

MEMORANDUM

DATE: August 11, 2022

TO: The Policy Committee

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

Introduction

At its meeting on October 26, 2021, the Board of Supervisors unanimously adopted the 2045 James City County Comprehensive Plan: *Our County, Our Shared Future*. The adopted plan includes the following strategy within the Land Use Chapter that focuses on preserving scenic roadways:

LU 6.3 - To help retain the character of Rural Lands, develop additional zoning and subdivision tools (e.g., scenic easement dedication requirements, increased minimum lot sizes, increased setbacks, and/or overlay districts) to protect and preserve scenic roadways such as Forge Road. Consider 400-foot setbacks along Community Character Corridors outside the PSA.

Aligning with this adopted strategy, the Board of Supervisors adopted an Initiating Resolution pertaining to the Zoning Ordinance and Subdivision Ordinance (see Attachment No. 1) at its meeting on November 23, 2021. The Initiating Resolution directs staff to consider additional requirements in both the Zoning Ordinance and Subdivision Ordinance to preserve scenic roadways such as Forge Road. To proceed with this amendment, staff seeks the Policy Committee's feedback or confirmation on a) what constitutes a scenic roadway, and b) which preservation tools should be explored for consideration for these roads.

Scenic Roadway Definition

The term "scenic roadways" is not specifically defined within the County Subdivision Ordinance or Zoning Ordinance or the adopted 2045 Comprehensive Plan, though "scenic resource corridors" are defined within the Zoning Ordinance as Community Character Corridors (CCCs) within the Comprehensive Plan. However, the County has a well-established practice of designating certain roadways as being important to the character of the County. Initially, "Greenbelt" roadways were designated on the 1975 Comprehensive Plan along five major segments of roads which were deemed to have great scenic value and contributed to the semi-rural character of the County. With public input, the concept and list of road segments expanded over time, and in 1997, Greenbelts were renamed CCCs in the Comprehensive Plan to recognize the diverse characteristics of these roads (wooded, suburban/urban, and open/agricultural). Over time, the CCC designation and related policies and Ordinance requirements have been critical in preserving the character of these roads and adjacent areas.

The 2045 Comprehensive Plan contains standards and guidelines for how CCCs are to be treated during development and how to preserve the unique community character along these key corridors throughout the County (see Attachment Nos. 2 and 3). Currently, there are three different types of landscape design guidelines for development along CCCs with buffer treatments: Open/Agricultural, Urban and Suburban, and Wooded. These guidelines are tailored to each CCC to ensure that character is preserved when development is proposed within the County.

Complementing its review of the Comprehensive Plan, Planning staff researched the existing scenic road designations from the Federal Highway Administration (FHA) and the Virginia Department of Transportation (VDOT). Both government agencies have designated three roadways as scenic within the County. The FHA has recognized the Colonial Parkway as a National Scenic Byway and has further designated it as an All-American Road meaning this byway has at least two intrinsic qualities in the National Scenic Byway program: Natural Quality and Historic Quality. The Colonial Parkway has been carefully planned and maintained by the National Park Service since its completion in the 1950s and is currently classified as a Wooded Community Character Corridor in the 2045 Comprehensive Plan.

VDOT has designated John Tyler Memorial Highway (Route 5) and Greensprings Road (Route 614) as Virginia Scenic Byways. A Virginia Scenic Byway is a road designated by the Commonwealth Transportation Board (CTB) as having relatively high aesthetic or cultural value, leading to or within areas of historical, natural, or recreational significance. John Tyler Memorial Highway and Greensprings Road are currently classified as Wooded Community Character Corridors in the 2045 Comprehensive Plan.

For the purpose of these Ordinance amendments to implement Land Use (LU) 6.3 for the Rural Lands of the County, staff recommends the Policy Committee identify “scenic roadways” as portions of CCCs located outside of the Primary Service Area (PSA). Should the Policy Committee proceed with this approach, the segments of the following CCCs outside the PSA would be considered for additional regulations as part of this Ordinance amendment process:

1. Forge Road (classified as “Open/Agricultural”)
2. Old Stage Road (classified as “Open/Agricultural”)
3. Richmond Road (classified outside the PSA as “Wooded”)
4. Monticello Avenue (classified outside the PSA as “Wooded”)
5. John Tyler Memorial Highway (classified outside the PSA as “Wooded”)
6. Riverview Road (classified as “Wooded”)
7. Centerville Road (classified as “Wooded”)
8. Colonial Parkway (classified as “Wooded”)

Current Preservation Tools

The County has several existing tools that offer a basic level of protection for roads that are considered scenic within the County. The most commonly applied tools are setbacks within each zoning district, buffering requirements for CCCs, and conservation easements voluntarily negotiated between property owners and the County.

- **Setbacks** - A setback is defined as “The distance by which any building or structure must be separated from the front lot line.” Since there is not a section within the Zoning Ordinance that defines scenic roadways and provides setbacks in accordance with their scenic designation, setbacks are applied uniformly within each zoning district. The vast majority of property designated for Rural Lands within the County is zoned A-1 District, which has a minimum setback requirement that is determined by the width of the adjacent right-of-way (ROW) and the acreage of the lot. This requirement is a minimum of 50 feet and ensures that this area on private property is free of structures that could interrupt the viewshed. Currently, the setback requirements within the A-1 District does not vary based on whether or not an adjacent road is considered scenic.
- **Buffers** - While setbacks only address structures and the distance they must be from the front lot line, buffers typically regulate all land use within a given area. In James City County, this will typically specify that existing vegetation remain undisturbed and/or that additional plant material be included to meet minimum planting requirements. While most zoning districts in the County require an ROW buffer for major subdivision developments (with an increased width for CCCs), this requirement is currently not included in the A-1 District (although there are some screening requirements in the

Landscaping section that may apply depending on the development configuration and adjacent zoning districts). For minor subdivision development, the A-1 District is similar to most other districts in not requiring a buffer. On the commercial use side, landscape buffer requirements found in the Landscaping section (Article II, Division 4) apply across all districts; section 24-98 covers landscape areas along rights-of-way, specifying an average width of 50 feet along CCCs and an average width of 30 feet along other roads.

- **Scenic Conservation Easements** - Prior to the County having ROW buffer requirements for CCCs in the Zoning Ordinance, the County and developers sometimes used scenic conservation easements as a way to uphold landscape standards along CCCs (e.g., Williamsburg West and St. George's Hundred). This was an inconsistent practice and became less utilized as the master plan and proffer system came into more widespread use and subsequent Zoning Ordinance requirements standardized minimum expectations for commercial developments and major subdivisions. Historically, the County has used its Greenspace Program to partner with willing property owners to extend scenic protection to certain properties. Specific examples have included a 150-foot scenic easement on property along Route 5 outside the PSA where there was no timbering buffer, a 400-foot scenic easement across the lots in Warren Farm Estates on Forge Road. More typically, scenic protection has been addressed as one item within a more extensive open space easement, such as the 1,000-foot visual buffer for Carlton Farms and the 400- to 800-foot landscape buffer for the Peaceful Meadows Farm.
- **Timbering Requirements** - There are some provisions in the Zoning Ordinance that address timbering (forestry activities) as a use, with the intent of addressing impacts of this use on community character. Section 24-43 of the Ordinance has buffer and setback requirements for timbering activities adjacent to rights-of-way. The buffer provisions of 75 feet and 150 feet, for roadways and CCCs respectively, do not apply to A-1 zoned land, and the 50-foot setback for timbering currently only applies to A-1 zoned land inside the PSA.

Potential Scenic Roadway Preservation Tools

Staff has provided an initial analysis of the examples listed within Goals, Strategies, and Actions (GSA) LU 6.3 (as well as an additional option) as a starting point for discussion by the Policy Committee. Staff has provided a table highlighting the major strength and weakness of each option for consideration by the Policy Committee. EPR, PC has provided a visual analysis of viewsheds and structures at specific distances from a roadway (see Attachment No. 5) to aid discussion of these options. This document is intended to show the Policy Committee how these distances affect character and what the current development pattern is within these distances.

Table 1: Requirement Options for Scenic Roadway Protection

GSA Option	Strength	Weakness
1. Scenic Easement Dedication Requirement	Could give the County the ability to regulate improvements within a certain distance of the ROW of scenic roadways, including those improvements not affected by setbacks (e.g., fencing).	After discussing this option with the County Attorney's Office, staff has concluded that requiring scenic easement dedication as an administrative requirement within the Subdivision Ordinance is not legally viable.
2. Increased Minimum Lot Size	Decreases development potential for future subdivisions along scenic roadways	Would only affect lots to be created in the future and could be potentially redundant, given the Ordinance amendment for the A-1 and R-8 Districts being considered; changing the minimum lot sizes without changing setbacks, could still allow structures to be constructed closer to the roadway.
3. Increased Setbacks/Buffering	Could immediately preserve the viewshed (open, wooded, etc.) for a set area through an established mechanism commonly implemented within the existing Zoning Ordinance.	Could create lawful non-conformities and restrict the development potential of shallower lots (though exemptions and grandfathering can be included to prevent undue hardship).
4. Overlay Districts	An approach that would allow regulations to be specifically crafted to the context of each scenic roadway. These regulations could include development standards, architectural review, etc.	An intensive zoning text amendment that would require the County to initiate the rezoning of hundreds of parcels, with additional development standards that could potentially exceed the scope of LU 6.3. Staff would need to determine if these are legally possible since this tool is frequently used in other localities in the context of protecting designated historic areas.
5. Mandatory Clustering for Major Subdivisions	Preserving 70% to 80% of open space of adjacent land would provide significant protection of scenic vistas and viewsheds.	Unless coupled with setback requirements specific to scenic roadways, this would not prevent residential development from occurring immediately adjacent to scenic roadways; this tool may not protect development occurring under minor subdivisions or with existing lots.

Based on staff's initial analysis provided above, staff does not recommend further evaluation of Option Nos. 1, 2, or 4. However, staff does recommend further evaluation of Option No. 3. Staff could further evaluate Option No. 5, as directed. Staff anticipates receiving an analysis of the scenic road preservation tools employed by peer localities within the Commonwealth of Virginia from EPR, PC prior to the next Policy Committee meeting, which will help inform staff's evaluation of Option Nos. 3 and 5.

Recommendation

Based on the materials provided by EPR, PC and the analysis presented in the overview above, staff recommends the Policy Committee, for the purpose of fulfilling the intent of this Initiating Resolution and LU GSA 6.3 (which focuses on those roadways outside of the PSA) identify “scenic roadways” as those portions of CCCs located outside of the PSA. Furthermore, staff recommends that the Policy Committee direct Planning staff to further evaluate Option No. 3 for scenic roadway protection.

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Attachments:

1. Initiating Resolution
2. 2045 Comprehensive Plan Community Character Chapter
3. Community Character Corridor (CCC) Buffer Treatment Guidelines and Map
4. 2045 Comprehensive Plan Land Use Designation Description for Rural Lands
5. Rural Roadway Preservation Analysis