/14/2017

TO: Policy Committee

FROM: W.Scott Whyte, Senior Landscape Planner II

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

ATTACHMENTS:

	Description	Type
▣	Staff Report	Staff Report
▣	Existing Streetscape Policy	Exhibit
▣	York County Ordinance	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 1:10 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:17 PM
Publication Management	Trautman, Gayle	Approved	9/8/2017 - 2:23 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:23 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: W. Scott Whyte, Senior Landscape Planner II

SUBJECT: Zoning Ordinance Amendments to Address Adoption of the Streetscape Policy as an Ordinance Requirement - Stage I

Overview

The County's Streetscape Policy was first adopted by the Board of Supervisors in 1999 and was amended in 2004 and 2010. The policy was first proposed as a result of the 1997 Comprehensive Plan recommendation and subsequent Zoning Ordinance revisions. The goal of the Policy was to establish or preserve a tree canopy along residential streets and to achieve a 20% canopy coverage within a 20-year period.

Since that time, the Streetscape Policy has continued to be utilized by the Community Appearance Guide, the Toano, Five Forks and New Town design guidelines and has been supported in all revisions of the Comprehensive Plan. Most major subdivisions since 1999 that were either special use permits or rezoning applications applied the Streetscape Policy. The policy has worked very well since it was created, with slight revisions made in 2004 and 2010.

Due to recent updates to the Virginia Code through Va. Senate Bill 549, staff has identified several possible scenarios that would accomplish this initiative. Each scenario that staff is considering is listed below. Staff shall determine which of these initiatives are necessary and work with the committee on drafting a recommendation for the Planning Commission to consider.

Proposed Suggested Revisions

1. After reviewing the applicable state regulations as well as peer localities' ordinances, staff suggests that the committee consider directing staff to create a draft of the streetscape policy as an ordinance requirement. This would enable staff to require street trees within all major subdivisions. Staff recommends modeling the ordinance after York County's street tree ordinance which has been in existence for a long time. The original streetscape policy was modeled after York County's previous streetscape policy. The ordinance requirement would likely be located within the Subdivision Ordinance and Landscape section of the Zoning ordinance.
2. Staff suggests that the existing policy is kept as a policy to serve as a guide for existing major subdivisions and approved major subdivision which have not been developed. The policy should be kept as last amended even if the new ordinance is changed, because it needs to apply only to any existing or previously approved subdivisions.

Recommendation

Staff looks forward to the Committee's input on these discussion items and recommendations prior to moving forward with a draft ordinance for the committee to consider at the next meeting.

WSW/nb
ZOAmnd-Stscape-mem

Attachments:

1. Existing Streetscape Policy Resolution
2. York County's Subdivision Ordinance

RESOLUTION

STREETSCAPE GUIDELINES POLICY

WHEREAS, the Streetscape Guidelines Policy was originally created to preserve or establish street trees in new residential areas of James City County during the special use permit and rezoning process; and

WHEREAS, the 2009 Comprehensive Plan identified the need to revise the Streetscape Guidelines Policy to allow flexibility with the choice of plant material and to limit the distance street trees are installed from the edge of curb; and

WHEREAS, the Policy Committee recommended endorsement of the Streetscape Guidelines Policy revision to the Planning Commission on February 7, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, endorsed the revisions to the Streetscape Guidelines Policy on October 5, 2011, by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

STREETSCAPE GUIDELINES POLICY

Goal Purpose

The purpose of this policy is twofold:

- to preserve and/or establish tree canopies along residential streets, subdivision entrances, and common areas *within a subdivision, and*
- ~~Plant to encourage~~ planting of new trees appropriate to the climate and soils of James City County, while enhancing existing healthy, durable, and mature trees in these areas.

Tree preservation/planting shall be accomplished ~~such that within 20 years growing time, the minimum tree canopy over residential streets shall be 20% so when the trees reach maturity a substantial tree canopy is established over the street.~~ The environmental and aesthetic benefits from tree planting enhance the quality, character, and health of the community.

Guidelines for Street Trees

In all residential subdivisions, deciduous shade trees, and/or shrubs *when utility constraints are a concern*, shall be planted along all rights-of-way within and abutting the subdivision. Street tree plans shall be prepared by a Virginia Landscape Architect, a *certified Virginia Nurseryman, or a member of the Virginia Society of Landscape*

Designers, and shall be reviewed and approved by the ~~Director of Planning~~ Director or designee. The street tree plans shall adhere to the following guidelines:

1. *Trees and/or shrubs shall be located within a minimum five-foot landscape preservation easement contiguous to ~~such or within the~~ right-of-way, with Virginia Department of Transportation (VDOT) approval. Every effort should be made to avoid conflict between the landscape preservation easement and the utilities during the design phase of the subdivision. If a conflict cannot be avoided, the landscape preservation easement shall be placed as close to the ~~right-of-way curb~~ as the design allows. All landscape preservation easements shall be located within the first 30% of the distance from the edge of the curb (starting point) to the proposed edge of the building envelope (ending point).*
2. *The landscape preservation easement shall contain, at a minimum, one tree per an average 40 linear feet of street on each side of the street or one shrub per an average 20 linear feet of street on each side of the street. The mix of trees and shrubs shall be approved by the ~~Director of Planning~~ Director or designee.*
3. *Trees and/or shrubs shall be spaced no greater than 75 feet apart along 60% linear of the street frontage.*
4. *All trees that are planted shall be native species or street trees commonly planted in the James City County area that are adapted to the soils and climate. At the time of planting, trees shall have a minimum caliper of 1½ inches. Shrubs are to be a minimum of 22 inches in height at the time of planting. Please refer to Table 1 for street tree suggestions. Although plant material is not restricted to the list provided, any trees or shrubs that are invasive or require extensive maintenance for disease or pest control will not be approved.*
5. *Existing trees which are within ~~20 feet of the edge of right-of-way~~ the proposed landscape preservation easement, and which are protected and preserved in accordance with the requirements of the Zoning Ordinance, may be used to satisfy this planting requirement if approved by the ~~Director of Planning~~ Director or designee. Canopies that are a mixture of existing and planted trees or shrubs shall have similar or complementary branch characteristics.*
6. *Plantings are to occur between November 1 and March 31 while the plant material is dormant to reduce the stress of transplanting. ~~Prior to final site plan approval the plantings and installation are to be bonded. In order to receive final site plan approval during the seasons when planting is not recommended, the applicant must post surety in an amount and form acceptable to the county attorney.~~*

Upon completion of installation, the Planning Director or his designee shall inspect the plantings as verification, or a Virginia Landscape Architect designer shall verify in writing a signed letter to the Planning Director or designee that the specified trees or shrubs were installed in the locations shown on the plans. ~~A signed letter from the Landscape Architect shall be submitted to the Planning Division at the time of verification.~~

Guidelines for Entrances and Common Areas

Entrances shall be landscaped with native and/or climate and soil appropriate trees, shrubs, grasses, and ground covers except where the existing mature trees have been preserved or protected in such areas. Plant material to be used in these areas shall be specified from Table 2 or, if not on the list, meet the above criteria. Unless the ~~Director of Planning~~ *Director* or his designee determines that such landscape treatment is unnecessary, impractical, or in conflict with drainage, utilities, sight distance, or other required features of the subdivision, the cleared portions of the entrances and associated common areas in a residential subdivision shall be landscaped with a minimum of one tree and three shrubs per 400 square feet exclusive of roadways, sidewalks, recreation facilities or other impervious areas.

In wooded areas, entrance features including walls, fences and signs shall be minimized to reduce the amount of clearing to accommodate entrance roads. In no case shall clearing for entrance roads and abutting utility easements exceed 60 feet in width.

Table 1. Suggested Street Trees

Acer campestre, Hedge Maple*
Acer rubrum, Red Maple
Fraxinus pennsylvanica, Green Ash (seedless cultivars)
Gingko biloba, Maidenhair Tree (male cultivars)*
Nyssa sylvatica, Black Tupelo*
Ostrya virginiana, American Hophornbeam*
Plantanus X acerifolia London Planetree
Quercus palustris Pin Oak
Quercus phellos, Willow Oak
Quercus shumardii, Shumard Oak
Ulmus parvifolia, Lacebark Elm*
Zelkova serrata, Japanese Zelkova*

* Trees recommended for thin planting strips or adjacent to sidewalks.

This list is suggested. Trees used are not required to be from this list.

Table 2. Suggested Plant Material for Entrances and Common Areas

Trees

Betula nigra, River Birch
Carya ovata, Shagbark Hickory
Cercis Canadensis, Eastern Redbud
Cornus kousa, Kousa Dogwood
Juniverus virginiana, Eastern Redcedar
Pinus taeda, Loblolly Pine

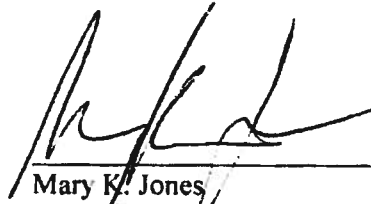
Shrubs

Hamamelis virginiana, Witch Hazel
Ilex opaca, Inkberry
Ilex vomitoria, Yaupon Holly
Myrica cerifera, Wax Myrtle
Viburnum dentatum, Arrowwood Viburnum

Groundcovers and other Herbaceous Plants

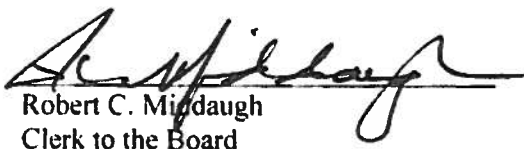
~~*Calamagrostis acutiflora*, Feather Reed Grass~~
~~*Ceratostigma plumbaginoides*, Plumbago~~
~~*Coreopsis verticillata*, Threadleaf Coreopsis~~
~~*Deschampsia caespitosa*, Tufted Hair Grass~~
~~*Festuca cinerea*, Blue Fescue~~
~~*Helictotrichon sempervirens*, Blue Oat Grass~~
~~*Hemerocallis*, Daylily~~
~~*Hypericum calycinum*, St. Johnswort~~
~~*Liriope muscari*, Blue Lily-turf~~
~~*Miscanthus sinensis*, Japanese Silver Grass~~
~~*Panicum virgatum*, Switch Grass~~
~~*Potentilla fruticosa*, Bush Cinquefoil~~

This list is suggested. Plants used are not required to be from this list.



Mary K. Jones
Chairman, Board of Supervisors

ATTEST:



Robert C. Mindaugh
Clerk to the Board

SUPERVISOR	VOTE
KENNEDY	AYE
GOODSON	AYE
MCGLENNON	AYE
ICENHOUR	AYE
JONES	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of November, 2011.

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appropriate groundcovers (other than grass) and shrubs shall be installed within the planting area, including a minimum of six (6) shrubs.

- (e) Walls, fences and other similar treatments which delineate or define the entrance to or boundaries of a subdivision shall require the submission of architectural renderings for approval by the agent.

The agent shall deny or require modification of plans for such features when he finds that the installation would be visually obtrusive upon adjacent properties or public streets, be incompatible with the character of existing or anticipated surrounding development, or conflict with other goals and policies of the county.

Nothing contained in this section shall be interpreted to prevent the mounting of entrance signs on decorative fences or walls.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-82. Addresses and parcel identification numbers.

Addresses and parcel identification numbers (PIN) shall be assigned by the county during review of development plans. The parcel identification numbers shall be shown on the final plat and record plat, either within the boundaries of the lots or in tabular form on the plat. Once assigned, neither addresses nor parcel identification numbers shall be changed or otherwise altered except upon the direction of the agent.

Sec. 20.5-83. Preservation of natural features and cultural resources.

The natural terrain and features of the land, including heritage, memorial, significant and specimen trees, natural watercourses, perennial streams, and other water areas, historic and archaeological sites, scenic areas and other features and resources worthy of preservation located within the area encompassed by any proposed subdivision of property in the county shall be preserved and protected during the development process to the extent possible while enabling reasonable development of property. In this regard, no more land disturbance than absolutely necessary to accommodate reasonable development shall occur and extensive cut and fill of the natural topography shall not be allowed.

The removal of trees or the clearing and grading of land by the subdivider shall be generally permitted only to accommodate the construction and installation of those improvements required by this chapter or other portions of this code or on those lots for which a valid building permit has been issued. Mature trees throughout the remainder of the area encompassed by any proposed subdivision of property shall be protected in accordance with the Virginia Erosion and Sediment Control Manual or other generally accepted tree protection measure during construction and installation of subdivision improvements. In any case, limits of clearing and grading shall be clearly shown on development plans.

(Ord. No. 05-33, 12/20/05)

Sec. 20.5-84. Landscaping, buffers and screening.

(a) *Landscaping.*

- (1) Entrances and common areas shall be landscaped by the subdivider with appropriate combinations of trees, shrubs, grass and groundcovers except where the existing mature trees have been preserved and protected in such areas. Unless the agent determines that such landscape treatment is unnecessary, impractical or in conflict with drainage, utilities, or other required features of the subdivision, the cleared portions of entrance and common areas in residential subdivisions shall be landscaped with a minimum of one (1) tree and one (1) shrub for each one thousand (1,000) square feet contained in such areas exclusive of roadways, sidewalks, recreational facilities, or other paved areas.
- (2) All landscape treatments required by this chapter or the zoning ordinance shall be designed, arranged, installed and maintained in accordance with the landscaping standards contained in the zoning ordinance.

(b) *Tree planting and replacement.*

- (1) In accordance with section 15.2-961, Code of Virginia, trees shall be preserved, planted or replaced on all residential lots, excluding recreation lots. Tree preservation/planting shall be

accomplished such that, within twenty (20) years growing time, the minimum tree canopy or cover on residential lots shall be twenty percent (20%).

- (2) The required tree canopy or cover shall generally be evenly distributed across the lot with a preference for trees located in front of the principal building and along the rear property line.
 - (3) The calculation of tree canopies shall be based on the Manual of Woody Landscape Plants, 4th edition, 1990, by Michael A. Dirr (ISBN 0-87563-347-1) or Street Tree Factsheets, 1993, Municipal Tree Restoration Program, Pennsylvania State University (ISBN 1-883956-00-5) as they may from time to time be amended.
 - (4) Existing trees which are to be preserved and used to meet all or part of the canopy requirements shall be protected before, during, and after the development process in accordance with those standards contained in the zoning ordinance.
 - (5) Newly planted trees and shrubs shall be selected, installed and maintained in accordance with the standards contained in the zoning ordinance.
 - (6) In all subdivisions in nonindustrial zoning districts, deciduous shade, or ornamental trees shall be planted as street trees along all rights-of-way within and abutting the subdivision. Such trees shall be located either within the right-of-way itself or within a ten-foot (10') landscape preservation easement contiguous to such right-of-way and shall contain, at a minimum, one (1) tree planted approximately every forty feet (40'). Where located within an easement, the subdivider shall dedicate the easement together with a maintenance easement to the property owners' association or other entity approved by the agent and county attorney. All trees planted to meet this requirement shall have a minimum caliper of two and one-half inches (2½") and conform with the relevant provisions of the zoning ordinance. Existing trees which are within twenty feet (20') of the edge of the right-of-way and which are protected and preserved in accordance with the standards contained in the zoning ordinance may be used to satisfy the planting requirement.
 - (7) The subdivider shall have the option to meet the requirements of this subsection through actual installation/retention, a postponed improvement agreement with surety, establishment of restrictive covenants, or some combination which achieves the same intent.
- (c) *Buffers.* A landscaped buffer, broken only by necessary entrances approved by the agent, shall be established on all residential lots along all major roads abutting a proposed subdivision. Such roads shall be defined to include Routes 17, 105, 132, 134, 143, 171, 199, and Interstate 64 and such other routes as may be specified in section 24.1-245 of the zoning ordinance.
- (1) The minimum width of said landscaped buffer shall be thirty-five feet (35'), or such greater dimension as may be prescribed by the zoning ordinance, measured from the edge of the existing or reserved right-of-way.
 - (2) A landscape preservation easement, acceptable as to content and form by the county attorney and encompassing the required buffer, shall be granted to the county.
 - (3) The buffer shall be landscaped in accordance with the landscaping requirements contained section 24.1-243(a)(1) of the zoning ordinance, provided however, that lakes which are at least thirty-five feet (35') in width and are adjacent to such roadways shall be deemed to meet this requirement without the provision of the landscaping required herein.
- (d) *Screening fences.*
- (1) Screening fences supplemented by appropriate landscaping shall be required between proposed commercial/industrial subdivisions and abutting property used for residential purposes where the agent determines that such fences are necessary by reason of use, topography, building location, or other physical aspect of the site.
 - (2) Screening fences shall be constructed of wood or masonry and the agent shall specifically review and approve both the location and design of the screening fence. Fences facing streets shall be finished on the street side.
 - (3) Where required, such screening fences and supplementary landscaping shall be included within the terms of any subdivision agreement entered into by the subdivider and the county.

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Alex Baruch, Planner and Roberta Sulouff, Planner

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

ATTACHMENTS:

	Description	Type
▣	Staff Memorandum	Staff Report
▣	Pedestrian Accommodations Adopted Resolution	Backup Material
▣	Pedestrian Accommodations Master Plan	Backup Material
▣	Section 24-35: Pedestrian Accommodations	Backup Material
▣	Regional Bikeways Adopted Resolution	Backup Material
▣	Regional Bikeways Master Plan	Backup Material
▣	TIA Adopted Resolution	Backup Material
▣	TIA Policy	Backup Material

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 2:08 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:19 PM
Publication Management	Trautman, Gayle	Approved	9/8/2017 - 2:21 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:22 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: Alex Baruch, Planner
Roberta Sulouff, Planner

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

Overview

The James City County Comprehensive Plan includes various goals, strategies and action items with the objective to provide citizens, businesses and visitors with effective and safe means of transportation through pedestrian, bicycle and pedestrian accommodations. Currently, transportation impacts created by developments requiring legislative approval are addressed by three administrative policies and corresponding submittal requirements. First, the James City County 2011 Pedestrian Accommodation Master Plan, adopted by the Board of Supervisors on November 22, 2011, implemented the Master Plan as a binding resource in determining pedestrian accommodation requirements external to a development unless otherwise required by the Pedestrian Accommodation Section of the Zoning Ordinance (Section 24-35). Second, the Regional Bikeways Plan, adopted by the Board of Supervisors on June 21, 1993, encourages the coordinated development of a comprehensive system of bikeways throughout the region. The Regional Bikeways Plan was amended November 10, 1998 and September 10, 2013 to revise the map to provide bicycle access to major destinations, eliminate routes with dead ends, recommend realistic facility types and incorporate multi-use paths, which serve both cyclists and pedestrians. Third, the Traffic Impact Analysis Submittal Requirement Policy was adopted on June 12, 2012 and was designed to provide guidance to applicants regarding the minimum content requirements for a Traffic Impact Analysis (TIA). Per the current submittal requirements for legislative cases, a TIA is required for any project which may generate 100 or more peak hour vehicle trips; any case that falls under this threshold may proffer general traffic improvements or may be subject to relevant special use permit (SUP) conditions, but would not be required to submit a TIA.

Current policies and submittal requirements represent the desire of the County to ensure that development is responsive to the transportation needs of the community they are impacting. These policies ensure that applicants use the resources of the adopted plans mentioned above and, when applicable, any improvements recommended by a TIA in the creation of their binding master plans and proffers. Staff uses the Board of Supervisors adopted policies to evaluate applications and make recommendations on legislative cases. Absent proffers, these policies have limited ability to address transportation impacts created by new residential development. Given the recent updates to the Virginia Code through Virginia Senate Bill 549, staff has identified possible updates to incorporate parts of these policies into the zoning and subdivision ordinances.

Proposed Suggested Revisions

Staff is recommending different approaches for bicycle and pedestrian accommodations and traffic impacts, respectively. Upon review of applicable enabling legislation in State Code and the ordinances of peer localities, staff suggests the Policy Committee consider including language in Section 24-35: Pedestrian accommodations, to extend the requirements of the section to bicycle facilities per the adopted Regional

Bikeways Plan. The section currently applies the requirements of the adopted Pedestrian Accommodations Master Plan to all plans requiring site plan and major subdivision review, but does not address bicycle facilities, which can typically only be required through SUP conditions and are commonly proffered through rezoning applications. Thus, adding language referencing bicycle facilities and the Regional Bikeways Plan to Section 24-35 would capture both what would typically be proffered or conditioned as well as impacts created by most by-right developments, which are not currently required to provide those accommodations.

Unlike bicycle and pedestrian accommodations, or the other administrative policies being considered by the Policy Committee at this time, general traffic impact improvements cannot be addressed through submittal or master plan requirements. After further research, it appears that there is enabling legislation in the State Code which would allow some, mostly on-site, traffic impact improvements to be required at the development stage through inclusion in the Subdivision Ordinance and by reference in the Zoning Ordinance. The ability to capture off-site impacts and improvements will be severely limited, at most to those that are directly adjacent or those that are on-site and dedicated (and thus become “off-site”) after completion of the improvement. At the direction of the Policy Committee, staff could prepare benchmarking research and potentially draft ordinance language toward this end for the October Policy Committee meeting.

Recommendation

Staff looks forward to the Policy Committee’s input on these discussion items and recommendations. Staff will use input received at this meeting to prepare draft ordinance language and benchmarking analysis for the Committee’s consideration at its next meeting.

AB/RS/nb
AmndFProfPol-St1-mem

Attachments:

1. Pedestrian Accommodations Board of Supervisors Resolution
2. Pedestrian Accommodations Master Plan
3. Section 24-35: Pedestrian accommodations
4. Regional Bikeways Master Plan Board of Supervisors Resolution
5. Regional Bikeways Master Plan
6. Traffic Impact Analysis Board of Supervisors Resolution
7. Traffic Impact Analysis Policy

RESOLUTION

JAMES CITY COUNTY 2011 PEDESTRIAN ACCOMMODATION MASTER PLAN

WHEREAS, Action T3.10 in the 2009 Comprehensive Plan recommended updating the James City County Sidewalk Master Plan and amending the Zoning Ordinance in a manner that would increase accessibility, provide for more design and construction flexibility, and incorporate multi-use paths as an option for pedestrian accommodation in James City County; and

WHEREAS, the James City County 2011 Pedestrian Accommodation Master Plan ("Master Plan") has been drafted to satisfy Action T3.10 and shall be the binding resource determining pedestrian accommodation requirements external to a development unless otherwise permitted by the pedestrian accommodation ordinance; and

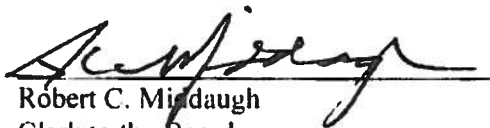
WHEREAS, on June 7, 2011, following a series of public meetings, the Policy Committee recommended approval of the Master Plan to the Planning Commission; and

WHEREAS, on October 5, 2011, following a public hearing, the Planning Commission recommended approval of the Master Plan by a vote of 6-1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the James City County 2011 Pedestrian Accommodation Master Plan dated September 2011 to be used as a binding document as referenced in the Zoning Ordinance amendments to Section 24-35 Pedestrian Accommodation to review subdivisions, site plans, special use permits, master plans, and rezonings in the County.


Mary K. Jones
Chairman, Board of Supervisors

ATTEST:


Robert C. Miranda
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
KENNEDY	AYE
GOODSON	AYE
MCGLENNON	AYE
ICENHOUR	AYE
JONES	AYE






Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of November, 2011.

ZO6&14_112211_att14

Revision date Septemeber 2011

King and Queen
County

Gloucester
County

-  Multi-Use
-  Sidewalk
-  Sidewalks both sides
-  Side designation
-  Community Character Area Sidewalk Inclusion Zone

Sidewalks to be constructed on the North or East side of roads internal to a Community Character Area

Note: The Virginia Capital Trail serves as the multi-use path along Route 5. No additional pedestrian accommodation is required.

Note: The Virginia Capital Trail serves as the multi-use path along Route 5. No additional pedestrian accommodation is required.

Charles City
County

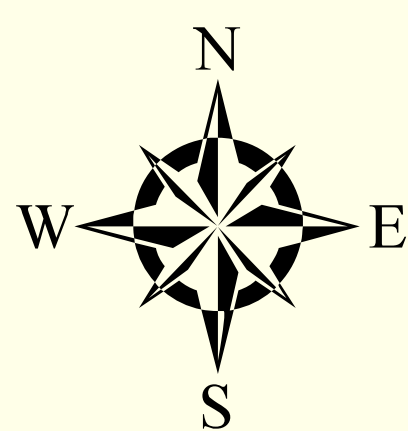
York
County

City of
Williamsburg

James River

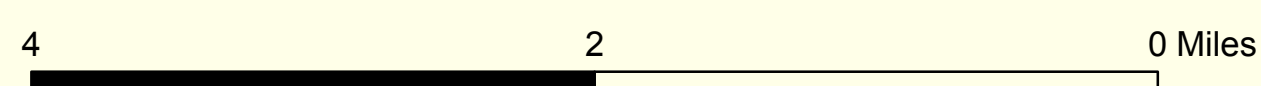
Surry
County

City of
Newport News



1:43,200

1 inch = 3,600 feet



This drawing is neither a legally recorded map nor a survey and is not intended to be used as such. The information displayed is a compilation of records, information, and data obtained from various sources, and James City County is not responsible for its accuracy or how current it may be. If discrepancies are found, please contact the Real Estate Assessment Division of James City County, Mapping/GIS Section.

Copyright James City County
This map (M:\Departments\Planning\Sidewalk Master Plan\Sidewalks size E_2.mxd)
was produced by KAH on September 21, 2011 at 02:20 PM

Sec. 24-35. - Pedestrian accommodations.

- (a) Pedestrian accommodations shall be required for all projects requiring site plan or major subdivision review in accordance with the following:
- (1) *External sidewalks.* Pedestrian accommodations shall be required for the subject property(ies) along all public roads as shown on the pedestrian accommodation master plan. In addition to corridors identified on the pedestrian accommodation master plan, sidewalks shall be required along at least one side of all roads built within a community character area sidewalk inclusion zone as specified on the pedestrian accommodation master plan.
 - (2) *Internal public streets.* Pedestrian accommodation internal to a residential, commercial, office or industrial development with public streets shall be required pursuant to the Secondary Street Acceptance Requirements found in 24VAC30-92, as amended.
 - (3) *Internal private streets.*
 - a. Pedestrian accommodation internal to a residential, commercial, or office development with private streets shall be required on at least one side of all internal streets.
 - b. For development designated by the Comprehensive Plan as mixed use; moderate density residential; or the residential, commercial, and office sections of an economic opportunity area, pedestrian accommodations shall be required on both sides of the private streets.
 - c. Sidewalks on private streets shall not be required internal to industrial parks or industrial sections of areas designated economic opportunity on the Comprehensive Plan.
 - d. The planning director or his designee may approve alternative locations for pedestrian accommodations that are found to have equivalent connectivity as providing sidewalks along the roads internal to the development, such as paved connections between or from cul-de-sacs to other pedestrian accommodations.
 - (4) *Interconnectivity internal to a parcel.* Pedestrian accommodations shall be required between parking areas, buildings, and public areas for residential, commercial, and office development sites. Pedestrian accommodation internal to a development shall link with any existing or master planned pedestrian accommodation along an abutting road external to the development and any existing public transit stops. Development within industrial parks and industrial sections of the economic opportunity zone shall be required to meet applicable Americans with Disabilities Act (ADA) connectivity standards.
 - (5) *Interconnectivity between parcels.* Pedestrian accommodations shall be required between residential developments and adjoining schools, park, or recreational facilities as determined by the planning director or his designee. The property owner shall provide a connection internal to the development to the property line with the adjoining facility. This criterion may be waived by the planning director or his designee if the owner of the contiguous parcel objects to a connection or if a significant obstruction exists (such as wetlands, slopes exceeding 25 percent gradient and guardrails) that would make a connection impracticable.

- (b) Construction standards: Pedestrian accommodations required by section 24-35(a) shall be built in accordance with the following construction standards:
- (1) Pedestrian accommodations shall be built to VDOT standards and located within VDOT right-of-way when they are to be publicly maintained. If accommodations are to be privately maintained, they shall be built to VDOT construction standards.
 - (2) Right-of-way and pedestrian accommodations shall be shown on the final plat.
 - (3) Sidewalks shall be paved and a minimum of five feet in width. Multi-use paths shall be paved and a minimum of eight feet in width. All pedestrian accommodations shall meet the requirements of the ADA's Accessibility Guidelines.
- (c) Exemptions: Exemptions to this section may be granted by the planning director or his designee if:
- (1) a proposed temporary structure(s) will not be erected for more than six months; or
 - (2) a proposed addition to an existing structure is less than 1,000 square feet or no changes to the building footprint are proposed; or
 - (3) the development is located within an office park with private streets in existence prior to November 22, 2011 and providing pedestrian accommodations along the frontage of the development site would not result in a safe and continuous connection to an existing or planned pedestrian accommodation or public transit stop.
- (d) Exceptions: Exceptions to this section may be granted by the planning director or his designee if:
- (1) a pedestrian accommodation is otherwise required by this section and would be substantially damaged or need to be replaced as a result of a fully engineered roadway construction project implemented by the county or VDOT. The planning director or his designee may request dedication of sufficient right-of-way for pedestrian accommodations related to the road project in lieu of construction of the pedestrian requirement. The requirement to dedicate right-of-way shall be based on existing right-of-way, the design of the engineered project, and additional right-of-way that is needed; or
 - (2) in circumstances where topographical conditions make construction of pedestrian accommodations impractical, the planning director or his designee may approve an alternative alignment that is accessible by the public that differs from the pedestrian accommodation master plan. The alternative alignment shall link with adjacent pedestrian accommodations; or
 - (3) pedestrian accommodations shown on a master plan approved by the board of supervisors that differs from the pedestrian accommodation master plan.

If an exception is granted for (d)(1) or (d)(2) above, the applicant shall be required to pay into the pedestrian accommodation construction and maintenance fund in an amount determined by the engineering and resource protection division director or his designee. The amount shall be based on:

- a. projected engineering costs;
- b. projected material costs;
- c. projected labor and mobilization costs;

- d. current topographical conditions of the site; and
- e. linear feet of road frontage.

(e) Appeals. In the event the planning director disapproves plans of this section or recommends conditions or modifications which are unacceptable to the applicant, the applicant may appeal the decision to the development review committee who shall forward a recommendation to the planning commission.

(Ord. No. 31A-118, 2-5-90; Ord. No. 31A-203, 1-26-00; Ord. No. 31A-256, 11-22-11)

Mr. Icenhour made a motion to approve the resolution.

On a roll call vote, the vote was: AYE: Mr. Icenhour, Mr. Bradshaw, Mr. Kennedy, Mr. McGlennon (4). NAY: Ms. Jones (1).

RESOLUTION

PROPOSED UPDATES TO THE WILLIAMSBURG, JAMES CITY COUNTY, AND YORK COUNTY REGIONAL BICYCLE FACILITY PLAN

- WHEREAS, as part of the Historic Triangle coordinated Comprehensive Plan review process, James City County, the City of Williamsburg, and York County have updated the Regional Bicycle Facilities Plan; and
- WHEREAS, staff from the three jurisdictions have developed a revised map that strives to provide bicycle access to major destinations, eliminate routes with dead ends, recommend realistic facility types, and incorporate the multi-use paths, which cyclists would be permitted to use, as shown on the County's newly adopted Pedestrian Accommodation Plan; and
- WHEREAS, Action T2.2 of the Comprehensive Plan recommends continuing the efforts of James City County, the City of Williamsburg, York County, and the Historic Triangle Bicycle Advisory Committee to coordinate and implement a regional bicycle network, including further joint planning and development of regional funding proposals; and
- WHEREAS, Action T1.2.5 of the Comprehensive Plan recommends implementing strategies that encourage shorter automobile trips and accommodate walking, bicycling, and use of public transit; and
- WHEREAS, on January 28, 2013, the Historic Triangle Bicycle Advisory Committee (HTBAC) endorsed the Plan; and
- WHEREAS, on July 17, 2013, the Parks and Recreation Advisory Commission endorsed the Plan; and
- WHEREAS, on August 7, 2013, following a public hearing, the Planning Commission recommended approval of the plan by a vote of 5-0.
- NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby adopt the Williamsburg, James City County, and York County Regional Bicycle Facility plan dated March 2013 to be used as the policy document identifying desired bikeway routes within the County.

J. BOARD CONSIDERATION

1. Operating Contingency Transfer - St. George's Hundred Drainage Improvement

Mr. John Horne, Director of General Services, addressed the Board giving a summary of the memorandum included in the Agenda Packet.

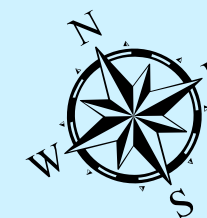
Mr. Kennedy asked for an explanation regarding the similarities between the situation before the Board and the situation in the Fernbrook neighborhood.

Regional Bikeways

James City County, Williamsburg, and York County, Virginia

Adopted by City of Williamsburg City Council 6/10/93
Adopted by York County Board of Supervisors 6/17/93
Adopted by James City County Board of Supervisors 6/21/93

Revised by City of Williamsburg City Council 11/12/98, 10/12/06, **1/10/13**
Revised by York County Board of Supervisors 10/6/99, 12/6/05, **9/3/13**
Revised by James City County Board of Supervisors 11/10/98, **9/10/13**



New Kent County

James City County

York County

Gloucester

York River

Chesapeake Bay

Charles City County

Poquoson

James City County

Newport News

Hampton

FORT EUSTIS

RESOLUTION

TRAFFIC IMPACT ANALYSIS SUBMITTAL REQUIREMENTS POLICY

WHEREAS, the Traffic Impact Analysis Submittal Requirements Policy ("Policy") is designed to provide guidance to applicants regarding the minimum submittal requirements for a Traffic Impact Analysis (TIA); and

WHEREAS, the Policy is consistent with the Virginia Department of Transportation's Traffic Impact Statement (VTIS) submittal requirements; and

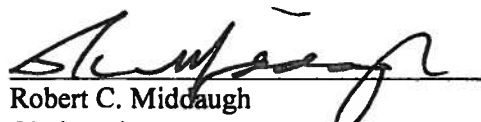
WHEREAS, the Policy Committee endorsed the Policy on September 15, 2011; and

WHEREAS, the James City County Planning Commission, after a public hearing, endorsed the Policy on _____ by a vote of _____.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the Traffic Impact Analysis Submittal Requirements Policy.


Mary K. Jones
Chairman, Board of Supervisors

ATTEST:


Robert C. Middaugh
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
MCGLENNON	AYE
ICENHOUR	AYE
KALE	AYE
KENNEDY	AYE
JONES	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of June, 2012.

ZO11-12-13-2011-2b_res



Traffic Impact Analysis Submittal Requirements Policy

I. GENERAL

In 2006, the Traffic Impact Analysis Regulations known as “Chapter 527” was approved by the General Assembly of Virginia to expand the role of the Virginia Department of Transportation (VDOT) in the land planning and development review process. Accordingly, James City County requires submission of all Traffic Impact Analyses (TIA’s) to be conformance with the aforementioned regulations. In addition, all TIA’s shall conform to the current versions of the Manual of Uniform Traffic Control Devices (MUTCD), the VDOT Road Design Manual, VDOT Access Management Regulations and Standards, the American Association of State Highway and Transportation Officials (AASHTO) and the Institute of Transportation Engineers (ITE) manuals unless otherwise approved by the Planning Director.

II. APPLICABILITY

A. Submission of a TIA shall be required when one or more of the following apply:

- Projects that expect to generate 100 or more weekday peak hour trips to and from the site during the peak hour of operation based on the ITE manual’s trip generation rates.
- Projects with an entrance or exit onto a roadway with a Level Of Service “D” or lower operation.

Note: VDOT has different requirements that trigger a 527 TIA than County Ordinance. Should a TIA be required by VDOT, but not be triggered County requirements, this policy would not be applicable and no additional TIA is required.

III. EXCEPTIONS

A TIA does not have to be updated/submitted if a TIA or 527 TIA was previously submitted for a rezoning or Special Use Permit and all assumptions made in the TIA remain valid.

IV. PROCEDURE

A scoping meeting with VDOT and Planning Division staff is required for any proposal that requires the submission of a TIA. A scoping meeting is required when the proposed development generates more than 100 peak hour site trips. At this meeting the Planning Director will determine the minimum scope of work and if additional analyses pursuant to Section VI B are applicable. Fifteen paper copies and a digital copy of the TIA shall be submitted during application of the project with the County.

V. WHO PREPARES

A TIA should be prepared by a professional engineer or a transportation planner. Generally, a licensed engineer prepares a TIA; however, for smaller applications, the Planning Director may approve TIAs that have not been certified by an engineer.

VI. CONTENTS OF A TRAFFIC IMPACT ANALYSIS

A. The Traffic Impact Analysis shall at minimum include the following:

- Executive Summary
- Introduction
- Analysis of Existing Conditions
- Analysis of Future Conditions without Development
- Projected Trip Generation
- Analysis of Future Conditions with Development
- Signal Warrant Analysis
- Improvements necessary to achieve an overall Level of Service “C” on adjacent roadways/signalized intersections. The Planning Director may approve movements in certain lane groups of LOS “D” in urban environments.
- Conclusion

B. Supplemental Analysis

As determined at the scoping meeting, the Planning Director may also request the following analysis as a component of the TIA:

- Weaving Analysis
- Merge and Diverge Analysis
- Corridor Traffic Signal Progression Analysis
- Queuing/Turn Lane Analysis
- Expanded Study Area
- Examination of Transit and Travel Demand Management Measures
- Accident/Safety Analysis
- Sight Distance Analysis

AGENDA ITEM NO. E.5.

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Lauren White, Planner

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

ATTACHMENTS:

	Description	Type
▣	Memorandum	Cover Memo
▣	Existing Archaeological Policy	Exhibit
▣	Archaeologically Sensitive Areas	Exhibit
▣	Section 24-23 - Submittal Requirements	Exhibit
▣	York County Historic Resources Management Overlay District	Exhibit
▣	Williamsburg Archaeological Review Ordinance	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 1:48 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:15 PM
Publication Management	Trautman, Gayle	Approved	9/8/2017 - 2:31 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:32 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: Lauren White, Planner

SUBJECT: Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items:
Archaeological Policy – Stage I

Overview

As one of the oldest settlement areas in the United States, James City County has numerous documented and unknown archaeological and historic sites. The James City County Archaeological Policy, adopted by the Board of Supervisors on September 22, 1998, seeks to identify and protect areas where significant archaeological potential exists. In cases where James City County has identified a site as highly sensitive, a Phase IA Archaeological Study is required to be submitted at the time of a Special Use Permit or Rezoning Application. The Phase IA study identifies the archaeological potential of the site. Staff uses existing archaeological studies, the Virginia Department of Historic Resources (VDHR), representatives of the James City County Historical Commission and other qualified archaeologists to make a determination of when archaeological potential exists and if further archaeological study is required. If it is determined that archaeological potential exists, the current policy requires that conditions or proffers requiring compliance with the policy are included on all appropriate Rezoning and Special Use Permit cases. In most cases, the condition or proffer requires a Phase I Archaeological Study be submitted to the Director of Planning for review and approval prior to land disturbing. The Phase I study is a more intense level of study than the Phase IA study to determine the specific archaeological resources and define the site boundaries of the resources. Once submitted, VDHR's responsibility is to determine if the study meets their standards and has been conducted under the supervision of a qualified archaeologist. If further archaeological testing and study is required, the current Archaeological Policy provides standards for the study.

Due to recent updates to the Virginia Code through Virginia Senate Bill 549, staff has identified possible updates to incorporate the Archaeological Policy into the Zoning Ordinance.

Proposed Suggested Revisions

After reviewing the applicable state regulations as well as peer localities' ordinances, staff suggests the Policy Committee consider including the contents of the current Archeological Policy as an ordinance requirement.

York County and Williamsburg utilize an overlay district to protect sites with archaeological potential. In both localities, the regulations of the overlay district apply to properties identified to have archaeological resources present. The localities utilize adopted studies and coordinate with VDHR to identify the archaeological sites for the district. Prior to receiving final site plan or subdivision approval, sites within the district must submit some form of an archaeological study. The overlay districts regulation requirements take place during the site plan and subdivision process (as opposed to the legislative process) and have not been affected by updates to the Virginia Code.

Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items:

Archaeological Policy – Stage I

September 14, 2017

Page 2

Recommendation

Staff recommends the Policy Committee consider updating the Ordinance as discussed above, either as an overlay district or similar mechanism. Staff looks forward to a discussion with the Policy Committee on these items.

LW/gt

PotlAmndArchPol-mem

Attachments:

1. Existing Archaeological Policy
2. Archaeologically Sensitive Areas
3. Section 24-23 – Submittal Requirements
4. York County Historic Resources Management Overlay District (Section 24.1-374.)
5. Williamsburg Archaeological Review Ordinance

RESOLUTION

ARCHAEOLOGICAL POLICY

- WHEREAS, the task of revising the archaeological policy was undertaken by one of the four citizen committees charged with updating the Zoning Ordinance; and
- WHEREAS, the committee, in drafting the proposed policy, used the 1997 Comprehensive Plan and "Preserving Our Hidden Heritage: An Archaeological Assessment of James City County" for guidance; and
- WHEREAS, after meeting several weeks to discuss this topic, the Zoning Ordinance update committee responsible for developing this item recommends the following policy; and
- WHEREAS, on June 25, 1998, the site committee of the James City County Historical Commission endorsed the following policy; and
- WHEREAS, on August 3, 1998, the Planning Commission endorsed the policy by a vote of 4-0, with three absences.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following:

As one of the oldest settlement areas in the United States, James City County has numerous documented and unknown archaeological and historic sites. Where it appears that significant archaeological potential exists, the County seeks to identify and protect these areas and staff will recommend the following condition be added to all special use permit and rezoning cases. In making a final determination of when studies may be required, staff will consult existing archaeological studies and will seek the recommendation of representatives of the County Historical Commission or other qualified archaeologists if necessary.

A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study that are recommended for a Phase II evaluation, and/or identified as being eligible for inclusion on the National Register of Historic Places. If a Phase II study is undertaken, such a study shall be approved by the Director of Planning and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. If in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. All Phase I, Phase II, and Phase III studies shall meet the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standard and Guidelines for Archaeological Documentation, as applicable, and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's

Professional Qualification Standards. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

I. In interpreting this condition, the following procedures and guidelines will be followed

1. *A Phase I Archaeological Study for the entire site shall be submitted to the Director of Planning for his review and approval prior to land disturbance. Since the County lacks the expertise to review such documents, the County will send the studies to the Virginia Division of Historic Resources (VDHR) for review. VDHR's responsibility is to determine if the study meets the Virginia Department of Historic Resources' Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and has been conducted under the supervision of a qualified archaeologist who meets the qualification set forth in the Secretary of the Interior's Professional Qualification Standards. This is the preferred option for review of these studies.*

The developer may request staff to hire an independent archaeologist to review the study. The Director of Planning shall select the independent archaeologist. The developer will pay the full costs of this review. It would be the independent archaeologist's responsibility to determine if the study meets the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and the Secretary of the Interior's Standards and Guidelines for Archaeological Documentation, as applicable, and has been conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. The developer will take risk in this matter. If at some point in the future the developer needs to go before the VDHR, and comments are made regarding previous studies, it will be the County's position that all VDHR issues need to be resolved. The County's archaeologist will not participate in this process.

2. *A treatment plan shall be submitted to, and approved by, the Director of Planning for all sites in the Phase I study, that are recommended for a Phase II evaluation and/or identified as being eligible for inclusion on the National Register of Historic Places. The treatment plan shall list treatment measures for each of the sites meeting the criteria listed in the condition and shall include, at a minimum, the extent of impact to the area, a description of the probable boundaries and recommendations for treatment of the area. These plans shall be reviewed by staff who may, if necessary, consult with VDHR. The developer may request review by an independent archaeologist subject to the provisions of Guideline No. 1. Once identified concerns have been addressed, staff (not VDHR) will approve the study. At this time acceptable treatment measures can include the preparation of a Phase II study or preservation of the site in situ. Site in situ can include leaving the site completely undisturbed and/or preserving the site in a manner acceptable to the Director of Planning.*
3. *If a Phase II study is undertaken, such a study shall be approved by the Planning Director and a treatment plan for said sites shall be submitted to, and approved by, the Director of Planning for sites that are determined to be eligible for*

inclusion on the National Register of Historic Places and/or those sites that require a Phase III study. The study will be reviewed as outlined in Guideline No. 1.

The treatment plan shall list treatment measures for each of the sites meeting the criteria listed in the condition. If there is a question as to whether or not sites are impacted by development, staff will examine these sites and determine if a treatment plan is necessary. These plans shall be reviewed by staff who may, if necessary, consult with VDHR. The developer may request review by an independent archaeologist subject to the provisions of Guideline No. 1. Once identified concerns have been addressed, staff (not VDHR) will approve the study. At this time acceptable treatment measures can include the preparation of a Phase III study or preservation of the site in situ. Site in situ can include leaving the site completely undisturbed and/or preservation of the site in a manner acceptable to the Director of Planning.

4. *If, in the Phase II study, a site is determined eligible for nomination to the National Register of Historic Places and said site is to be preserved in place, the treatment plan shall include nomination of the site to the National Register of Historic Places. The developer shall pursue the nomination of eligible sites. However, submission of the application to initiate this process will fully satisfy the condition.*
5. If a Phase III study is undertaken for said sites, such studies shall be approved by the Director of Planning prior to land disturbance within the study area. The study will be reviewed as outlined in Guideline No. 1.
6. All approved treatment plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon.

II. In Implementing and updating this condition, the following procedures and guidelines will be followed:

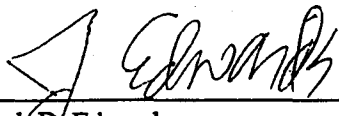
1. The policy and archaeological assessment shall be updated and revised as appropriate in advance of the Comprehensive Plan update to keep the documents current with new findings, professional archaeological standards and practices, and Virginia Department of historical Resources (VDHR) policy.
2. The following note shall be included on all future revisions of the Comprehensive Plan Land Use Map:

"Depending upon certain environmental conditions, highly-sensitive archaeological sites may occur within 3 km (1.9 mi.) of the James and Chickahominy rivers and within 2 km (1.2 mi.) of the York River. Ultrasensitive zones may occur where these high-sensitivity areas fall within the Primary Service Area. Please refer to the text of the Comprehensive Plan for further information."

3. Maps indicating the general extent of high- and moderate-sensitivity areas shall be included within the text of the Comprehensive Plan with appropriate cross-

references to documents such as the James City County Archaeological Assessment.

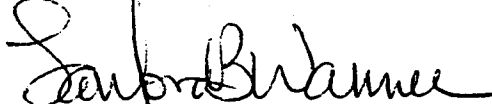
4. Upon nomination of a developer engaging in successful archaeological preservation, the Board of Supervisors shall consider the issuance of a resolution of appreciation.
5. A developer may advertise on-site preservation efforts in accordance with the regulations of the sign ordinance and after consultation with a professional archaeologist and the Director of Planning.
6. A developer may advertise on-site preservation efforts through promotional videos to be shown on the County's cable channel.
7. To the greatest extent possible, the County shall make display areas available in public areas of all County-owned and operated buildings.
8. Any developer who completes a Phase II study shall make available a portion of the artifacts for display in public buildings.



Jack D. Edwards
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
SISK	AYE
MCLENNON	AYE
BRADSHAW	AYE
NEVITT	AYE
EDWARDS	AYE

ATTEST:

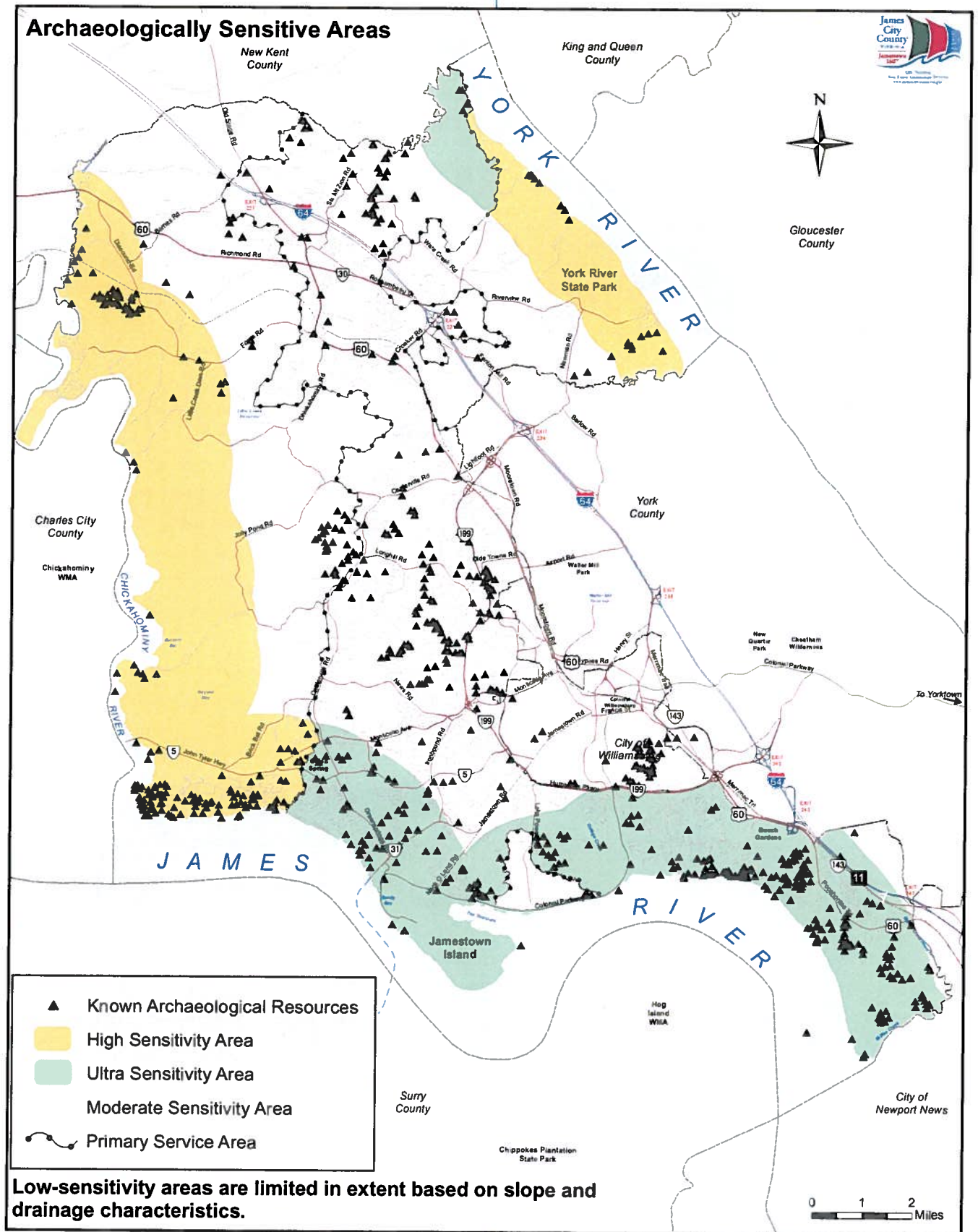


Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of September, 1998.

archeolog.res

Map CC-1. Archaeologically Sensitive Areas



Sec. 24-23. - Submittal requirements.

- (a) The following information shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.
- (1) The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:
- a. A traffic impact analysis for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the hours of operation and/or those projects with an entrance or exit onto a roadway with a level of service "D" or lower shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy. Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the board of supervisors after reviewing the applicant's traffic impact analysis; and
 - b. A water and sewer impact study for all projects with an anticipated average daily flow greater than 15,500 gallons, and/or for proposed residential projects containing 50 lots or more. Water conservation information shall be submitted in accordance with water conservation guidelines policy; and
 - c. Environmental information shall be submitted in accordance with the environmental constraints analysis for legislative cases; and
 - d. An adequate public facilities report in accordance with board of supervisors policy to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the adequate public school facilities test policy; and
 - e. Additional on-site and off-site public facilities or services which would be required as a result of the development; and
 - f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
 - g. An environmental inventory in accordance with the James City County natural resource policy; and
 - h.

A fiscal impact analysis, using the worksheet and assumptions provided by the planning division, when the proposal includes residential dwelling units. The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the state using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and

- i. Parks and recreation information based on parks and recreation master plan proffer guidelines.
- (2) The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, rights-of-way (with an indication of whether public or private), accesses, open spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:
- a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;
 - b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);
 - c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;
 - d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;
 - e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and
 - f. If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:

Type of Development	Area Designation
Single family	A

Multi-family dwellings containing up to and including four dwelling units	B
Multi-family dwellings containing more than four dwelling units	C
Apartments	D
Commercial uses	E
Wholesale and warehouse uses	F
Office uses	G
Light industrial uses	H
Institutional or public uses	I
Areas of common open space, with recreation areas noted	J
Structures containing a mixture of uses	M*
Other structures, facilities or amenities	X

* Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parentheses, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g. M (CG)) in the order of their proportion in the mixed use structure.

A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal. The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final

development plans may be approved after approval of a master plan by the board of supervisors. All final development plans shall be consistent with the master plan, but may deviate from the master plan if the planning director concludes that the development plan does not:

1. Significantly affect the general location or classification of housing units or buildings as shown on the master plan;
2. Significantly alter the distribution of recreation or open space areas on the master plan;
3. Significantly affect the road layout as shown on the master plan;
4. Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.

If the planning director determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. In the event the planning director disapproves the amendment, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.

- (3) Any other submittal requirement which may be required by this chapter.
- (4) An application and fee in accordance with section 24-7 of this chapter.
- (b) Supplemental information should be submitted in accordance with the "Supplemental Submittal Requirements for Special Use Permits and Rezoning" policy as adopted by the board of supervisors and any additional policies as deemed necessary by the planning director.
- (c) In addition to the paper copies of all documents required by this chapter, all information and plans required under (a)(1), (a)(2) or (a)(3) shall be submitted in an electronic format in accordance with the "Electronic Submittal Requirements for Legislative Applications" policy, as approved by the planning commission.
- (d) Unless otherwise required by this chapter, upon written request by the applicant, the planning director may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.

(Ord. No. 31A-201, 12-1-99; Ord. No. 31A-266, 6-12-12; Ord. No. 31A-281, 12-11-12; Ord. No. 31A-297, 6-9-15)

above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.

- (1) Variances shall be issued only after the board of zoning appeals has determined that:
 - a. there is good and sufficient cause;
 - b. failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with local laws or ordinances.
- (2) Variances shall be issued only after the board of zoning appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.
- (3) Variances shall not be issued for any proposal located within a designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

Nothing in this section shall be construed to supersede any requirements or procedures specified by the Virginia Uniform Statewide Building Code.

(Ord. No. 098-18, 10/7/98; Ord. No. 03-24, 6/17/03; Ord. No. 09-11(R), 6/2/09; Ord. No. 11-15(R), 11/16/11; Ord. No. 14-22, 11/18/14)

Sec. 24.1-374. HRM-Historic resources management overlay district.

- (a) *Statement of intent.* In accordance with the objectives of the adopted comprehensive plan and specifically with section 15.2-2306, Code of Virginia, the purpose of the historic resources management overlay district is to protect the historic cultural resources of the county by ensuring that historic buildings and archeological sites are acknowledged, properly documented and protected or recovered as development activity occurs.
- (b) *Applicability.* The Historic Resources Management Overlay District shall apply to all properties in the county which have historic and archaeological resources present on the site as identified by the study entitled "Resource Protection Planning Revisited: James City County, York County, and City of Williamsburg" prepared by the Department of Archaeological Research, Colonial Williamsburg Foundation and/or as may be identified in the historic resources database maintained and managed by the Virginia Department of Historic Resources. In addition, the HRM overlay provision shall apply to all properties identified in the architectural resources database maintained and managed by the Virginia Department of Historic Resources.
- (c) *Use regulations.* Permitted uses, specially permitted uses, accessory uses, dimensional standards and special requirements shall be as established by the underlying zoning district, unless specifically modified by the requirements set forth herein.
- (d) *Special requirements.*
 - (1) Archaeological sites.
 - a. A Phase I archaeological study performed in accordance with the Guidelines for Archaeological Investigations in Virginia, 1996 or as amended, published by the Virginia Department of Historic Resources, shall be undertaken in conjunction with all development proposals involving any properties within the HRM District. The Phase I study shall identify, in accordance with accepted practices, any sites potentially eligible for listing on the Virginia Landmarks Register or the National Register of Historic Places.
 - b. Potentially eligible sites recorded in the Phase I study that cannot be avoided by the development shall be further evaluated through the performance of a Phase II evaluation conducted in accordance with the referenced Guidelines. Sites that are to be avoided shall be cordoned-off in the field by orange-mesh snow fencing or other pro-

tection markings/delineations prior to any land disturbing activity on the property. The Phase II study shall be submitted to the County for review and approval.

- c. At the conclusion of the Phase II evaluation and its approval as to compliance with the preparation Guidelines, if a site is determined not eligible for listing on the National Register of Historic Places, then development may occur within the subject area. If the site is determined to be potentially eligible for listing on the National Register, then the following mitigation options are available:
 1. Avoidance. In cases where the resource is located outside of any areas that will be disturbed by development activities, the resource site may be avoided by setting aside the site and a sufficient perimeter buffer in an undisturbed natural area. National Register eligible archaeological sites that are to be avoided by the development shall be clearly marked on project construction maps. In addition, if ground clearing or construction activities will take place within 100 feet of the site area, then the site boundaries shall be cordoned-off in the field with orange snow fencing or other appropriate barrier.
 2. Partial Avoidance and Data Recovery. In cases where the resource site is partially located within a natural area to be left undisturbed by development activities and partially within an area to be disturbed by development, data recovery shall be required for the site area to be impacted. The site area that is to be protected/preserved shall be clearly marked on project construction plans. In addition, if ground clearing or construction activities will take place less than 100 feet from the site, then the remaining resource boundaries shall be cordoned-off in the field with orange snow fencing or other appropriate barrier. A Treatment/Data and Resource Recovery Plan shall be completed and submitted to the zoning administrator for review and approval as to compliance with preparation guidelines.
 3. Data and Resource Recovery. If the resource site cannot be avoided by development activities, then a Treatment Plan / Data and Resource Recovery Plan shall be completed and submitted to the zoning administrator for review and approval as to compliance with the preparation Guidelines.
 - d. Archaeological excavations being conducted in accordance with an approved Treatment / Data and Resource Recovery Plan shall be under the direct supervision of an archaeologist who meets the *Secretary of the Interior's Professional Qualification Standards* promulgated by the United States Department of the Interior. All work and resulting reports shall meet the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* promulgated by the United States Department of the Interior and VDHR's guidance entitled, *Guidelines for Preparing Identification and Evaluation Reports for Submission Pursuant to Section's 106 and 110, National Historic Preservation Act, Environmental Impact Reports of State Agencies, Virginia Appropriations Act, 1998 Session Amendments and Guidelines for Archaeological Investigations in Virginia June 1996*, and any subsequent amendments to such guidelines. All field and laboratory methodology, as well as the final report, shall be conducted in accordance with standards set forth in the VDHR's *Guidelines for Preparing Archaeological Resource Management Reports* and will meet the qualifications set forth in the *Secretary of Interior's Professional Qualification Standards*.
- (2) *Architectural structure.*
- a. *The Secretary of the Interior's Standards for the Rehabilitation and Guidelines for Rehabilitating Historic Buildings* shall be used in performing appropriate architectural studies or analyses of standing structures.
 - b. In the event of demolition of an architecturally or historically standing structures is proposed, the zoning administrator may require that a set of measured drawings be prepared by a licensed architect and filed with the county and the state historic preservation office prior to demolition occurring.

- (3) All archaeological and architectural studies shall be submitted to the zoning administrator for review and approval and shall be made a part of any development plan approval. All such reports or studies submitted to meet the requirements of this section shall include a signed statement by the preparer certifying that they have complied with all applicable research methodology and guidelines. The zoning administrator shall determine whether the studies have been prepared in accordance with the applicable guidelines through consultation with the Virginia Department of Historic Resources or through such other procedures as deemed appropriate.
- (e) *Waiver of certain requirements.* Upon written request from the developer, the zoning administrator may waive any of the above requirements deemed not to be necessary for the proposed project or where it is determined in writing by competent authority recognized by the zoning administrator or state historic preservation officer that the value of the historic resource is insignificant in comparison to the cost of required studies, recovery, or preservation plans.
- (Ord. No. 08-17(R), 3/17/09)

Sec. 24.1-375. TCM-Tourist corridor management overlay district.

- (a) *Statement of intent.* In accordance with section 15.2-2306 Code of Virginia and the objectives of the comprehensive plan, the tourist corridor management overlay district regulations are designed and intended to protect the aesthetic and visual character of the transportation corridors leading into and through the designated historic districts of Williamsburg and Yorktown. All development proposed within these corridors shall be subject to procedures and standards in addition to those in the district regulations. Primarily this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county. The provisions that follow include both *requirements* (using the word "shall") that must be met and *recommendations* (using the word "should") that suggest desirable features and treatments that property owners are encouraged to voluntarily incorporate into their building/site designs.
- (b) *Applicability.* The special provisions established in this section shall apply to development on parcels which are located along major tourist corridors used to access historic districts in Williamsburg and Yorktown that have been designated on the Virginia Landmarks Register. All lands within two hundred fifty feet (250') of the following arterial rights-of-way shall be included in the overlay district. Where the property is bisected by this line, the overlay designation shall apply to all construction proposed beyond the 250-foot line to a depth of 500 feet, or to the boundary of the property, whichever is less:
- (1) George Washington Memorial Highway (Route 17) north of Cook Road
 - (2) Richmond Road (Route 60)
 - (3) Bypass Road (Route 60)
 - (4) Pocahontas Trail (Route 60)
 - (5) Route 132
 - (6) Merrimac Trail (Route 143) west of Queen Creek
 - (7) Goosley Road (Route 238) east of Route 17
 - (8) Cook Road (Route 704), but excluding the east side of the road between Route 17 and Old York Hampton Highway (Route 634)
 - (9) Colonial National Historical Parkway
 - (10) Second Street from Merrimac Trail to the City of Williamsburg boundary line
 - (11) Interstate 64 and any frontage roads (F-xxx) that abut and run parallel to the I-64 right-of-way.
 - (12) Route 199

The boundary of the tourist corridor overlay district shall be shown on the zoning map and shall be delineated as a surveyed line on any site plan or subdivision plat proposed for property located within this district. The boundary shall be measured from the future right-of-way line if the proposed development will be required to add right-of-way, either because of its traffic impact or if the roadway is shown on an adopted statewide, regional, or county plan as requiring additional right-of-way within a twenty (20) year period.

ARTICLE XI. - ARCHAEOLOGICAL REVIEW

Sec. 21-925. - Archaeological protection district.

- (a) *Statement of intent.* The archaeological protection district is established to ensure that archaeological resources in the city are studied and, based on the findings of the study, that significant resources are either preserved or recovered through a resource management plan.
 - (b) *Boundaries.* The boundaries of the archaeological protection district are delineated as an overlay district on the official zoning map, as adopted on August 9, 2012, and amended on July 11, 2013.
- (Ord. No. 2-95, 1-12-95; Ord. No. 13-27, 7-11-13)

Sec. 21-926. - Archaeological review board.

- (a) An archaeological review board is hereby established, hereafter referred to as the review board. The review board shall consist of the members of the planning commission.
 - (b) The review board shall act on any matter properly before it not later than 60 days after the conclusion of the meeting at which the matter was first considered unless the time is extended with the consent of the applicant or unless otherwise indicated in this article.
 - (c) In case of disapproval of the archaeological field reports and/or Phase II Archaeological Evaluation Report and/or the resource management plan for archaeological resources in the archaeological protection district, the review board shall state its reasons in writing.
 - (d) The review board, when requested by an applicant in the archaeological protection district, shall advise as to the changes and alterations necessary to bring the Phase II Resource Management Plan, for archaeological resources located in a planned development area, in harmony with the intent of this article and the objectives of the city towards the preservation of significant archaeological resources in the city.
- (Ord. No. 2-95, 1-12-95)

Sec. 21-927. - Definitions.

- (a) For the purposes of this article, the following definitions shall apply:
 - (1) *Archaeological evaluation report* shall mean the archaeological report prepared if significant archaeological resources are discovered in the course of a Phase II archaeological field study of a development area. Such archaeological evaluation report shall include detailed evaluation of the archaeological significance of the development area of the site plan or subdivision plan, including but not limited to reasonable measures for historic research, archaeological surveys and test excavations. This document shall be prepared by a professional archaeologist in conformity with professionally recognized standards for archaeological documentation and cultural resource

management, as identified in the United States Secretary of the interior's Standards for Archaeology and Historic Preservation and the Virginia Department of Historic Resources' Guidelines for Preparing Identification and Evaluation Reports.

- (2) *Archaeological field report* shall mean the reports prepared following Phase I and Phase II archaeological field studies of a development area. This report shall include an overlay map, a narrative report on the results of the Phase I archival research and on the project methodology, and a letter report on the field study findings. If the Phase I or Phase II archaeological field study produces a negative finding, no further reporting shall be required.
- (3) *Archaeological field studies* shall mean archaeological investigations conducted in conformity with professionally recognized standards for archaeological documentation, as identified in the United States Secretary of the Interior's Standards for Archaeology and Historic Preservation and the Virginia Department of Historic Resources' Guidelines for Preparing Identification and Evaluation Reports, with a professional archaeologist serving as the project director or principal investigator.
 - a. *Phase I archaeological field study* involves both a preliminary archival search and a field survey. The archival search identifies the most likely site locations and the areas that should be most closely examined. In the areas identified for study, shovel tests are conducted at marked intervals and any holes which reveal artifacts are marked for mapping purposes.
 - b. *Phase II archaeological field study* clarifies archaeological resource site boundaries, to establish the function of each potentially significant site located during the Phase I process, and to establish the integrity of the archaeological remains. Based on the size of the site, the archaeologist determines what percentage of the site to recover through systematic sampling, and a grid is then established over the site with excavation units set at specific intervals.
 - c. *Phase III archaeological field study* involves the full scale excavation of significant archaeological resources. Phase III excavation is not undertaken unless such a treatment plan is recommended in the Phase II Resource Management Plan. Treatment can include a variety of measures such as avoidance, recordation, data recovery, development of an historic preservation plan, rehabilitation or restoration. The review board's decision to recommend Phase III excavation through a resource management plan is based on the integrity of the site, and its potential to yield new archaeological information.
- (4) *Archaeological resource* shall include human remains and objects, such as tools, bottles, dishes, flora and fauna of prehistoric American Indian and historic American periods, and areas which contain these objects such as graves, wells, privies, trash pits, cellars, kilns, basements, foundations, postholes, ditches, trenches, and historic roadways.
- (5) *Development area* shall mean that portion of a piece of property which shall be disturbed in the course of construction.
- (6) *Preliminary archaeological assessment* shall mean the initial analysis of land which is conducted by the planning director when the property owner requests a determination as to whether archaeological field studies must be undertaken prior to submittal of a site plan or preliminary

subdivision plat application. The preliminary archaeological assessment request form shall include a description of the planned project and full and accurate information as to all land disturbing activities proposed to be conducted in the development area. The planning director shall investigate the potential archaeological significance of the development area based on existing archaeological reports and analysis of site conditions, and make a determination as to whether the proposed development area possesses any potential archaeological significance and whether the proposed land disturbing activities will have an adverse impact on any such resources.

- (7) *Professional archaeologist* shall mean one who meets the United States Secretary of the Interior's professional qualification standards for archaeologists.
- (8) *Resource management plan* shall mean a treatment plan which outlines the course of action to be undertaken following a Phase II archaeological field study if significant archaeological resources are discovered. Such resource management plan shall include reasonable measures for the study and preservation of archaeological resources found within the development area, including but not limited to test and full-scale excavations, site construction monitoring, field recording, photography, laboratory analysis, conservation of organic and metal artifacts, curation of the collection (e.g., artifacts, notes, photographs) and preparation of reports. The resource management plan may recommend in situ preservation of the archaeological resources through avoidance and the modification of the site plan or subdivision plan. This document shall be prepared by a professional archaeologist in conformity with professionally recognized standards for archaeological documentation and cultural resource management, as identified in the United States Secretary of the Interior's Standards for Archaeology and Historic Preservation and the Virginia Department of Historic Resources' Guidelines for Preparing Identification and Evaluation Reports.

(Ord. No. 2-95, 1-12-95; Ord. No. 15-95, 7-13-95)

Sec. 21-928. - Approval required.

No archaeological resource in the Archaeological Protection District shall be modified, damaged or destroyed in whole or in part as part of a site plan or subdivision development project unless approval has been granted by the review board. This requirement does not apply to existing subdivisions of single-family lots, the preliminary or final plat of which was approved or recorded prior to January 12, 1995 or site plans which were approved prior to such date, but shall apply to any redevelopment plans for these areas which would require a site plan or an amendment, vacation, or other modification to an existing subdivision plat. Redevelopment plans, for the purposes of this article, shall not include the construction, reconstruction, or modification of houses on single-family lots, the preliminary or final plat of which was approved or recorded prior to January 12, 1995.

(Ord. No. 2-95, 1-12-95)

Sec. 21-929. - Criteria for approval.

- (a) *Colonial Williamsburg Historic Area.* Before a site plan application or preliminary subdivision plat is approved or recommended for approval by the planning commission in the Colonial Williamsburg historic area portion of the archaeological protection district, the review board shall consider, among other things, the compliance of the proposed project with The Colonial Williamsburg Foundation Guidelines for Archaeological Preservation (adopted December 1989).
- (b) *Archaeological Protection District.* Before a site plan application or preliminary subdivision plat is approved or recommended for approval by the planning commission in the Archaeological Protection District (except for the Colonial Williamsburg historic area), a preliminary archaeological assessment of the development area, if requested by the applicant, must be conducted by the planning director and any required archaeological studies must be conducted by the property owner and approved by the review board.
 - (1) The purpose of the preliminary archaeological assessment and the field studies is to determine the significance of archaeological resources in the development area based upon the following criteria:
 - a. *Research value.* The extent to which the archaeological data that might be located in the development area would contribute to the expansion of knowledge of that type of resource.
 - b. *Rarity.* The degree of uniqueness of the resources in the development area and their potential for providing archaeological information about a person, structure, event or historical process, for which there are very few examples in the Williamsburg area.
 - c. *Public value.* The level of importance that archaeological resources in the development area possess due to association with a significant person, structure, event or historical process.
 - d. *Site integrity.* The extent to which soil stratigraphy and original placement and condition of archaeological resources in the development area have not been disturbed or altered in a manner which appreciably reduces their research or public value.
 - e. *Presence of materials.* The extent to which archaeological resources or evidence of historic structures are present in the development area.
 - f. *Impact of resources.* The extent to which any proposed land disturbing activities will alter or destroy archaeological resources which the review board determines to have substantial archaeological significance under section 21-929(d)(1)a—e. above.
 - (2) If the planning director determines from the preliminary archaeological assessment that no significant archaeological resources will be adversely affected by the proposed development project, no further archaeological review shall be required in the development area.
 - (3) If the review board concurs with the Phase I and/or Phase II archaeological field reports that a negative finding of no significant archaeological resources is the result of the archaeological field studies, no further archaeological review shall be required in the development area.
 - (4) If the Phase II archaeological study reports a positive finding of significant archaeological resources in the development area, an archaeological evaluation report and resource management plan shall be required to be submitted with the site plan application or preliminary subdivision plat for

concurrent review by the review board. The site plan or preliminary subdivision plat shall not be approved by planning commission until the Phase II archaeological evaluation report and resource management plan has been reviewed and approved by the review board.

(Ord. No. 2-95, 1-12-95)

Sec. 21-930. - Duration of approval.

- (a) Any approvals by the review board which are associated with an approved site plan or subdivision plan, shall expire five years from the date of approval if the work has not commenced; or if any such work is suspended or abandoned for a period of five years after being commenced.
- (b) Approval by the review board of any resource management plan shall expire five years from the date of approval if the work authorized has not commenced; or if any such work is suspended or abandoned for a period of five years after being commenced.
- (c) The applicant may apply to the review board for reapproval in the event that the original approval has expired.

(Ord. No. 2-95, 1-12-95)

Sec. 21-931. - Appeals.

- (a) *Appeals from the archaeological review board to city council.*
 - (1) Any persons aggrieved by any decision of the review board shall have the right to appeal the decision to city council. An appeal shall be filed with the zoning administrator within 30 days after the final decision of the review board. The city council shall schedule a public hearing on the appeal not more than 45 days after the first council meeting following the receipt of the appeal.
 - (2) On any appeal, the final decision of the review board appealed from shall be stayed pending the outcome of the appeal before the council, except that the filing of such petition shall not stay the decision of the review board if such decision denies the right to modify, damage or destroy, in whole or in part, an archaeological resource in the archaeological protection district.
 - (3) The city council may affirm, reverse or modify the decision of the review board, in whole or in part. The same standards shall be applied by the council as are established for the review board.
- (b) *Appeal from city council to the circuit court.* Any persons aggrieved by the decision of the city council shall have the right to appeal such decision to the circuit court for a review. Such appeal shall be taken by filing a petition at law, setting forth the alleged illegality of the action of city council, provided such petition is filed within the 30 days after the final decision is rendered by city council. The filing of the appeal shall stay the decision of the council pending the outcome of the appeal to circuit court, except that the filing of such petition shall not stay the decision of the city council if such decision denies the right to modify, damage or destroy, in whole or in part, an archaeological resource in the archaeological

protection district. The court may reverse or modify the decision of the city council in whole or in part, if it finds upon review that the decision of the city council is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the city council.

(Ord. No. 2-95, 1-12-95)

Sec. 21-932. - Additional or concurrent right to modify or destroy archaeological resources in the archaeological protection district.

- (a) In addition to the right of appeal, the owner of an archaeological resource in the archaeological protection district, the demolition, modification or destruction of which is subject to the provisions of this article, shall, as a matter of right, be entitled to demolish, modify or destroy such archaeological resource provided that:
- (1) The owner has applied to city council for such right;
 - (2) The owner has, for the period of time set forth in the time schedule in section 21-932(a)(3) and at a price reasonably related to its fair market value, made a bona fide offer to sell such archaeological resource and the land pertaining thereto to the city or to any person, firm, corporation, or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve or restore the archaeological resource and the land pertaining thereto;
 - (3) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such archaeological resource and the land pertaining thereto prior to the expiration of the applicable time period set forth in the time schedule below. Any appeal which may be taken to the court from the decision of the review board, whether instituted by the owner or by the other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to in this paragraph. No offer to sell shall begin more than one year after the final decision of the review board, but thereafter the owner may renew his request to the review board to approve the razing or demolition of the archaeological resource. The time schedule for offers shall be as follows:

Property Valued At	Minimum Offer to Sell Period (months)
Less than \$25,000.00	3
25,000.00—39,999.00	4
40,000.00—54,999.00	5
55,000.00—74,999.00	6
75,000.00—89,999.00	7

\$90,000.00 or more	12
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- (4) Before making a bona fide offer to sell, an owner shall first file a statement with the zoning administrator. The statement shall identify the property, state the offering price, the date the offer of sale is to begin, and the name of the real estate agent, if any. No time period set forth in the schedule contained in subsection 21-932(a)(3) shall begin to run until the statement has been filed. Within five days of receipt of a statement, copies of the statement shall be delivered by the zoning administrator to the city manager, members of the city council, and members of the review board.

(Ord. No. 2-95, 1-12-95)

Sec. 21-933. - Site plans and subdivisions.

Due to the interrelationships between archaeological protection and site planning, the review board's archaeological review of the development area may result in the modification of the site plan or subdivision if the resource management plan recommends avoidance of the archaeological resources.

(Ord. No. 2-95, 1-12-95)

Sec. 21-934. - Permitted uses.

Nothing in this article shall be construed to prevent the use of any land, building, or structure permitted by the regulations of the zoning district in which such land, building or structure is located.

(Ord. No. 2-95, 1-12-95)

Sec. 21-935. - Criteria for the expansion or establishment of additional archaeological protection districts.

It shall be the continuing duty of the review board to investigate and delineate archaeological resources in the city having historic interest or value which should be preserved and protected to achieve the purposes and objectives of this article, and to report from time to time to the planning commission as to whether any of these should be set apart for preservation and protection under the provisions of this article. In establishing or expanding the boundaries of the existing archaeological protection districts, it must be determined that the archaeological resource meets at least one of the following criteria:

- (1) Is associated with events that have made a significant contribution to the broad patterns of our history; or
- (2) Is associated with the lives of persons significant in our past; or
- (3)

Embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

- (4) Has yielded, or may be likely to yield, information important in prehistory or history.

(Ord. No. 2-95, 1-12-95)

Secs. 21-936—21-954. - Reserved.

ITEM SUMMARY

DATE: 9/14/2017

TO: The Policy Committee

FROM: Jose Ribeiro, Senior Planner II

SUBJECT: Potential Amendments to Address Formerly Porffered Policies and Impact Mitigation Items: Natural Resource Policy - Stage I

ATTACHMENTS:

	Description	Type
▣	Memorandum	Staff Report
▣	Existing Natural Resources Policy	Exhibit
▣	Section 24-23 - Submittal Requirements	Exhibit
▣	Location Map-Natural Resource Areas in the County	Exhibit
▣	York County Zoning Ordinance Section 24.1-260	Exhibit
▣	Loudoun County Revised General Plan-Natural Resource Section	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Rosario, Tammy	Approved	9/8/2017 - 1:45 PM
Policy	Holt, Paul	Approved	9/8/2017 - 2:13 PM
Publication Management	Burcham, Nan	Approved	9/8/2017 - 2:15 PM
Policy Secretary	Secretary, Policy	Approved	9/8/2017 - 2:21 PM

MEMORANDUM

DATE: September 14, 2017

TO: The Policy Committee

FROM: Jose Ribeiro, Senior Planner II

SUBJECT: Potential Amendments to Address Formerly Proffered Policies and Impact Mitigation Items:
Natural Resource Policy – Stage I

Overview

James City County is endowed with many natural resources, including rare, threatened and endangered species and rare natural communities. The James City County Natural Resource Policy was adopted by the Board of Supervisors on July 27, 1999 seeking to better protect these resources. The 2035 Comprehensive Plan refers to the policy as one of a variety of conservation tools available to the County. The current policy requires that conditions or proffers requiring compliance with the policy are included for all appropriate Rezoning and Special Use Permit applications. The policy requires that a natural resource inventory for a subject area be submitted to the County for approval prior to land disturbance. Staff reviews the inventory in conjunction with the Department of Conservation and Recreation's Division of Natural Heritage (DCR/DNH). The DCR/DNH's responsibility is to determine if the study meets their standards and has been conducted under the supervision of a qualified biologist. If the inventory confirms that a natural heritage resource exists or could be supported, a conservation management plan and/or mitigation plan is submitted to the County for approval and actions are taken by the developer during the development plan review process. The Natural Resource Policy was modeled after the County's Archaeological Policy.

On June 28, 2016, the County adopted a resolution in response to recent changes to the Virginia Code through Virginia Senate Bill 549, rescinding many Board adopted policies as they apply to new applications for residential rezoning, including the Natural Resource Policy. Staff has identified possible updates to incorporate the requirements of the Natural Resource Policy into the Zoning Ordinance.

Proposed Suggested Revisions

After reviewing the applicable state regulations as well as peer localities' ordinances, staff suggests the Policy Committee consider including the contents of the current Natural Resource Policy as a Zoning Ordinance requirement. Staff also suggests adding clarity to the legislative case submittal requirements in Section 24-23(a)(1)(g) by adding a definition for an environmental inventory (Attachment No. 2).

Staff has reviewed other localities' approach to natural heritage resources. Staff notes that in some localities, such as York County, the Zoning Ordinance requires that conservation easements or other development restrictions be placed to all properties located within areas identified by DCR/DNH as a high significance area and are subject to the site plan review process. Staff also notes that Loudoun County's Board of Supervisors adopted a *Revised General Plan* which requires the County to use the DCR/DNH's Biological and Conservation Data system to identify the County's natural heritage resources. Once the resources are identified, applicants must conduct a species assessment and develop a plan for impact avoidance of these resources.

Recommendation

Staff recommends the Policy Committee consider updating the ordinance to incorporate the Natural Resources Policy requirements for site plans and subdivisions. Staff looks forward to a discussion with the Policy Committee on these items.

JR/gt
PtlAmNatResPol-mem

Attachments:

1. Existing Natural Resources Policy
2. Section 24-23 – Submittal Requirements
3. Location Map Showing Natural Resource Areas in the County
4. York County Zoning Ordinance Section 24.1-260. General Site Design Standards
5. Loudoun County Revised General Plan (Natural Resource Section)

RESOLUTION

NATURAL RESOURCE POLICY

WHEREAS, the citizen-based Residential District Committee reviewed the residential districts in light of the 1997 Comprehensive Plan and recommended revisions to the districts; and

WHEREAS, the 1997 Comprehensive Plan calls for continuing efforts to protect and preserve natural resources; and

WHEREAS, the Residential District Committee recommended that developments be required to preserve habitats for rare, threatened, and endangered species; and

WHEREAS, the Planning Commission endorsed that requirement when it recommended approval of the residential districts on March 3, 1999, by a vote of 5 to 0; and

WHEREAS, staff developed the Natural Resource Policy which Board of Supervisors adopted along with the R-1, R-2, and Cluster Overlay Districts on May 25, 1999, by a vote of 5 to 0; and

WHEREAS, the Board of Supervisors wanted to allow an additional opportunity for public input, and the Natural Resource Policy has been advertised in the newspapers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the following Natural Resource Policy.

As part of the Chesapeake Bay ecosystem, James City County is endowed with many natural resources, including rare, threatened, and endangered species, and rare and exemplary natural communities. In order to better conserve these resources, James City County, along with York County and the City of Williamsburg, worked with the Virginia Department of Conservation and Recreation's Division of Natural Heritage (DCR/DNH) to identify habitats for rare species and natural communities. The result was a document entitled, Conservation Planning for the Natural Areas of the Lower Peninsula of Virginia.

Where the conservation plan indicates that significant natural resource potential exists the County seeks to protect these resources, and staff will recommend the following condition or proffer be added to all special use permit and rezoning cases. In making a final determination as to when studies may be required, staff will consult the conservation plan to see if the sites are located in any B1, B2, or B3 areas and will seek the recommendation of the DCR/DNH or other qualified persons if necessary.

A natural resource inventory of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the project area shall be submitted to the Director of Planning for his/her review and approval prior to land disturbance. If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. All inventories and conservation management plans shall meet the DCR/DNH's standards for preparing such plans, and shall be conducted under the supervision of a qualified biologist as determined by the DCR/DNH or the United States Fish and Wildlife Service. All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or

construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site.

I. In interpreting this proffer or condition, the following procedures and guidelines will be followed:

1. *A natural resource inventory of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the project area shall be submitted to the Director of Planning for his review and approval prior to land disturbance. Since the County lacks the expertise to review such documents, the County will send the studies to the DCR/DNH for review. The DCR/DNH's responsibility is to determine if the study meets their standards and has been conducted under the supervision of a qualified biologist. This is the preferred option for review of these studies.*

The developer may request that staff hire an independent biologist to review the study. The Director of Planning shall select the independent biologist. The developer will pay the full costs of this review. It would be the independent biologist's responsibility to determine if the study meets the DCR/DNH's standards, and if it has been conducted under the supervision of a qualified biologist. The developer will take any risk in this matter. If at some point in the future the developer needs to go before the DCR/DNH, and comments are made regarding previous studies, it will be the County's position that all DCR/DNH issues need to be resolved. The County's biologist will not participate in this process other than to provide technical assistance to the County as requested by the County.

2. *If the inventory confirms that a natural heritage resource either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. The conservation management plan shall consist of a site plan that indicates preservation boundaries, and with language that fully explains the safeguards intended to minimize impacts to the natural heritage resource. The plan shall be reviewed by staff who may, if necessary, consult with the DCR/DNH. The developer may request review by an independent biologist subject to the provisions of Guideline No. 1. Once identified concerns have been addressed, staff (not the DCR/DNH) will approve the study.*
3. *All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site. The preferred option for implementation of the conservation management plan is to fully incorporate it into the plan of development. However, should the recommendations of the conservation management plan severely impact the plan of development, the expectation is that all reasonable measures shall be taken to implement the conservation management plan. As an alternative under severe conditions, the Director of Planning may consider and approve a mitigation plan which provides for the permanent conservation of an equally or more rare resource off-site. The preference is for the same resource to be conserved.*

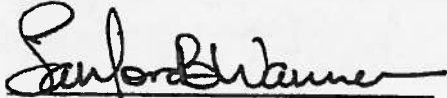
II. In Implementing and updating this condition, the following procedures and guidelines will be followed:

1. Maps indicating the general location of natural areas shall be included within the text of the Comprehensive Plan with appropriate cross-references to documents such as the Natural Areas Inventory and Natural Areas Conservation Planning Report.
2. A developer may advertise on-site preservation efforts in accordance with the regulations of the sign ordinance and after consultation with a professional biologist and the Director of Planning.



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



Sanford B. Warner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 27th day of July, 1999.

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Sec. 24-23. - Submittal requirements.

- (a) The following information shall be submitted with any request for an amendment of this chapter, as provided for in section 24-13, or for any building or use and addition or expansion thereto which requires a special use permit under this chapter, provided however, applications for family subdivisions, manufactured homes and temporary classroom trailers shall be exempt from the requirements of this section.
- (1) The community impact statement shall describe the probable effects of the proposed development upon the community and at a minimum shall address the following topics regarding infrastructure and quality of life:
- a. A traffic impact analysis for all projects that expect to generate 100 or more weekday peak hour trips to and from the site during the hours of operation and/or those projects with an entrance or exit onto a roadway with a level of service "D" or lower shall be required pursuant to the Traffic Impact Analysis Submittal Requirement Policy. Vehicular access points and drives shall be designed to encourage smooth traffic flow, with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. No more than one access point on each abutting public street shall be permitted unless specifically approved by the board of supervisors after reviewing the applicant's traffic impact analysis; and
 - b. A water and sewer impact study for all projects with an anticipated average daily flow greater than 15,500 gallons, and/or for proposed residential projects containing 50 lots or more. Water conservation information shall be submitted in accordance with water conservation guidelines policy; and
 - c. Environmental information shall be submitted in accordance with the environmental constraints analysis for legislative cases; and
 - d. An adequate public facilities report in accordance with board of supervisors policy to include sewer, water, schools, fire stations, libraries, and other major locally-financed facilities. School information shall be prepared according to the adequate public school facilities test policy; and
 - e. Additional on-site and off-site public facilities or services which would be required as a result of the development; and
 - f. A Phase IA historic and archaeological study if the property is identified as being a highly-sensitive area on the James City County archaeological assessment. If the property is identified as a moderately-sensitive area on the assessment, studies shall be provided in accordance with the currently adopted archaeological policy; and
 - g. An environmental inventory in accordance with the James City County natural resource policy; and
 - h.

A fiscal impact analysis, using the worksheet and assumptions provided by the planning division, when the proposal includes residential dwelling units. The analysis must estimate revenues to be generated versus the cost of public improvements to be financed by the county or the state using the fiscal impact model prepared by the county. If desired by the applicant supplemental studies may be prepared by an individual or firm qualified to conduct a fiscal impact study in a manner and form acceptable to the planning director; and

- i. Parks and recreation information based on parks and recreation master plan proffer guidelines.

(2) The master plan shall depict and bind the approximate boundaries and general location of all principal land uses and their building square footage and height, roads, rights-of-way (with an indication of whether public or private), accesses, open spaces, public uses and other features to be located on the site for which approval is sought. The planning director may require other features, including general location and approximate boundaries of buildings, structures or parking areas, to be incorporated into the master plan where deemed necessary due to the size of the development, access to or location of public roads, distance from residential areas, presence of environmentally sensitive areas or availability of public utilities. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. The master plan shall also include:

- a. An inset map at a scale of not less than one inch to one mile showing the property in relation to surrounding roads, subdivision or major landmarks;
- b. A north arrow, scale, the proposed use, approximate development phasing (if applicable);
- c. The location of existing property lines, watercourse or lakes, wooded areas and existing roads which are within or adjoining the property;
- d. If applicable, a table which shows for each section or area of different uses: the use; approximate development phasing, maximum number of dwelling units and density for residential areas, maximum square feet of floor space for commercial or industrial areas; and maximum acreage of each use;
- e. If applicable, schematic plans which shall indicate the phasing of development and master water, sewer and drainage plans; and
- f. If more than one type of land uses is proposed, each use shall be designated on the master plan as follows:

Type of Development	Area Designation
Single family	A

Multi-family dwellings containing up to and including four dwelling units	B
Multi-family dwellings containing more than four dwelling units	C
Apartments	D
Commercial uses	E
Wholesale and warehouse uses	F
Office uses	G
Light industrial uses	H
Institutional or public uses	I
Areas of common open space, with recreation areas noted	J
Structures containing a mixture of uses	M*
Other structures, facilities or amenities	X

* Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parentheses, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g. M (CG)) in the order of their proportion in the mixed use structure.

A total of 12 copies of the master plan should be submitted along with an application for rezoning or a special use permit; if necessary, additional copies of the master plan may be required for submittal. The master plan shall be reviewed and approved and thereafter become binding upon approval of a rezoning or a special use permit by the board of supervisors. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Final

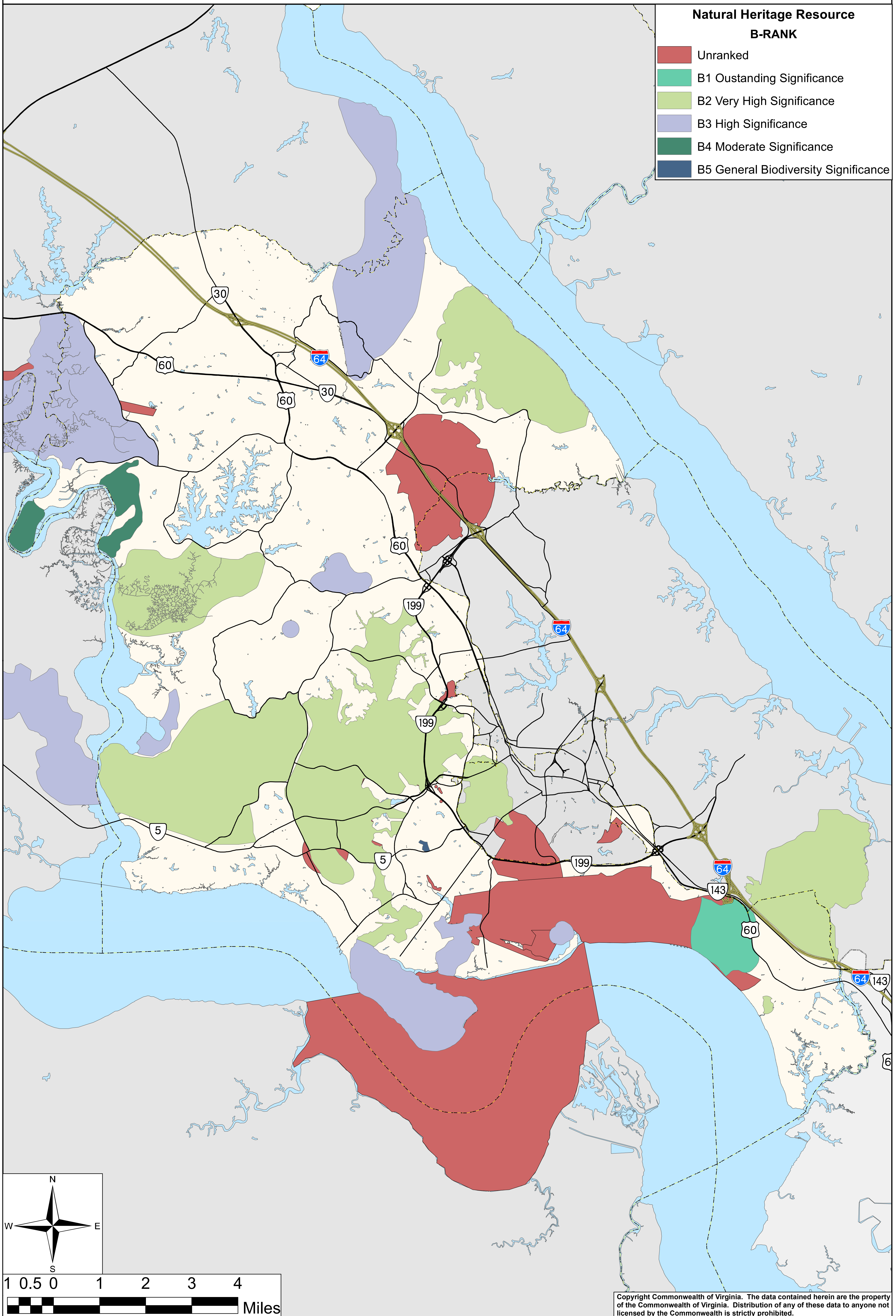
development plans may be approved after approval of a master plan by the board of supervisors. All final development plans shall be consistent with the master plan, but may deviate from the master plan if the planning director concludes that the development plan does not:

1. Significantly affect the general location or classification of housing units or buildings as shown on the master plan;
2. Significantly alter the distribution of recreation or open space areas on the master plan;
3. Significantly affect the road layout as shown on the master plan;
4. Significantly alter the character of land uses or other features or conflict with any building conditions placed on the corresponding legislatively-approved case associated with the master plan.

If the planning director determines that a proposed change would deviate from the approved master plan, the amendment shall be submitted and approved in accordance with section 24-13. In the event the planning director disapproves the amendment, the applicant may appeal the decision of the planning director to the development review committee which shall forward a recommendation to the planning commission. For additional information regarding master plan submittal requirements refer to the submittal sections for the following zoning districts: R-4, Residential Planned Community; RT, Research and Technology; PUD, Planned Unit Development; MU, Mixed Use; EO, Economic Opportunity; and Residential Cluster Development Overlay District.

- (3) Any other submittal requirement which may be required by this chapter.
 - (4) An application and fee in accordance with section 24-7 of this chapter.
 - (b) Supplemental information should be submitted in accordance with the "Supplemental Submittal Requirements for Special Use Permits and Rezonings" policy as adopted by the board of supervisors and any additional policies as deemed necessary by the planning director.
 - (c) In addition to the paper copies of all documents required by this chapter, all information and plans required under (a)(1), (a)(2) or (a)(3) shall be submitted in an electronic format in accordance with the "Electronic Submittal Requirements for Legislative Applications" policy, as approved by the planning commission.
 - (d) Unless otherwise required by this chapter, upon written request by the applicant, the planning director may waive any requirement under (a)(1) or (a)(2) above after finding that such information would not be germane to the application.
- (Ord. No. 31A-201, 12-1-99; Ord. No. 31A-266, 6-12-12; Ord. No. 31A-281, 12-11-12; Ord. No. 31A-297, 6-9-15)

Natural Heritage Resource Areas



- (4) Any right-of-way dedicated herein shall, by deed and recorded plat, be conveyed to the County of York or, upon approval, to the Virginia Department of Transportation. (See sample plat and deed in appendices A and B respectively).
- (d) Where a stub street is to be created, it shall be so noted on the face of the subdivision plat and site plan. Once final approval is granted, the subdivision plat or site plan, or portion thereof showing a stub street, shall be recorded with the clerk of the circuit court. In addition, the notification requirements for stub streets contained in the subdivision ordinance shall be followed.

Secs. 24.1-258—24.1-259. Reserved.

DIVISION 6. SITE DESIGN STANDARDS

Sec. 24.1-260. General site design standards.

- (a) No more land shall be disturbed than is reasonably necessary to provide for the desired use or development. All site plans shall clearly delineate land areas to be disturbed and those which shall remain undisturbed.
- (b) Indigenous vegetation shall be preserved to the maximum extent possible consistent with the proposed use and development. Any proposal to clear cut a property in the absence of an approved development plan shall be deemed to constitute a "forestry" operation and shall be permitted only in such districts and under such procedures as are set forth in articles 3 and 4 of this chapter or only when in accordance with the provisions of Section 10-14(f) of the York County Code.
- (c) Best management practices shall be applied to all land disturbing activities regulated by this chapter.
- (d) Natural areas with a biodiversity ranking of B1 (outstanding significance), B2 (very high significance), or B3 (high significance), shall be protected through a conservation easement or other development restriction encompassing the area within the secondary ecological boundary as defined by Technical Report 93-4, by the Division of Natural Heritage, Virginia Department of Conservation and Recreation, as may be amended from time to time. Biodiversity rankings between B1 and B3 indicate natural resources of global or state significance. For areas with a B4 or B5 ranking, necessary federal and state permit approvals required under the Federal Clean Water Act, Endangered Species Act, Chesapeake Bay Preservation Ordinance, or state and county wetlands laws and regulations shall suffice as proper environmental authorization.
- (e) Land development proposals shall be designed to minimize impervious cover consistent with the particular use proposed.
- (f) New construction on existing slopes in excess of thirty percent (30%) shall be prohibited unless the zoning administrator, after reviewing a detailed soils, geology, and hydrology survey prepared in accordance with acceptable engineering standards and submitted by the applicant, determines that such construction can be accommodated without creating or exacerbating erosion, seepage, or nutrient transport problems. Such survey shall include cross-sections of existing and proposed slopes and detailed plans of drainage devices. Grading such slopes to less than thirty percent (30%) shall also be prohibited unless the zoning administrator determines that such grading is necessary to the overall development; however, in no case shall such grading be used to permit new construction which otherwise would have been prohibited.
- (g) Except as exempted below, all outdoor lighting in excess of 3,000 initial lumens associated with land use and development proposals, whether new uses or changes and modifications in existing uses, shall be designed, installed and maintained to prevent unreasonable or objectionable glare onto adjacent rights-of-way and properties and shall incorporate the use of "full cut-off" luminaires/fixtures. The lighting standards established by the Illuminating Engineering Society of North America (IESNA) shall be used to determine the appropriate lighting fixture and luminaires for such uses. High-pressure sodium or metal halide lights shall be the preferred type of exterior site lighting. The use of Mercury vapor lights shall be discouraged in any exterior lighting applications, with the exception of under-canopy lighting for gasoline pump islands, bank or other drive-thru or drive-in facilities.

The following outdoor lighting applications shall be exempt from these requirements:

- (1) Construction, agricultural, emergency or holiday decorative lighting of a temporary nature.
- (2) Lighting of the United States of America, Commonwealth of Virginia, or York County flags and other non-commercial flags.
- (3) Security lighting controlled by sensors which provide illumination for fifteen (15) minutes or less.
- (4) The replacement of an inoperable lamp or component which is in a luminaire that was installed prior to the effective date of this section.
- (5) The replacement of a failed or damaged luminaire which is one of a matching group serving a common function.
- (6) Fixtures used for architectural or landscape accent lighting (façade, features, trees, etc.), when such lighting is aimed or directed so as to preclude light projection beyond the immediate objects intended to be illuminated. If the surrounding area contains residential uses that could be adversely impacted by such lighting, the Zoning Administrator may require that such lighting be extinguished between the hours of midnight and dawn.
- (7) Streetlights illuminating public rights-of-way, or private streets which the zoning administrator determines to be consistent in illumination characteristics with those allowed and specified under the board of supervisors' street light installation policy.

In addition to the above-noted exemptions, the Zoning Administrator may approve a modification of the full cut-off luminaire requirements in the following circumstances:

- Upon finding that alternatives proposed by the owner would satisfy the purposes of these outdoor lighting regulations at least to an equivalent degree; or
- Upon finding that the outdoor luminaire or system of outdoor luminaires required for a baseball, softball, football, soccer or other athletic field cannot reasonably comply with the standard and provide sufficient illumination of the field for its safe use.
- Upon a finding that the proposed luminaire is a decorative colonial-style "cut-off optics" fixture in which the lamp is fully recessed into the upper housing.

For the purposes of administering these provisions, lamps of less than or equal to the following rated wattages shall be deemed to emit 3,000 or less initial lumens and, therefore, shall be exempt from the full cut-off requirement:

• Incandescent lamp:	160 watts
• Quartz halogen lamp:	160 watts
• Florescent lamp:	35 watts
• Mercury vapor lamp:	75 watts
• Metal halide lamp:	40 watts
• High-pressure sodium lamp:	45 watts
• Low-pressure sodium lamp:	25 watts

Lamps having greater wattages than those listed above also may be exempted by the zoning administrator upon presentation of documentation from the lamp manufacturer, or other source deemed appropriate by the zoning administrator, that the lamp emits 3,000 or less initial lumens.

Unless specifically authorized by the zoning administrator or specifically authorized by the board of supervisors in a special use permit approval action, site lighting shall be designed to limit illumination intensity to not more than 0.5 footcandles at all perimeter property lines abutting non-residential property and not more than 0.1 footcandles when abutting residential property.

(Ord. No. 01-20(R), 10/16/01; Ord. No. 05-13(R), 5/17/05; Ord. No. 08-17(R), 3/17/09; Ord. No. 09-22(R), 10/20/09)

Sec. 24.1-261. Public service facility standards.

- (a) *Refuse and recyclables collection.* Dumpsters, or an alternate method of collection for recyclables and for nonrecyclable refuse approved by the zoning administrator, shall be required for mobile home parks and

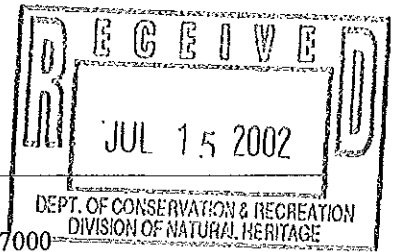


Loudoun County, Virginia

www.loudoun.gov

Environmental and Historic Resources Program

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(703) 737-8440 • Fax (703) 777-0325



July 8, 2002

Renee Hypes, Project Review Coordinator
Department of Conservation and Recreation
217 Governor St., Second Floor
Richmond, VA 23219

Dear Ms. Hypes:

In conversations you had with Ms. Meghan Hall, it was identified that a formal letter be provided explaining why and how Loudoun County would like to use available natural heritage location data provided by your office through the DCR Digital Data Subscription Service. It is my understanding that this letter can serve as the County's subscription request and, therefore, will include information on how Loudoun County will use the natural heritage information to achieve certain measurable results.

On July 23, 2001 the Loudoun County Board of Supervisors adopted a Revised General Plan that puts natural and heritage resources first in all land use decisions. The County is currently revising its zoning ordinances to reflect these new environmental policies that will require conservation design for all development applications and the use of an integrated "Green Infrastructure" approach to protecting natural and heritage resources. A number of tools—including your digital natural heritage database—are needed to support the County's environmental protection and development strategies.

The natural resource section of the Revised General Plan outlining the Plant and Wildlife Habitats policies is provided as **Attachment A** for your review. Please note that **Policy 8** specifically identifies the natural heritage location data be applied "...in the evaluation of development proposals," requiring "...a plan for impact avoidance in cases where the presence of the species is identified."

The Office of Mapping and Geographic Information will control the digital location data as part of the Loudoun County mapping system, and my office will oversee the subscription.

To finalize this subscription request or for additional information, please contact Meghan Hall, Program Specialist at 703-737-8440.

Sincerely,

Mark J. Moszak
Environmental and Historic Resources Program Administrator

Cc: Linda Neri, Deputy County Administrator
Larry Stipek, Director, Office of Mapping and Geographic Information

ATTACHMENT A

Loudoun County Revised General Plan The Green Infrastructure: Environment, Natural and Heritage Resources Plant and Wildlife Habitats (Pages 5-21 to 5-23)

F. Plant and Wildlife Habitats

Plants and animals play an important role in nature's lifecycle and its ecosystems. For wildlife habitats, large contiguous parcels of natural open space are preferable to more numerous, but disconnected and smaller areas.

While many high-quality plant and animal habitats have already been lost or altered due to land development, the County still has a number of unique and natural habitat areas. The largest contiguous areas of forest and naturally vegetated land are on mountainsides and along stream channels. These areas play a key role in preserving the abundance and diversity of the County's remaining plant and wildlife. They are also a part of the Blue Ridge ecosystem, a 550-mile, contiguous natural area of parks, national forests, federal wilderness and the Appalachian Trail that extends from Georgia to Pennsylvania.

The integrated Green Infrastructure approach will help to prevent habitat fragmentation, while enhancing ecological connections with larger natural areas. The County will strive to protect, preserve, and create large-scale plant and wildlife habitats that overlap with other important resources and resource systems within the Green Infrastructure.

The County will also protect habitat for rare, and threatened and endangered plant and animal species in accordance with the Federal Endangered Species Act. The health and survivability of plants and animals can often foretell future environmental threats to human life and health. Therefore, the County will encourage the study of the biological processes within the natural resource elements of the Green Infrastructure.

Plant and Wildlife Habitats Policies

1. The County will seek to protect areas of natural biodiversity and rare, threatened and endangered plant and animal species through regulations that foster the implementation of the Federal Endangered Species Act.
2. One strategy the County will pursue to protect rare, threatened, and endangered plant and animal species is to preserve their habitat in open space, passive recreation, or nature preserves.
3. The County will promote and support the establishment of public and private nature preserves throughout the County, in addition to Banshee Reeks, as part of the protection of the Green Infrastructure.

4. The County will conserve and protect wildlife habitat through the preservation of a broad range of natural resources such as indigenous vegetation, forest cover, woodlands, floodplains, streams and stream corridors, wetlands, and undeveloped areas associated with steep slopes.
5. The County promotes the preservation and management of existing vegetative cover, and riparian, habitat and wildlife travel corridors (i.e., fencerows and stream valleys) for their native biological diversity and to protect wildlife access to streams and other water sources. Planting of indigenous vegetation will be encouraged and priority will be given to those corridors that connect one or more large, intact nature preserves.
6. The County will establish and implement guidelines and/or incentives to protect wildlife habitat in an effort to protect a broad range of natural resources that cover large areas such as river and stream corridors and mountainsides.
7. The County promotes the protection of the County's vegetative and wildlife resources and the creation of wildlife habitats by encouraging the incorporation of indigenous vegetation into the landscape design of new development and encouraging a compact, concentrated development pattern.
8. The County will use the Virginia Department of Conservation and Recreation, Division of Natural Heritage's Biological and Conservation Data system to identify Loudoun County's natural heritage resources. These resources include rare, threatened and endangered plant and animal species; exemplary natural communities, habitats, and ecosystems; and other natural features of the County. The County will apply this information in the evaluation of development proposals. For those development applications that have a likely presence of one or more natural heritage resource, the County will require the applicant to conduct a species assessment and develop a plan for impact avoidance in cases where the presence of the species is identified.
9. The County will encourage the study of natural heritage resources by qualified research organizations such as the Virginia Division of Natural Heritage of the Department of Conservation and Recreation.