

## **J4C INPUT TO ORDINANCE REVIEW TREE ORDINANCE**

JULY 2010

The James City County Citizens Coalition (J4C) has, over the past few years, watched as more and more beautiful, mature trees have been taken down to make room for development. This takes place regardless of the costs in terms of the environment, beauty of the area, wishes of the residents and sustainability for future generations. During the 2009 Comp Plan updating, it expressed concern for the preservation of trees during construction, not only for their aesthetics and the vistas they provide, but for their role in environmental protection. In general, ordinances should limit the number of exceptions and waivers, particularly in environmental matters and on community character corridors.

The County's Comp Plan and subsequent ordinance updates provide an opportunity to review current requirements or lack thereof, and move to incorporate more reasonable measures to protect the trees. A deaf ear has met citizens' continuous pleas for no-clear cutting and more attention to the few remaining forested areas. A fully implemented ordinance and early tree surveys and conceptual plans addressing the ordinance is no doubt the best way to remedy the situation.

The State Code of Virginia has incorporated tree conservation and a number of counties and cities in the State have adopted tree ordinances to ensure preservation of existing trees. The majority of James City County's attention to tree preservation is included in the Landscape ordinance and often developer's address the issue long after the conceptual plan stage. The J4C believes that an earlier site review of the trees and addressing them within the conceptual plan is essential to their preservation and the satisfying of citizens concerns.

The Code of Virginia recognizes the importance of tree preservation in its para. 18.2-140 – Destruction of trees, shrubs, etc. and its para. 15.2-961 and 15.2-961.1 – Replacement of trees during development process in certain localities. Its para. 10.1-1127.1 – Tree conservation ordinance; civil penalties indicates that violations of any ordinance regulating the removal of heritage, specimen, memorial or street trees is punishable by civil penalties.

In its review of Virginia city and county ordinances, the J4C finds the wording in those from Virginia Beach, Arlington and Lynchburg (as shown in Figure 1) more suitable to what we would like to see in a James City County Tree Ordinance. **(PUT FIGURE 1 ON THE OVERHEAD)**

As stated earlier the James City County ordinances have placed tree preservation primarily in the Landscaping Ordinance, with coverage also included in environment. The recently completed Comp Plan's Goals, Strategies and Actions (GSAs) fall in Community Character and Environment and include those identified in Figure 2. **(PUT FIGURE 2 ON THE OVERHEAD)**

The J4C believes that the approved GSAs can only be met with changes to the ordinances and with commitments of county officials and staff to implement the following recommendations:

- 1) identify and mark mature trees that can be saved during the conceptual planning stage and before site plans are prepared;
- 2) prohibit all clear cutting;
- 3) identify trees that are to be preserved, possibly through phased removal of any trees not identified for preservation. Phased cutting should be limited to the areas under immediate construction. As has been shown, sites completely cleared and allowed to stand for months if not years, are a blight on the community.
- 4) make preservation of tree canopies mandatory and, where they do not exist, an effort should be made to create them;
- 5) discourage development along these corridors (specifically those designated as historic areas or by-ways) and prohibit tree destruction;
- 6) create a special "tree ordinance" for the county, incorporating street trees, a "Specimen Tree Policy" and sections of any other ordinances relating to tree preservation;
- 7) incorporate "tree save" areas into the conceptual plan process.
- 8) provide additional credits for preservation of wooded areas where erosion will be reduced. Trees absorb and filter large amounts of stormwater - more than most BMPs

Additional information resulting from our review of current landscaping and other James City County ordinances have been given to the Policy Committee for its use in the rewrite exercise.

~~Figure 1~~  
**Figure 1 – Virginia City and County Tree Ordinance Excerpts**

The Virginia Beach City Code, Section 1.1 states in its opening narrative: “Trees are proven producers of oxygen, a necessary element for the survival of man. Trees appreciably reduce the ever-increasing and environmentally dangerous carbon dioxide contents in the air, and they play a vital role in purifying the air that man breathes. Trees precipitate dust and other particulate airborne pollutants to settle on the ground. Trees, through their root systems, stabilize the water table and play an important and effective part in soil conservation and erosion control.”

Arlington County defined the purpose of its tree ordinance to “protect the health, safety, and welfare of County citizens and the general public, to safeguard the ecological and aesthetic environment necessary to a community, to preserve, protect, and enhance valuable natural resources, and to conserve properties and their values.”

The Lynchburg ordinance defines its goals as: “ensure development consistent with the goals of the comprehensive plan; reduce soil erosion; increase infiltration in permeable land areas to improve stormwater management, mitigate air, dust, noise and chemical pollution; reduce heat island effect; protect property values, provide buffers between incompatible uses; preserve existing natural vegetation as an integral part of the city and ensure that the city remains an attractive place to live, visit and work”.

## **Figure 2 – GSAs PERTAINING TO TREES**

- Environment 1.1.2.5 – Promoting early submission of environmental inventories in order to protect trees,.....
- Environment 1.1.2.8 - Continuing to promote the protection of trees.
- Economic Development 1.1.6 – Support the recommendations of the Business Climate Task Force Report as determined by the Board of Supervisors. The report recommends: Staff will continue to encourage engineers and developers to pursue the use of the conceptual site plan review process; ...the conceptual site plan review process include a detailed site analysis that includes RAs and other primary and secondary conservation features.
- Community Character 1.1.3 – Designate Community Character Corridors as wooded, urban and suburban, or open/agricultural.....
- Community Character 1.3.5 – Expect that all currently approved and new development blends carefully with the topography and surrounding vegetation; preserves unique formations, greenery, and scenic views; and uses sustainable plantings and building techniques.
- Community Character 1.3.8 – Design streets in commercial/retail centers and residential areas to better encourage street level activity and a safe and attractive pedestrian environments by encouraging the use of tools such as traffic calming, pedestrian scale amenities, gathering spaces, pedestrian places, street trees, pocket parks, and consolidated entrances with fewer curb cuts. Develop voluntary guidelines that can be used through the special use permit or rezoning process.
- Community Character 1.5.1 - Review and amend applicable County ordinances and/or policies as enabled by Virginia Code to require a more detailed phased clearing plan that minimizes the removal of existing trees and ensures tree preservation measures are implemented during site plan review and pre-construction phase of development.
- Community Character 1.5.2 – Consider adopting a Specimen Tree Policy that would enable developers who wish to preserve specimen trees that are not within required tree save areas an option of gaining a waiver to delete another portion of the landscape requirements in order to preserve the more desirable existing trees.
- Community Character 1.53 – Improve the methods the County uses during planning, pre-construction, construction and post-construction phases to ensure tree preservation measures are properly performed, resulting in healthy specimen trees and buffers and in proper maintenance.

### **FIGURE 3 – RECOMMENDATIONS**

- 1) identify and mark mature trees that can be saved during the conceptual planning stage and before site plans are prepared;
- 2) prohibit all clear cutting;
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## TREES IN CURRENT ORDINANCES

- p.1. sec. 24-86 – Reasons for tree preservation and landscaping requirements.
- p.1 and 2. sec. 24-87(d) – Landscape plans, no c.o. all slants in, replacing and maintenance landscaping
- p. 2 and 3. sec. 24-88(b)(6) – Substitutions to landscape plans.
  - (p.3) landscape preserves and complements existing trees and topography substitutions.
- p. 4 . sec. 24-89 – tree protection – existing mature and specimen trees shall be preserved, during construct, groups of tree - fencing, erosion - tree removal – p.10  
Right of way (e) # 2 and 3
- p. 5. sec. 24-90 – Size of plantings – trees, ornamentals, shrubs (chart)
- p. 5. sec. 24-91 – Definition of existing trees – (Sec. 24-2- has complete definition)
- p. 6. sec. 24-92 – Plant landscape properly
- p. 6. sec. 24-93 – Tree credits – saving trees reduces number of trees, thus need to plant saved trees labeled on seam – local, #, size, type  
chart giving tree credits
- p. 7. sec. 24-94 – Landscape standards – except near buildings and parking lots
  - a) tree preservation – existing trees shall be retained to the maximum extent possible in the landscaped areas (landscape standards) – per 400 sq.ft. 1 tree, 3 shrubs planted
  - b) size and mixture of plants - % of trees required (chart)
- p. 7 and 8. sec. 24-95 – Near buildings – 10 feet-wide area, per 200 ft<sup>2</sup> = 1 ornamental and 5 shrubs
- p. 8, 9, 10, 11. sec. 24-96 – Right of way – width of buffers (chart – p. 8)  
structure and parking setback  
waivers for buffers – 10’ and 15’  
breaks in buffers  
tree saving, grooming and enhancement  
tree protection and landscape requirements ( see section 24-94; p. 7-11)
- p. 11 & 12. sec. 24-97 – Parking Lots – tree preservation and landscape planting (chart)  
size & mixture of plantings (chart)  
screening – evergreens or berms – 3’ high  
bus parking lots
- p. 14 & 18. sec. 24-99 – Multifamily – setbacks – 50’ and internal streets setbacks
  - (a)(1)(2); (c)(2)(a) contain existing trees  
yards – contain existing trees  
transitional screening  
look at sec. 24=184 (manufactured homes)  
landscaping side and rear and right of way – screening (business)  
landscaping near buildings and transitional screening (business)  
open space (chart) and impervious cover – not more than (bus.) ( setbacks (PUD & MU) )  
yards “
  - (d)(1)(a)(b); d(2) industrial – setbacks and landscape near buildings
  - & (3) transitional screening

## **LANDSCAPE ORDINANCE**

Existing trees should be preserved.

p. 1 - 2 – emphasis on preserving existing tree canopy.

p. 2, d – existing trees shall be preserved (- landscape for c.o.)

p. 3 -2 – landscape plan preserves and complements existing trees and topography substitutions..

p. 4 – 1 – existing mature trees shall be preserved

Tree protect – existing mature and specimen trees – integrated into overall plan. All uses – common or planning director may require that native trees or specimen trees be preserved because they contribute significantly to \_\_\_\_\_ of the county.

p. 6 – a – Tree credits – existing viable trees, preserved on site

p. 7 – a – existing trees shall be retained to the maximum extent possible in the landscaped areas. (landscape standards)

p. 11 – a – parking lots – designed and constructed so that existing viable trees are preserved to the maximum extent possible.

p. 15 – R5 – Multifamily residential – yards – shall contain existing trees and plantings.

p. 17 – PUD (a) & MU (b) – internal street (setbacks)– shall contain existing trees and plantings

p. 17 – 2 – yards – all yards shall contain existing trees and plantings.