

## MEMORANDUM

DATE: November 10, 2022

TO: The Policy Committee

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

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### 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.

### Policy Committee Direction

At its August 11, 2022, meeting, the Policy Committee directed staff for the purpose of this Ordinance amendment, to identify Community Character Corridors (CCCs) as those scenic roadways referenced in Goals, Strategies, and Actions (GSAs) LU 6.3 plus the portion of Croaker Road outside the Primary Service Area (PSA) that connects to Sycamore Landing Road. Furthermore, the Policy Committee directed staff to explore increased setbacks and buffering and mandatory clustering as the preservation tools for accomplishing this GSA.

Following this guidance, Planning staff met with the County Attorney's Office to further discuss these options. The County Attorney's Office informed staff that preservation tools for roadways must be applied uniformly and categorically. This means that the County can increase setbacks and buffering standards along roadways, but the roadways must be within an established category. As such, the proposed inclusion of Croaker Road to Sycamore Landing Road could not be included in the list below, since these two roads are not CCCs.

Furthermore, in reviewing the updated Future Land Use Map and relevant property information, staff notes that Centerville Road and the Colonial Parkway are wholly located within the PSA and that there are less than 10 parcels abutting these CCCs located outside the PSA. Furthermore, the property located adjacent to the Colonial Parkway is wholly located within the Gospel Spreading Farm Agricultural and Forestal District (AFD) and does not take its setback from the Colonial Parkway. Based on this further research and analysis, staff recommends removing these two CCCs from the list under consideration. The revised list of CCCs is provided below (the classification of CCC is included in parentheses):

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”)

Planning staff also evaluated the mandatory clustering option for major subdivisions adjacent to scenic roadways. There are two factors that lead staff to recommend against pursuing this requirement. First, if ORD-22-0002 was approved by the Board of Supervisors, resulting in a minimum lot size of 20 acres for A-1 and R-8 properties that are greater than 25 acres in size. This change will significantly decrease the possibility of suburban-style development for large tracts of property located in the County’s Rural Lands. Second, the proposed buffering and setbacks recommended for this Ordinance amendment would result in new proposed residences being in a significantly less visually impactful location. As such, these two Ordinance amendments would work in tandem to protect the scenic roadways, making the requirement for mandatory clustering of major subdivisions less necessary. Indeed, with the aforementioned changes, staff finds that mandatory clustering would not be a necessary tool to preserve the rural character of the County. Voluntary clustering could remain as an option however, as there may be additional factors favorable depending on specific details of specific properties.

### **Scenic Roadway Factors**

There are three major factors to consider for a proposed increase to setbacks and buffering for the purpose of retaining the character of Rural Lands. These factors are: a) the existing character of the roadway being considered; b) the vision for the roadway as expressed within the Comprehensive Plan; and c) the amount of preservation necessary to preserve character and achieve this vision. Staff has prepared a briefing of the existing character and Comprehensive Plan roadway vision factors for each roadway under consideration, which is found in Attachment No. 6. The sections below discuss staff’s recommendations for Ordinance tools to address preservation of character through setback and buffer approaches. As discussed in staff’s previous memorandum to the Policy Committee, setbacks are an Ordinance tool that only addresses structures and the distance they must be from the front lot line, while buffers typically regulate all land use within a given area and address landscape standards within that area.

### **Recommended Setback**

Staff recommends increasing the setback requirement within the General Agricultural District, A-1, Zoning District, rather than creating a section within the Zoning Ordinance specific to scenic roadways for two reasons. First, locating the enhanced setback within the A-1 Zoning District allows the setback to be applied evenly on a parcel basis. Second, per the County Attorney’s Office guidance, creating a section for scenic roadways with unique setbacks could risk this amendment being considered an overlay district, which would affect continuation of the project in its current form.

Currently, the setbacks found within the A-1 Zoning District vary based on the lot size requirement and the use being proposed. (See existing A-1 setback requirements in Attachment No. 7.) Since the scope of this Ordinance amendment is focused on protecting scenic roadways, staff recommends tailoring an enhanced setback to apply only to those parcels adjacent to these scenic roadways and located outside the PSA.

Furthermore, staff recommends an enhanced setback be tailored to apply solely to the Open/Agricultural CCCs, with enhanced buffering being tailored to apply solely to Wooded CCCs. As detailed within Attachment No. 6, the Open/Agricultural CCCs are intended to preserve the viewshed and integrity of farm fields and natural open spaces, which is best accomplished by a larger setback rather than increased buffering. Wooded CCCs are intended to preserve natural wooded areas and encourage supplementary

planting to ensure that buffers visually screen development from the road, which is best accomplished by buffering rather than an enhanced setback.

For the Open/Agricultural CCCs, staff recommends a setback of 400 feet for structures. This proposed setback aligns with the width recommended for consideration in GSA LU 6.3 and is recommended as an option within EPR's Rural Roadway Preservation Analysis. EPR's analysis states that the 400-foot setback is "more similar to a typically rural context and view from the road" and "provides an opportunity to create buffering and screening around the houses with vegetation that would be more reminiscent of a rural farm scape rather than a suburban landscape pattern." As can be seen in Planning staff's analysis, this distance matches the character of Forge Road regarding existing structure locations and parcel sizes. In consideration of the property owners with shallower lots and houses near the roadway for Forge Road and Old Stage Road, staff recommends exempting shallower parcels (and considering allowing certain parcels to utilize setbacks previously recorded on subdivision plats). Another possible exemption that staff had considered was for traditional agricultural structures (barns, run-in sheds, etc.) in recognition of agricultural and forestal uses being the intended primary uses in the A-1 District. However, staff has concluded that having a lesser setback for agricultural structures could have significant enforcement implications and could result in unintended violations or the inability to use or convert structures to non-agricultural uses over time.

### **Recommended Buffering**

Currently when developments are proposed along private/public rights-of-way, landscape buffers directly adjacent to the rights-of-way are required to be preserved and/or supplemented with additional landscaping. For commercial projects, the landscape section of the Ordinance requires a 50-foot-wide vegetated buffer along CCCs for all districts. For residential uses, a buffer for major subdivision development (150 feet in width for CCCs), is currently not included in the A-1 District unlike most residential or mixed-use zoning districts. For minor subdivision development and at the time of issuance of building permits on existing lots, the A-1 District is similar to other districts in not requiring a buffer. Staff recommends the following Ordinance changes be considered:

- Buffers along Wooded CCCs. For commercial projects, staff recommends enhanced buffering by increasing the width of the required buffer (in Section 24-98) from 50 feet to 100 feet wide. For residential major subdivisions, staff recommends establishing a buffer requirement in the A-1 District with a specified width of 200 feet. The vegetated buffer should remain undisturbed and supplemented with additional landscaping to meet the minimum quantity required of trees and shrubs in accordance with existing Zoning Ordinance buffer language currently found in other districts.
- Buffers along Open/Agricultural CCCs. Staff recommends no additional buffering requirements for these CCCs.
- Timbering Activities Buffer/Setback. Section 24-43 of the Zoning Ordinance requires buffer and setbacks for timbering activities. Subsection (3) addresses properties that are zoned A-1, and currently specifies that for properties within the Primary Service Area (PSA), all timbering activities shall be located a minimum of 50 feet from any public right-of-way, while for properties that are outside the PSA, there is no required setback for timbering. In order to address the preservation of the character of wooded CCCs, staff recommends considering amending this language to include a timbering setback of at least 50 feet on properties along Wooded CCCs outside the PSA.

Attachments:

1. Initiating Resolution
2. 2045 Comprehensive Plan Community Character Chapter
3. Community Character Corridor Buffer Treatment Guidelines and Map
4. 2045 Comprehensive Plan Land Use Designation Description for Rural Lands
5. Rural Roadway Preservation Analysis
6. Scenic Roadway Character and Vision Summary
7. A-1 Setback Requirements