

MEMORANDUM

DATE: January 24, 2023

TO: The Board of Supervisors

FROM: Tim O'Connor, Planning Commission Chair
Jack Haldeman, Policy Committee Chair
Paul D. Holt, III, Director of Community Development and Planning

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

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.

After meeting at its regular meetings in August, November, and January, the Policy Committee has made progress on this item. Specifically, the Policy Committee has identified and recommended which roads in the County should be considered “scenic roadways” and they have provided recommendations for the best tool for protecting each roadway. Prior to next steps, Planning staff and the Policy Committee are requesting the Board provide input and direction on the following considerations.

Consideration No. 1: Defining Scenic Roadways

The term “scenic roadways” is not defined within the Initiating Resolution, County Ordinance, or Comprehensive Plan. However, the County has a well-established practice of designating certain roadways as being important to the character of the County. This practice began with the “Greenbelt” designation for certain roadways on the initial 1975 Comprehensive Plan. This concept later developed into the Community Character Corridors (CCC) designation on the current Comprehensive Plan to recognize the diverse characteristics of these roads (wooded, suburban/urban, and open/agricultural). The CCC designation and related policies and Ordinance requirements have been critical in preserving the character of these roads and adjacent areas. As such, the Policy Committee recommended that the following CCC roadway segments located outside the Primary Service Area (PSA) be considered scenic roadways for the purpose of this Ordinance amendment. Centerville Road and the Colonial Parkway were not selected given how brief a span portions of these roadways are located outside of the PSA and the existing protections in place for those areas.

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**”)

Options for Moving Forward

Option 1: No additional proposed changes to how “scenic roadway” segments are defined. Staff and the Policy Committee will continue to move forward drafting a proposed Ordinance for consideration for these roadways.

Option 2: Consider other ways to define “scenic roadways.” With additional feedback and input, staff and the Policy Committee will revisit this definition and provide the Board with another update.

Consideration No. 2: Protection Tools

The Policy Committee considered many potential options for protecting these roadways, with the options listed within Goals, Strategies, and Actions (GSA) LU 6.3 providing the starting point. These options, with their respective strengths and weaknesses, are found in the table below. The Policy Committee reviewed these options and ultimately are recommending the setback or buffer tool for this amendment (Option No. 2 within the table).

GSA Option	Strength	Weakness
1. Scenic Easement Dedication Requirement	Could give the County the ability to regulate improvements within a certain distance of the right of way 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.	The minimum lot sizes in R-8 and A-1 were increased via amendment of the Zoning Ordinance in October 2022. This change will significantly decrease the possibility of suburban-style development for large tracts of property located in the County’s Rural Lands. However, changing the minimum lot sizes without changing setbacks could still allow structures to be constructed relatively close 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.	Would be an intensive zoning text amendment that would require the County to initiate the rezoning of parcels, with additional development standards that could potentially exceed the scope of LU 6.3.

5. Mandatory Clustering for Major Subdivisions	Preserving open space could provide significant protection of scenic vistas and viewsheds.	Unless coupled with setback requirements specific to scenic roadways, this would not necessarily prevent residential development from occurring immediately adjacent to scenic roadways; in addition, this tool may not protect against development occurring under minor subdivisions or with existing lots. The change in the minimum lot size approved in October 2022, coupled with enhanced setbacks/buffers, would likely result in new proposed residences being in significantly less visually impactful locations, lessening the need for a tool that makes clusters mandatory. (Clusters are currently voluntary, and would remain so, if this tool is not selected.)
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Furthermore, the Committee recommends the setback or buffer be tailored to each CCC type. As adopted in the Community Character Chapter of the Comprehensive Plan, 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 supplemental planting to ensure that buffers visually screen development from the road, which is best accomplished by buffering rather than an enhanced setback. The Policy Committee has discussed the following approaches for these roadways.

For Open/Agricultural CCCs, a proposed setback of 400 feet for all structures along Open/Agricultural CCCs has been discussed. 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."

Staff reviewed the impact of the proposed 400-foot setback on the status of structures adjacent to the County's two Open/Agricultural CCCs, Forge Road and Old Stage Road. Staff recommended the following two exemptions for the setback:

- Parcels that are 500 feet deep or less;
- Allowing existing structures within the 400 feet to be expanded, provided they do not expand further within the setback toward the roadway.

Graphic simulations of these two roadways were also developed to illustrate the visual effect of the current setback distance as compared to the proposed 400-foot setback. Both analyses are included within Attachment No. 7.

Policy Committee Summary. The majority of the Policy Committee supports the proposed enhanced setback, provided there are offsetting benefits to the property owners (e.g., clustering options, financial considerations, etc.). A point of concern raised is the impact on property owners wishing to build closer to the road. The Policy Committee unanimously recommends the two exemptions detailed above.

For Wooded CCCs, the following buffering requirements are recommended:

- Buffers along Wooded CCCs. For commercial projects, increasing the width of the required buffer (in Section 24-98) from 50 feet to 100 feet wide. For residential major subdivisions, 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.

- **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 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 provide enhanced preservation of the character of Wooded CCCs, amend this language to include a timbering setback of at least 50 feet on properties along Wooded CCCs outside the PSA.

Policy Committee Summary. The Policy Committee unanimously recommends these proposed measures for Wooded CCCs.

Options for Moving Forward

Option 1: No additional proposed changes to the proposed preservation tools. Staff and the Policy Committee will continue to move forward drafting a proposed Ordinance for a proposed setback of 400 feet for Open/Agricultural CCC Scenic Roadway segments (with the two exemptions referenced previously) and an enhanced buffering and a timbering activities buffer requirement for Wooded CCC Scenic Roadway segments, as described above.

Regarding the component of the Policy Committee's recommendation for the potential offsetting benefits to the property owners, staff and the Policy Committee are seeking direction on one of the following options:

- a. Staff and the Policy Committee would explore benefits that could offset the impact of the enhanced setback prior to bringing this item forward for the Board's consideration.
- b. Once the draft is complete, the proposed Ordinance would be brought forward for the Board's consideration. Additional benefits that could offset the impact of the setback would be considered following adoption of the Ordinance, as part of staff's continued work plan to update the Ordinance over the next two years.
- c. The Policy Committee and staff would draft language incorporating the enhanced setback and buffering with the two exemptions detailed above, with no additional consideration for offsetting benefits.

Option 2: Consider a different combination of preservation tools. With additional feedback and input, staff and the Policy Committee will revisit this item and provide the Board with another update in the near future.

Conclusion

The purpose of this work session item is to receive additional discussion and guidance from the Board on these two decision points. After receiving initial input and consensus on a direction from the Board, staff and the Policy Committee will proceed with developing the draft Ordinances and policies.

TOC/JH/PH

ORD22-1AmendSRP-mem

Attachments:

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