

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
April 13, 2023
3:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

D. OLD BUSINESS

1. ORD-22-0001. Amendments for Scenic Roadway Protection

E. NEW BUSINESS

F. ADJOURNMENT

ITEM SUMMARY

DATE: 4/13/2023

TO: The Policy Committee

FROM: Thomas Wysong, Senior Planner II; Jose Ribeiro, Senior Landscape Planner II; John Risinger, Planner

SUBJECT: ORD-22-0001. Amendments for Scenic Roadway Protection

ATTACHMENTS:

	Description	Type
▣	0. Memo	Cover Memo
▣	1. Resolution	Resolution
▣	2. Proposed Draft Language: Option 1 Setback Requirement: 400'	Resolution
▣	3. Proposed Draft Language: Option 2 Setback Requirement: 400', 200' for Shallow Lots	Backup Material
▣	4. Proposed Draft Language: Nonconformities Addition	Backup Material
▣	5. Proposed Draft Language: A-1 Major Subdivision Buffer	Backup Material
▣	6. Proposed Draft Language: Landscape Along ROW Revisions	Backup Material
▣	7. Proposed Draft Language: Timber Buffering and Setback Revisions	Backup Material
▣	8. Forge Road Exempt Parcels Map	Exhibit
▣	9. Old Stage Road Exempt Parcels Map	Exhibit

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Cook, Ellen	Approved	4/6/2023 - 2:36 PM
Policy	Holt, Paul	Approved	4/6/2023 - 2:47 PM
Publication Management	Pobiak, Amanda	Approved	4/6/2023 - 3:07 PM
Policy Secretary	Secretary, Policy	Approved	4/6/2023 - 4:10 PM

MEMORANDUM

DATE: April 13, 2023

TO: The Policy Committee

FROM: Thomas Wyson, Senior Planner II
Jose L. Ribeiro, Senior Landscape Planner II
John Risinger, Senior Planner

SUBJECT: ORD-22-0001. Amendments for Scenic Roadway Protection

Introduction

At its January 24, 2023, meeting, the Board of Supervisors provided the following guidance to Planning staff and the Policy Committee:

1. Prepare an analysis of the 400-foot setback proposed for Old Stage Road and Forge Road with a proposed setback of 200-foot for the parcels 500 feet deep or less (shallow parcels) to examine the number of non-structures that would become nonconforming.
2. Examine whether a family subdivision could be exempt from the 400-foot or 200-foot proposed setback.
3. Consider the possibility of an overlay district (a County initiated rezoning) instead of or in addition to a zoning text amendment.
4. Proceed with the Policy Committee's recommended approach for buffering requirements along Wooded CCCs.

Staff has provided an analysis of Item Nos. 1-3 detailed above. Following this analysis, the memorandum provides information introducing the attached draft language for the proposed setbacks and buffers for Open/Agricultural CCCs and Wooded CCCs, respectively.

1. Analysis of setbacks for Shallow Parcels

Under the current A-1 Zoning District, the setback requirement for Forge Road is 75 feet from the right-of-way for most structures. Using the County's Geographic Information System (GIS), staff has conducted an analysis for two scenarios to examine the number of structures that would become nonconforming. In Option No. 1, there is a proposed 400-foot setback, with parcels having a lot depth of 500 feet or less adhering to the existing 75-foot setback. In Option No. 2, there is a proposed 400-foot setback, with parcels having a lot depth of 500 feet or less adhering to a 200-foot setback, unless that parcel has a lot depth of 200 feet or less, in which case it would adhere to the existing 75-foot setback. Staff finds that both options fulfill the intent of the Board's Initiating Resolution to protect the character of rural roadways, with Option No. 2 resulting in a small number of additional structures that would be nonconforming. For either option, the same setback is required to be applied for both roadways. Maps showing these parcels are included as Attachment Nos. 8 and 9.

Forge Road Analysis*Option No. 1: 400-foot Setback, 75-foot Setback for Shallow Lots*

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	16	-6	10
Accessory Structures	24	-3	21
Total	40	-9	31

Option No. 2: 400-foot Setback, 200-foot Setback for Non-Exempt Shallow Lots

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	16	-2	14
Accessory Structures	24	-2	22
Total	40	-4	36

Old Stage Road Analysis*Option No. 1: 400-foot Setback, 75-foot Setback for Shallow Lots*

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	33	-15	18
Accessory Structures	39	-14	25
Total	72	-29	43

Option No. 2: 400-foot Setback, 200-foot Setback for Non-Exempt Shallow Lots

	Structures Within 400 Feet	Exempt Parcel Structures	Final
Residences	33	-3	30
Accessory Structures	39	-3	36
Total	72	-6	66

2. Family Subdivision

Based on legal concerns, the County Attorney's Office has recommended against exempting lots created via the family subdivision. This is due to the requirement that zoning regulations should be uniform for each class or kind of buildings and uses throughout each district; and must treat similarly situated property similarly. If the County were to require a 400-foot setback for only some but not all residential lots within a zoning district, the County would be potentially infringing upon this requirement. As such, the proposed draft language does not include an exemption for family subdivisions.

3. Overlay District

An Overlay District is a potential tool that could be utilized to establish unique development standards for a specific corridor within the County. Unlike the proposed setback idea, which requires the same standards be applied to classes of roadway, such as Open/Agricultural or Wooded CCCs, the Overlay District concept could be applied on a corridor-by-corridor basis. An Overlay District created on a corridor basis would allow standards to be created only for Forge Road or for Old Stage Road or any other road selected by the Board. Planning staff reviewed peer localities to determine if there are similar examples of Overlay Districts being established solely for rural preservation on a corridor-by-corridor basis.

This research shows that counties with Large-Lot and Rural Preservation Standards in their Zoning Ordinances tend not to have comparable standards for protecting the viewsheds from rural roads, other than basic front setback requirements. The most pertinent examples from staff's research for rural preservation are the method employed by Albemarle County and Clarke County. Both use the State Code provision (Section 15.2-2306 of the Code of Virginia) that allows for localities to establish an Overlay District(s) with design standards and regulations through a review board for corridors that are included in, or lead to, any historic areas as defined by State Code (within the County or a contiguous locality) or roadways found to be significant routes of tourist access to the County.

In terms of process, the establishment of an Overlay District would require the County to initiate the rezoning of every parcel located within the proposed district, which could be hundreds of parcels, depending on the size of the proposed district. This process would require the typical rezoning process with public hearings. Staff finds that an Overlay District could be a useful tool for a Goals, Strategies and Action (GSA) that focuses on one particular area or corridor for a specific purpose but recommends continuing the setback approach in order to protect a broader set of scenic roads, which is the intent of the GSA.

Draft Language

Staff has proposed draft language that includes the following considerations:

Setbacks along Open/Agricultural Community Character Corridors:

- A proposed setback of 400-foot for A-1 parcels abutting Open/Agricultural CCCs (Forge Road and Old Stage Road) outside of the Primary Service Area (PSA) that have an average lot depth greater than 500 feet. The draft language for this item is included in Attachment No. 2. This concept was discussed and recommended by the Policy Committee at its previous meeting.
- The two options described earlier in this memorandum for proposed setbacks for A-1 parcels abutting Open/Agricultural CCCs (Forge Road and Old Stage Road) outside of the PSA that have an average lot depth 500 feet or less.
 - Option No. 1: A 75-foot setback for parcels that have an average lot depth 500 feet or less. The draft language for this option is included in Attachment No. 2.
 - Option No. 2: A 200-foot setback for parcels that have an average lot depth 500 feet or less except that parcels with an average lot depth of 200 feet or less shall have a 75-foot setback. The draft language for this option is included in Attachment No. 3.
- An exemption permitting nonconforming structures to be expanded, provided the expansion does not further encroach on the setback. The draft language for this item is included in Attachment No. 4. This concept was discussed and recommended by the Policy Committee at its previous meeting.

Buffers along Wooded Community Character Corridors:

- Proposed landscape buffer requirements along Wooded CCCs including a 100-foot-wide buffer average for commercial projects and 200-foot-wide buffer average for major residential developments. The draft language for this item is included in Attachment Nos. 5 and 6.
- A timbering setback of at least 50-foot on properties along Wooded CCCs outside the PSA. The draft language for this item is included in Attachment No. 7.

Staff Recommendation

Staff recommends that the Policy Committee select Option No. 1 or Option No. 2 detailed above, and proceed with the nonconforming structures exemption language. Staff also recommends the Policy Committee proceed with the proposed draft buffer and timbering setback language revisions. Should the Policy Committee wish to proceed with the Overlay District option, staff recommends first requesting further direction from the Board and treating the Overlay District option as a separate potential Ordinance amendment.

TW/JLR/JR/ap

ORD22-1ScRdPrAmd-mem

Attachments:

1. Initiating Resolution
2. Proposed Draft Language: Option 1 Setback Requirement: 400'
3. Proposed Draft Language: Option 2 Setback Requirement: 400', 200' for Shallow Lots

4. Proposed Draft Language: Nonconformities Addition
5. Proposed Draft Language: A-1 Major Subdivision Buffer
6. Proposed Draft Language: Landscape Along ROW Revisions
7. Proposed Draft Language: Timber Buffering and Setback Revisions
8. Forge Road Exempt Parcels Map
9. Old Stage Road Exempt Parcels Map

RESOLUTION

INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE AND

SUBDIVISION ORDINANCE TO PROVIDE ADDITIONAL REQUIREMENTS TO PROTECT

AND PRESERVE SCENIC ROADWAYS SUCH AS FORGE ROAD


WHEREAS, section 15.2-2286(A)(7) of the Code of Virginia, 1950, as amended (the "Virginia Code"), and County Code Section 24-13 authorize 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 required by public necessity, convenience, general welfare, or good zoning practice; and

WHEREAS, section 15.2-2253 of the Virginia Code and County Code Section 19-10 authorize the Board to request the Planning Commission to prepare and recommend amendments to the Subdivision Ordinance; and

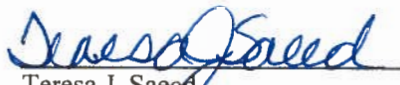
WHEREAS, the Board is of the opinion that the public necessity, general welfare, and good zoning practice warrant the consideration of amendments to the Zoning Ordinance and Subdivision Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of the James City County Code, Chapter 24, Zoning in order to consider additional requirements to protect and preserve scenic roadways such as Forge Road. The Planning Commission shall hold at least one public hearing on the consideration of amendments to said Zoning Ordinances and shall forward its recommendation to the Board of Supervisors in accordance with the law.

BE IT FURTHER RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby request the Planning Commission to prepare and recommend amendments to Chapter 19, Subdivisions, in order to consider additional requirements to protect and preserve scenic roadways such as Forge Road. The Planning Commission shall hold at least one public hearing on the consideration of amendments to said Subdivision Ordinances and shall forward its recommendation to the Board of Supervisors in accordance with the law.


Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:


Teresa J. Saeed
Deputy Clerk to the Board

SADLER
ICENHOUR
LARSON
MCGLENNON
HIPPLE

VOTES			
<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Adopted by the Board of Supervisors of James City County, Virginia, this 23rd day of November, 2021.

InitConsdForgeRd-res

Sec. 24-215. Setback requirements.

- (a) *Except for those roadways identified in Sec. 24-215 (c),* structures, except those associated with intensive agricultural uses, shall be located a minimum of 50 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 75 feet from the centerline of the street; except that where the minimum lot area is three acres or more, the minimum setback shall be 75 feet from any street right-of-way which is 50 feet or greater in width and 100 feet from the centerline of any street right-of-way less than 50 feet in width. Devices for nutrient management plans, pens, and structures associated with intensive agricultural uses shall be 250 feet from any dwelling not owned by the operator of the use, all property lines not associated with the use, all public roads, and 1,000 feet from platted residential subdivisions, residentially zoned districts, areas designated for residential use on the comprehensive plan, schools, parks and playgrounds, recreation areas, public wells, water tanks and reservoirs.
- (b) 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.
- (c) *For parcels abutting a portion of a road right-of-way designated an Open/Agricultural Community Character Corridor and located outside of the Primary Service Area on the Comprehensive Plan Future Land Use Map, structures shall be located a minimum of 400 feet from the right-of-way. For those parcels containing a lot depth of 500 feet or less or those parcels approved as a flag lot as of January 1, 2023, the applicable setback shall be pursuant to Sec. 24-215 (a).*

(Ord. No. 31A-88, § 20-31, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-165, 9-18-95; Ord. No. 31A-169, 5-28-96; Ord. No. 31A-257, 11-22-11)

Sec. 24-215. Setback requirements.

- (a) *Except for those roadways identified in Sec. 24-215 (c),* structures, except those associated with intensive agricultural uses, shall be located a minimum of 50 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 75 feet from the centerline of the street; except that where the minimum lot area is three acres or more, the minimum setback shall be 75 feet from any street right-of-way which is 50 feet or greater in width and 100 feet from the centerline of any street right-of-way less than 50 feet in width. Devices for nutrient management plans, pens, and structures associated with intensive agricultural uses shall be 250 feet from any dwelling not owned by the operator of the use, all property lines not associated with the use, all public roads, and 1,000 feet from platted residential subdivisions, residentially zoned districts, areas designated for residential use on the comprehensive plan, schools, parks and playgrounds, recreation areas, public wells, water tanks and reservoirs.
- (b) 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.
- (c) *For parcels abutting a portion of a road right-of-way designated an Open/Agricultural Community Character Corridor and located outside of the Primary Service Area on the Comprehensive Plan Future Land Use Map, structures shall be located a minimum of 400 feet from the right-of-way. For those parcels containing a lot depth between 500 feet and 200 feet as of January 1, 2023, structures shall be located a minimum of 200 feet from the right-of-way. For those parcels containing a lot depth of 200 feet or less or those parcels approved as a flag lot as of January 1, 2023, the applicable setback shall be pursuant to Sec. 24-215 (a).*

(Ord. No. 31A-88, § 20-31, 4-8-85; Ord. No. 31A-114, 5-1-89; Ord. No. 31A-165, 9-18-95; Ord. No. 31A-169, 5-28-96; Ord. No. 31A-257, 11-22-11)

Sec. 24-633. Expansion/improvements to nonconforming uses.

- (a) *Restriction for structure.* A nonconforming use may be extended throughout any part of a structure originally arranged or designed for such activity; provided, that current parking requirements shall be adhered to upon such extension.
- (b) *Restriction for area.* Any permitted expansion shall occur only on the lot occupied by the nonconforming use or structure and no area of any lot not originally devoted to the nonconforming use shall be utilized for any aspect of such expansion notwithstanding the combination of lots to bring a nonconforming structure into compliance.
- (c) *One-family dwellings.* For a nonconforming one-family dwelling use, the dwelling may be expanded without limitation, except as provided for in this chapter. In addition, new or expanded residential accessory structures and uses (such as a storage shed, garage, swimming pool, etc.) may be permitted subject to the provisions of this chapter. Expansion of the dwelling and new or expanded accessory structures and uses shall meet all current zoning requirements, including height, yard and setbacks, for the zoning district in which they are located or the R-1 zoning district if such dwelling is not located in a zoning district where a residential use is permitted. In no case shall a nonconforming one-family dwelling be modified to accommodate additional dwelling units.
- (d) *Business or industrial uses.* For uses in any district where the activity is permitted in the zoning district in which the lot is located, but where the current zoning requirements (including, but not limited to, parking, yards, setbacks, landscaping, screening and buffering, height, signs, lot coverage, connection to public sewer and water) are not met, expansion of the building, and expansion of the land area within the lot devoted to activities other than buildings, may be approved, provided all current zoning requirements applicable to the expansion are met.
- (e) *Businesses or industrial uses not connected to public water and sewer.* Expansion of a use meeting all zoning requirements except for connection to public water and public sewer may be permitted upon approval of a special use permit excepting the use from the public water and public sewer requirements.
- (f) *Expansion allowance resulting from right-of-way dedication.* Existing business or industrial uses which are permitted within any district and which have been made nonconforming with respect to open space, perimeter landscape requirements or setback requirements as a result of a right-of-way dedication to the county or the Virginia Department of Transportation without compensation shall be allowed to expand in accordance with the current zoning ordinance under the conditions which existed prior to the dedication.
- (g) *Miscellaneous changes.* Minor alterations, cosmetic modifications, interior renovations and similar changes for nonconforming uses or structures may be permitted, subject to the following standards:
 - (1) Such changes shall not increase the land area occupied by any aspect of the nonconforming use and shall not increase the gross floor area of any nonconforming structure; and,
 - (2) Such construction shall meet all current zoning ordinance requirements for the zoning district in which the nonconforming use is located or the zoning district assigned by the zoning administrator as a part of the nonconforming use verification process, whichever requirements are more strict.
- (h) *Expansion required by law.* Improvements may be made to the nonconforming use or structure for the sole purpose of accessibility or public safety when such improvements are necessitated by a local, state, or federal law. Such improvements may be approved by the zoning administrator and are not subject to paragraphs (d) and (g) of this section.
- (i) *Expansion allowance for Community Character Corridor-Open/Agricultural.* Existing structures or uses that are permitted within any district and which have been made nonconforming as a result of the establishment

of the setback requirements per Sec. 24-215 (c) shall be allowed to expand, provided the expansion does not further encroach within the setback.

(Ord. No. 31A-188, 4-13-99; Ord. No. 31A-268, 6-12-12)

Sec. 24-223. Buffer requirements.

(a) *Right-of-way buffer. Within any major subdivision approved under this division, there shall be planned and maintained buffers along all external existing and planned road rights-of-way, as follows:*

- (1) *The minimum right-of-way buffer on Wooded Community Character Corridors located outside the Primary Service area as defined in the Comprehensive Plan shall be 200 feet.*
- (2) *The right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards and shall also adhere to the Community Character Corridor Buffer Treatment Guidelines and Map.*
- (3) *Waiver provisions. The planning director may reduce the buffer depth requirements specified in (1) of this section for residential developments when:*

(i) 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

(ii) 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 100 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case-by-case basis.

(b) *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.*

(c) *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.*

(d) *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.

- (e) 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.*
 - (f) Appeals. In the event the planning director disapproves the items specified 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.*
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Sec. 24-98. Landscape area(s) along right(s)-of-way.

- (a) *Width requirements.* A landscape area having an average width as specified in the following chart shall be provided adjacent to any existing or planned road right-of-way.

Width Requirements for Landscape Areas along Right(s)-of-Way.			
(1) Community Character Corridors			
	Standard	Minimum width conditioned upon approval of planning director. Reference section 24-98(e) for the criteria.	Reduction for lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990.
Average Width	50-feet	30-feet	20-feet or 10% of the average lot depth, whichever is greater.
Minimum Width	25-feet	20-feet	15-feet
(2) Wooded Community Character Corridors Outside the Primary Service Area			
	Standard		Reduction for lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990.
Average Width	100-feet		20-feet or 10% of the average lot depth, whichever is greater.
Minimum Width	50-feet		15-feet
(23) All Other Roads			
	Standard		Reduction for lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990.
Average Width	30-feet		20-feet or 10% of the average lot depth, whichever is greater.
Minimum Width	15-feet		15-feet
(34) Further Reductions for Master Planned Communities with Approved Design Guidelines.			
The standards provided above can be further reduced for developments that are part of an approved master-planned community and have a governing set of design guidelines approved by the county. The design guidelines shall specify architectural standards, building placement and massing, parking location, sidewalks, street-lighting, streetscape standards, landscaping, signage, and other important community aesthetic features.			

- (b) *Square footage calculation for landscape areas.* All landscape areas along a right-of-way shall contain a minimum amount of square footage which shall be equal to:

Square Footage Calculation
Square Footage = [Applicable Average Width Requirement] * [Length of Right-of-Way Frontage]

In no case shall any portion of any landscape area located more than 125 feet from the right-of-way of a Wooded Community Character Corridor outside the Primary Service Area, 65 feet from the right-of-way of all other Community Character Corridors or 45 feet from the right-of-way along all other roads be counted toward meeting the requirements of this paragraph. All required square footage shall be contiguous and located in an area that is directly adjacent to the right-of-way except as provided for in section 24-98 (f)(1).

- (c) *Outdoor operations and storage.*

Any commercial or industrial operation or storage conducted in whole or in part out-of-doors shall:

- (1) Be screened from the right of way and conform to the landscape requirements in section 24-98 and 24-100 (a) of the zoning ordinance. Evergreen tree and shrub mixture requirements of section 24-94 (b) shall be used to screen the outdoor operations from the public right-of-way; and
 - (2) Be well drained with adequate provisions to control storm drainage and erosion; and
 - (3) Where the ground cover would be routinely disturbed because of the nature of the activity to be conducted or because of vehicular traffic, the area shall be maintained in an all-weather surface; and
 - (4) Be screened from adjacent property by landscaping and fencing, except that outdoor displays for sale of vehicles, equipment, machinery and/or plant materials shall be exempt from the screening requirements where such screening would materially interfere with the visibility of the items for sale from a public road; and
 - (5) Be limited to uses and items to be stored which do not create noise, odor, dust or other objectionable effects. The effects of an activity shall be assessed at the nearest property line.
- (d) *"Construction zone" setback for structures.*
- (1) All structures shall be setback a minimum of 15-feet from the perimeter of the landscape area buffer required in section 24-98 (a). For example, if the required landscape area buffer measures 50-feet in width from the right-of-way, then the structure(s) shall be no closer than 65-feet from the right-of-way.
 - (2) The "construction zone" setback shall be clearly delineated on the site plan.
 - (3) This "construction zone" setback shall not apply to parking lots. Parking lots may be constructed up to the edge of the required landscape buffer provided no grading, tree removal, or land disturbance occurs within the required landscape buffer.
- (e) *Waiver criteria for landscape areas along Community Character Corridors.* The average width requirement of the required landscape areas along Community Character Corridors may be reduced by the planning director if subsection(s) (1) and/or (2) provided below is satisfied. In no case shall the total reduction exceed 20 feet. In deciding whether a reduction in the standard landscape area width is warranted, the planning director shall consider the impact of proposed road and/or utility improvements on existing trees and vegetation. Planned road and/or utility improvements that will remove existing trees and vegetation will reduce the likelihood of a reduction in landscape area required. In approving a reduction request, the planning director may require additional plantings beyond the minimum ordinance requirements, alter the mixture of plantings provided, and/or specify the types of plantings to be used.
- (1) The applicant may achieve a maximum reduction of 10 feet by providing superior site design with a combination of elements such as:
 - a. Parking located away from public view behind buildings or screened by other architectural features (i.e. decorative brick walls);
 - b. Innovative use of grading and topography to minimize visual impacts of parking and other unsightly features (i.e. dumpsters, HVAC equipment, loading areas, etc.);
 - c. Provision of pedestrian amenities beyond what the ordinance requires. Examples may include brick pavers to connect existing and planned pedestrian walkways, lighting, and benches; or
 - d. The use of monument style signs that are of a scale and type that complement the positive features of the surrounding architecture and streetscape. The use of wood, brick, or other natural features is recommended.
 - (2) The applicant may achieve a maximum reduction of 15 feet by providing superior architecture and building materials that meet the following standards.

-
- a. The building architecture and materials complement the positive features of nearby existing or planned development and/or the character of Colonial Williamsburg and James City County;
 - b. Architecture and materials should be unique and not replicate standard and/or conventional prototypes; and
 - c. The proposed location of the building and parking areas shall not require the removal of specimen trees or large stands of viable mature trees.
- (f) *Right-of-way landscape area performance standards.*
- (1) Permitted breaks in landscape areas.
 - a. All landscape areas along rights-of-way shall be continuous along the road right-of-way frontage, except where driveway, utility or other breaks running perpendicular to the right-of-way are necessary, and shall be designed in a manner that achieves the intent of this division.
 - b. No new utilities, outside of those running parallel to permitted breaks in the required landscape areas, shall be located within the required landscape area(s) unless a waiver is granted by the planning director. The planning director shall grant a waiver only if the applicant can sufficiently demonstrate that there are unavoidable physical or regulatory constraints that warrant an intrusion into the landscape area.
 - (2) Tree preservation and criteria for tree removal.
 - a. All existing viable mature trees (eight inches or greater diameter at breast height (DBH)) and specimen trees (24 inches or greater DBH) shall be preserved within the required right-of-way landscape area. All understory trees of two inches or greater DBH shall be preserved.
 - b. The planning director or his designee may permit the removal of understory and overstory trees exceeding these size thresholds after an on-site inspection. The trees must be tagged to allow for easy identification. The planning director or his designee shall authorize removal of the tagged trees only if they are of poor quality, diseased, not consistent with the existing or planned plant species and design, poorly situated so as to interfere with the growth of other viable trees and/or shrubs, compromise safety, or interfere with other planned site improvements such as sidewalks and/or signs.
 - (3) Buffer grooming and enhancement.
 - a. Trees below the size thresholds stated above in paragraph (2) and underbrush may be hand-removed from the landscape area. No grading shall be permitted; however, hand grooming is permitted.
 - b. Overstory tree limbs may be removed/"limbed-up" to a maximum height of ten feet above the base of the tree. Understory tree limbs may be removed/"limbed-up" to a maximum height of six feet. These height limitations shall not restrict the removal of dead, diseased, or injured tree limbs above the height limits mentioned above.
 - (4) Tree protection required. The required landscape area shall be fully protected by a substantial, temporary fence or barrier with a minimum height of 40-inches. The location, type, and installation standards for this fence shall be clearly shown on the site plan. This fence shall be installed prior to the issuance of a land disturbance permit and shall remain standing until all construction activities on site have been completed.
 - (5) Landscaping required. Required landscape areas shall be supplemented where necessary with planted trees and shrubs to achieve the minimum number of trees and shrubs specified in section 24-96.

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- (6) Landscaping treatments of community character corridor buffers. Right-of-way landscape areas along community character corridors as designated on the Community Character Corridor Buffer Designation and Treatment Map shall be designed to meet the design standards found in the Community Character Corridor Buffer Treatment Guidelines as determined by the planning director.

(Ord. No. 31A-88, § 20-12.2, 4-8-85; Ord. No. 31A-123, 7-2-90; Ord. No. 31A-125, 8-20-90; Ord. No. 31A-145, 7-6-92; Ord. No. 31A-168, 5-14-96; Ord. No. 31A-200, 7-13-99; Ord. No. 31A-253, 11-22-11)

Sec. 24-43. Buffer and setback requirements for timbering activities.

The requirements in this section shall apply to timbering activities located in all districts. This section shall not apply to tree removal activities conducted as part of a site plan, subdivision plan, or building permit that is currently under review by the county or has received final approval. Approval of site plans, subdivision plans, or building permits shall be in accordance with other provisions of the zoning ordinance and shall not be governed or guided by the provisions of this section. This section shall also not apply to timbering activities where all timbering is conducted outside of the buffers or setback for timbering listed in paragraph (1), (2) or (3) or for timbering within such buffers or setback for timbering to construct access drives having a maximum width of 30 feet. The following provisions shall apply to all timbering activities subject to this section except as otherwise noted:

- (1) *Buffer along public roads.* This paragraph shall not apply to the General Agricultural District, A-1. An undisturbed buffer at least 75 feet wide shall be maintained along all public roads. No trees or other vegetation shall be removed from this buffer except as permitted under this section.
- (2) *Buffer along community character corridor.* This paragraph shall not apply to the General Agricultural District, A-1. On all other property fronting on roads that are identified as community character corridors on the comprehensive plan, an undisturbed buffer at least 150 feet wide shall be maintained along the community character corridor on properties that are zoned residential. No trees or other vegetation shall be removed from this buffer except as permitted under this section.
- (3) *Setback for timbering.* In the General Agricultural District, A-1, for properties that are in the primary service area, all timbering activities shall be located a minimum of 50 feet from any public road right-of-way unless done in accordance with other provisions in section 24-43. This distance shall be known as the setback for timbering. In the general agricultural district, A-1, for properties outside the primary service area, there shall be no setback for timbering *except that those parcels adjacent to Wooded Community Character Corridors shall have a 50 feet wide setback for timbering.*
- (4) *Buffer and setback for timbering measurement and determinations.* The width of required buffers and setbacks for timbering shall exclude any planned future right-of-way as designated on the Six-Year Primary or Secondary Road Plan.
- (5) *Tree protection.* Required buffer areas and setbacks for timbering shall be marked by painting trees along the interior edge of the buffer. Equipment, timber, or other materials shall not be placed within the buffer or setback for timbering area.
- (6) *Processing requirements.* Prior to commencing any timbering activities within a buffer or setback for timbering except for a 30-foot access drive, the property owner or agent shall complete a timber buffer modification application and submit it along with a James City County Tax Map (with topography) to the planning director that shows the site's property lines, any existing and proposed driveway entrances, required buffer areas, and setbacks for timbering, and tree protection measures. The planning director shall determine whether to permit timbering activities within a buffer or setback for timbering in accordance with paragraphs (7) and (8) below. Upon approval of the application by the planning director, timbering activities within a buffer or setback for timbering may proceed. All timbering activities within a buffer or setback for timbering including location of driveways or any other land disturbing activities, shall take place only in those areas indicated on the approved map and in accordance with the methods approved by the planning director. The planning director shall have no more than ten working days from the filing of such application to approve or disapprove the application. If disapproved, the planning director shall write a letter to the applicant identifying the revisions to be made to gain approval.
- (7) *Modifications.* The planning director may grant modifications to the buffer, setback for timbering, and tree protection requirements when, in the opinion of the planning director, an alternative design

provides equivalent measures, or retains the rural character of the property, or when buffers, setbacks for timbering, or tree protection are unnecessary due to a site's physical conditions such as topography or presence of streambeds, wetlands or other natural features. The planning director may also permit tree removal within the buffer or setback for timbering when trees are weakened, dying, diseased, or insect damaged, or, in the opinion of the state forester or a certified horticulturalist, unlikely to survive or such removal will enhance the long term effectiveness of the buffer or setback for timbering as a visual barrier.

- (8) *Partial timbering within a buffer or setback for timbering.* The planning director may approve partial timbering of buffer areas and setback for timbering and the use and type of equipment for partial timbering, after considering the following:
- a. The effect of the timbering on the long-term effectiveness of the buffer area, or setback for timbering and on adjacent roads and properties;
 - b. The anticipated development of the property and the surrounding area;
 - c. The condition of any adjacent dwelling or subdivision including whether the structures are abandoned or dilapidated;
 - d. Any recommendations of the state forester or a certified horticulturalist, including recommendations on the use and type of equipment for partial timbering;
 - e. The health and diversity of trees with emphasis on protection of mixed hardwood trees, and the reforestation of the buffer or setback for timbering; and
 - f. The market value of the timber in the buffer or setback for timbering and the timber to be removed, and the market value of the timber on the balance of the property.
- (9) *Development review committee review.* The development review committee shall consider the timber buffer modification application if there are unresolved problems between the applicant and the planning director.
- (10) *Tree Replacement.* If timbering occurs within the buffers or setbacks for timbering described above in paragraphs (1), (2) and (3) and such timbering is not approved in accordance with paragraphs (7) and (8) above, trees shall be replaced at a ratio of one tree for each 800 square feet of area timbered. All replacement trees shall be of a species native to eastern Virginia. Such trees shall meet the standards for trees stated in section 24-2. The number and type of trees and their placement shall be approved by the planning director.

All trees shall be planted within 30 days from the date the trees were removed from the buffer or setback unless such period does not fall within the planting season. In such cases, their replacement in the next planting season (October 1 through March 31) shall be guaranteed by entering into a written agreement with the county and furnishing to the county a certified check, bond with surety satisfactory to the county, or a letter of credit in an amount to cover all costs of the plantings and their installation as estimated by the planning director. Such written agreement shall be entered into and such financial guarantee shall be provided to the county within 30 days from the date the trees were removed. The form of the agreement, financial guarantee, or type of surety shall be to the satisfaction of and approved by the county attorney. If the improvements are not completed in a timely manner, the planning director shall proceed to complete the improvements by calling on the surety or financial guarantee. After the first full growing season (February 1 to November 30) after planting, any trees not in a healthy growing condition or determined to be dead, diseased, or dying, shall be replaced as determined by the planning director. Thereafter, all trees shall be maintained in a healthy growing environment and in a healthy growing condition.

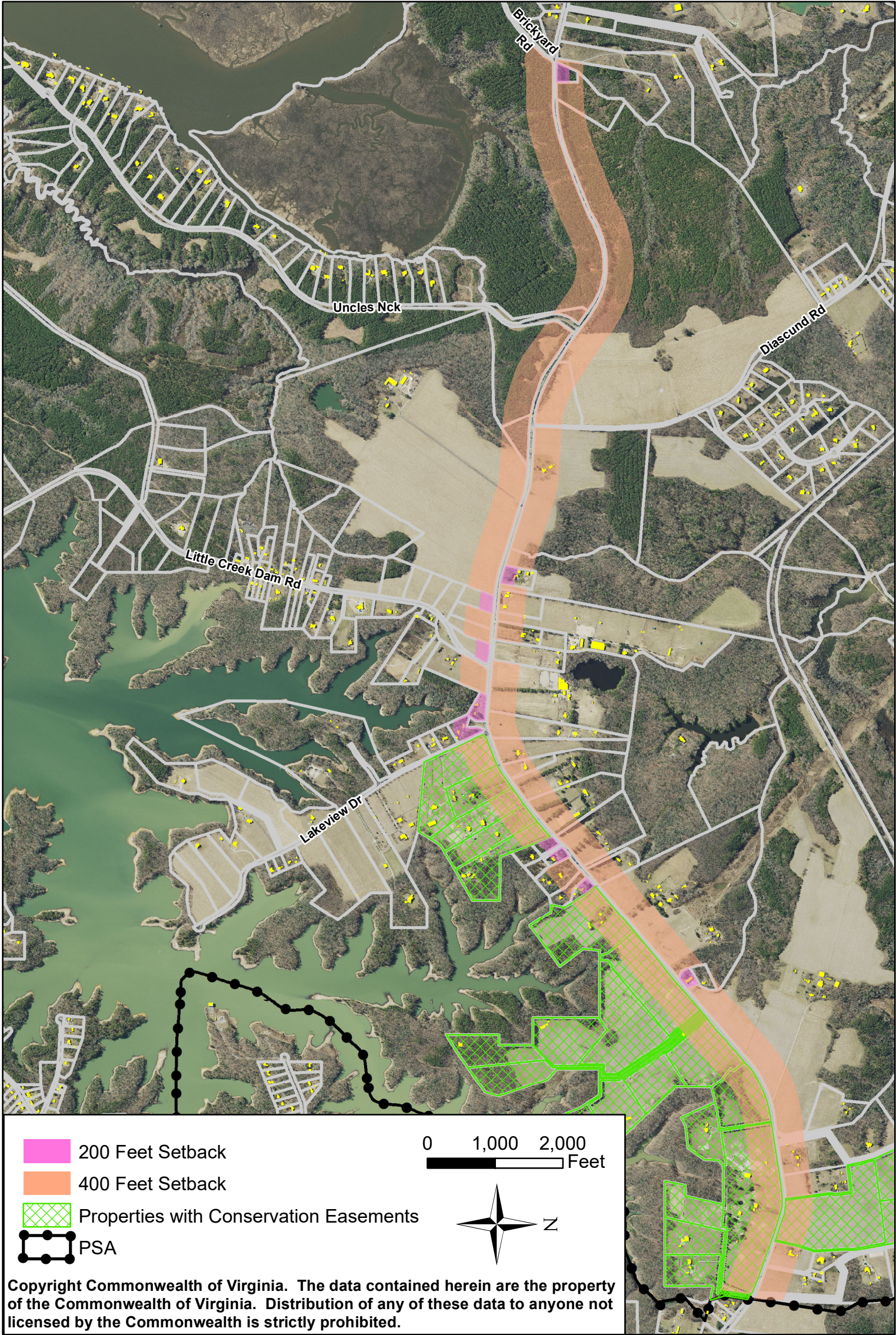
The planning director may allow some or all of the trees required by this paragraph to be planted outside the buffer or off-site when, if in the opinion of the planning director, such an alternative mitigates the environmental, buffering, or wildlife habitat impacts of the tree removal.

- (11) *Violations and penalties.* Prior to any criminal or civil enforcement under this section, the administrator or his designee shall give five days written notice of the violation to the owner of the property prior to commencing enforcement. The violation of any provision of this section concerning tree replacement in paragraph 10 above is subject to a civil fine pursuant to section 24-22. The violation of any other provisions in this section is subject to a criminal sanction under section 24-22.

(Ord. No. 31A-167, 3-26-96; Ord. No. 31A-169, 5-28-96; Ord. No. 31A-204, 5-8-01; Ord. No. 31A-257, 11-22-11)



JCC ORD-22-0001, Amendments for Scenic Roadway Protection. Forge Road Corridor





JCC ORD-22-0001, Amendments for Scenic Roadway Protection. Old Stage Road Corridor



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