

A G E N D A

JAMES CITY COUNTY BOARD OF SUPERVISORS

READING FILE

November 27, 2012

FOR YOUR INFORMATION

1. Clean Copies of Ordinances
 - a. ZO-07-09-10, Ordinance 1
 - b. ZO-07-09-10, Ordinance 2

112712readingfile_age

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; ARTICLE V, DISTRICTS, DIVISION 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-245, BUFFER REQUIREMENTS; DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-266, BUFFER REQUIREMENTS; DIVISION 4.1, RESIDENTIAL REDEVELOPMENT DISTRICT, R-3, SECTION 24-273.7, OVERALL DENSITY WITHIN SUBDIVISIONS; DIVISION 6, MULTIFAMILY RESIDENTIAL DISTRICT, R-5, SECTION 24-311, BUFFER AND SETBACK REQUIREMENTS; DIVISION 14, PLANNED UNIT DEVELOPMENT DISTRICT, PUD, SECTION 24-287, DENSITY; SECTION 24-492, SETBACK AND/OR BUFFER REQUIREMENTS AND YARD REGULATIONS; AND DIVISION 15, MIXED USE, MU, SECTION 24-519, DENSITY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions; Article V, Districts, Division 3, Limited Residential District, R-1, Section 24-245, Buffer requirements; Division 4, General Residential District, R-2, Section 24-266, Buffer requirements; Division 4.1, Residential Redevelopment District, R-3, Section 24-273.7, Overall density within subdivisions; Division 6, Multifamily Residential District, R-5, Section 24-311, Buffer and setback requirements; Division 14, Planned Unit Development Districts, PUD, Section 24-287, Density; Section 24-492, Setback and/or buffer requirements and yard regulations; and Division 15, Mixed Use District, MU, Section 24-519, Density.

Chapter 24. Zoning

Article I. In General

Sec. 24-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Affordable housing. Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between 30 percent and 80 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

Workforce housing. Housing available at a sales price or rental amount that does not exceed 30 percent of the total monthly income of households earning between greater than 80 percent and 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development (HUD).

Article V. Districts

Division 3. Limited Residential District, R-1

Sec. 24-245. Buffer requirements.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements specified in (a) and (b) of this section for residential developments when:

- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable and workforce housing; or
- (2) 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
- (3) 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 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

Division 4. General Residential District, R-2

Sec. 24-266. Buffer requirements.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements specified in (a) and (b) of this section for residential developments when:

- (1) The development is less than five acres and a majority of the development’s units are dedicated to affordable and workforce housing; or
- (2) 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
- (3) 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 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

Division 4.1 Residential Redevelopment District, R-3

Sec. 24-273.7. Overall density within subdivisions.

No project shall have a density (including bonuses) of more than four units per acre. In order to achieve the densities listed below, the developer shall make assurances in a master plan, proffers, or other document approved by the county attorney, for the density bonus items.

Density	Required density bonus points from list below
Up to 2.5	None required
More than 2.5, but no more than 3	3
More than 3, but no more than 3.5	4
More than 3.5, but no more than 4	5

	Bonus Item Options	Bonus Points
A.	For every 15 percent of the total units that meet the definition of affordable and workforce housing (starting above the threshold set forth in the Residential Redevelopment Policy, as amended).	2, up to a max of 4

Division 6. Multifamily Residential District, R-5

Sec. 24-311. Buffers and setback requirements

(c) Waiver provisions. In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements of this section for residential developments when:

- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable and workforce housing; or
- (2) 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
- (3) 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 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

Division 15. Mixed Use, MU

Sec. 24-519. Density.

(c) In addition to the base density standards from section 24-519 (a) a density bonus can be achieved with the provision of options as detailed below. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.

Bonus increase from base density	Required density bonus points from list below
Up to the base density	0
Greater than the base density, up to and including 33 percent above the base density	2
Greater than 33 percent above the base density, up to and including 66 percent above the base density	4
Greater than 66 percent above the base density, up to and including 100 percent above the base density	6

	Bonus Item Options	Bonus Points
A.	For every 10 percent of the units committed to provision of affordable and workforce housing (starting above the threshold set in the county’s housing opportunities policy)	2, up to a max of 4

Division 14. Planned Unit Development Districts, PUD

Sec. 24-487. Density.

(c) In addition to the base density standards from section 24-487 (a), a density bonus can be achieved with the provision of options as detailed below. In order to achieve the densities listed below, the developer shall make assurances in a master plan, proffers, or other documents approved by the county attorney for the density bonus items.

Bonus Increase from Base Density	Required Density Bonus Points from List Below
Up to the base density	0
Greater than the base density, up to and including 33 percent above the base density	2
Greater than 33 percent above the base density, up to and including 66 percent above the base density	4
Greater than 66 percent above the base density, up to and including 100 percent above the base density	6

	Bonus Item Options	Bonus Points
A.	For every 10 percent of the units committed to provision of affordable and workforce housing (starting above the threshold set in the county’s housing opportunities policy)	2, up to a max of 4

Sec. 24-492. Setback and/or buffer requirements and yard regulations.

c. *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, the planning director may reduce the buffer depth requirements specified in (1) a and b of this section for residential developments when:

1. The development is less than five acres and a majority of the development’s units are dedicated to affordable and workforce housing; or

2. 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
3. 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 75 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

ZO-07-09-10_ord1-Final

ORDINANCE NO. _____

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 1, RESIDENTIAL CLUSTER DEVELOPMENT, BY AMENDING SECTION 24-538, STATEMENT OF INTENT; SECTION 24-540, WHERE PERMITTED; SECTION 24-541, MINIMUM SITE SIZE; SECTION 24-542, PERMITTED USES; SECTION 24-544, BUFFER REQUIREMENTS; AND SECTION 24-545, SETBACK REQUIREMENTS; BY AMENDING AND RENAMING SECTION 24-547, YARD REGULATIONS WITH NEW NAME YARD REQUIREMENTS; BY AMENDING SECTION 24-548, DENSITY; AND SECTION 24-549, DENSITY STANDARDS; BY RENUMBERING SECTION 24-550, BMP REQUIREMENTS TO NEW NUMBER 24-553; BY RENUMBERING SECTION 24-551, PERFORMANCE ASSURANCE TO NEW NUMBER 24-554; BY ADDING NEW SECTION 24-551, OPEN SPACE DEVELOPMENT DESIGN ELEMENTS; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-552, AMOUNT OF OPEN SPACE REQUIRED TO NEW NUMBER AND NAME SECTION 24-550, OPEN SPACE; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-553, OWNERSHIP OF OPEN SPACE TO NEW NUMBER AND NAME SECTION 24-552, ESTABLISHMENT OF HOMEOWNERS ASSOCIATION; BY AMENDING AND RENUMBERING SECTION 24-554, REVIEW AND APPROVAL PROCESS TO NEW NUMBER SECTION 24-556, AND BY ADDING NEW SECTION 24-555, PEDESTRIAN ACCOMODATIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VI, Overlay Districts, Division 1, Cluster Overlay District, by amending Section 24-538, Statement of intent; Section 24-540, Where permitted; Section 24-541, Minimum site size; Section 24-542, Permitted uses; Section 24-544, Buffer requirements; Section 24-545, Setback requirements; Section 24-547, Yard requirements; Section 24-548, Density; Section 24-549, Density standards; Section 24-550, Open space; Section 24-551, Open space development design elements;

Section 24-552, Establishment of homeowners association; Section 24-553, BMP requirements; Section 24-554, Performance assurance; Section 24-255, Pedestrian accommodations; and Section 24-256 Review and approval process.

Chapter 24

ARTICLE VI. OVERLAY DISTRICTS

DIVISION 1. RESIDENTIAL CLUSTER DEVELOPMENT

Sec. 24-538. Statement of intent.

The purpose and intent of this article is to achieve innovative and quality designs of residential developments above one dwelling unit per acre that provide avenues for affordable and workforce housing, minimize environmental impacts, provide for usable and meaningful open space, and provide recreation amenities within a more practical and efficient development. Recognizing that greater variety and affordability are more obtainable with higher densities, developers have the flexibility to provide this product and still provide reasonable amenities within variously priced residential cluster communities. Hand in hand with the opportunities offered in higher density development is the expectation that the development will provide certain benefits to the community. As stated in the comprehensive plan, examples of these benefits include mixed-cost housing, affordable and workforce housing, unusual environmental protection or development that adheres to the principles of open space development design. Such design may include maintaining open fields; preserving scenic vistas; protecting wildlife habitats and corridors; retaining natural vegetative buffers around water bodies, wetlands, and along roads; preserving historic sites; creating adequate recreational areas; designing efficient pedestrian circulation to include trail systems; and ensuring that common land adjoins protected open space on adjacent parcels.

Sec. 24-539. Residential cluster development defined.

A "residential cluster development," for purposes of this article, shall be a planned development of land consisting of predominantly residential uses together with its recreational facilities, supporting roads, utilities and other public facilities.

Sec. 24-540. Where permitted.

A residential cluster development is permitted in the R-1; and R-2 zoning districts inside the primary service area. The requirements of this article shall govern where there is a conflict with the requirements of the underlying district.

Sec. 24-541. Minimum site size.

The minimum site size for a residential cluster development is five acres, except that extensions to an existing cluster development may be less than five acres. The planning director may waive the minimum site size requirements for residential cluster developments which provide affordable and workforce housing set forth in section 24-549 below. However, in no case shall such development be less than two acres. Such a waiver may be considered upon the applicant providing a written request to the planning director to waive the minimum acreage requirement demonstrating to the satisfaction of the planning director that:

- (1) The proposed development is consistent with the comprehensive plan;
- (2) Verification of affordable and workforce housing is provided; and
- (3) Evidence that the property can be subdivided as proposed.

Upon receipt of the request, the planning director shall, within thirty days of the request, either grant or deny the waiver with reasons to that effect.

Sec. 24-542. Permitted uses.

Uses permitted in a residential cluster development shall be the same as those permitted in the zoning district in which the residential cluster development is located. In the event that the individual units within attached dwellings are proposed to be sold as separate living units, the attached dwelling may be divided to permit separate deed descriptions for conveyance purposes. A limited amount of commercial development may be allowed within residential clusters as permitted in the zoning district in which the development is located. Commercial uses shall be shown on the master plan and be consistent with the Comprehensive Plan land use description and development standards.

Sec. 24-543. Utilities.

Lots in a residential cluster development shall be served by a public sewage disposal system and a public water system.

Sec. 24-544. Buffer requirements.

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) The right-of-way buffer shall be planted in accordance with section 24-96, General landscape area standards. Buffers along community character corridor roads shall also adhere to the community character corridor buffer treatment guidelines and map.

(b) *Perimeter buffers.* Within any residential cluster approved under this division, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-96 of this chapter.

(c) *Waiver provisions.* In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning director may reduce the buffer depth requirements specified in (a) and (b) of this section for residential developments when:

- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable and workforce housing; or
- (2) 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
- (3) 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 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning director may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

(d) *Modifications to the landscape requirements.* The planning director may modify, permit substitutions, or permit transfer of required landscaping in accordance with the provisions set forth in article II, division 4 of this chapter.

(e) *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.
- (f) *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.
- (g) *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.
- (h) *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.
- (i) Appeals. In the event the planning director disapproves the items specified in (c), (d), (e), (f), (g), and (h) 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.

Sec. 24-545. Setback requirements.

The minimum setback from the right-of-way shall be shown on the plan of development and on the recorded subdivision plat. The minimum setback from external streets shall be the same as that required by the zoning

district in which the lot is located, except as superceded by section 24-544. The minimum setback from internal streets may be reduced to zero, provided that no building in a residential cluster shall be closer than 25 feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.

Sec. 24-546. Minimum lot width and area requirements.

There are no lot width or area requirements.

Sec. 24-547. Yard requirements.

The rear and side yards may be reduced to zero feet subject to the following conditions:

- (a) The minimum distance between any two buildings within the residential cluster development shall be governed by the Virginia Uniform Statewide Building Code.
- (b) No building in a residential cluster development shall be closer than 25 feet to the internal edge of perimeter buffers.
- (c) Easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Documents establishing such easements or covenants shall be satisfactory to the county attorney and submitted prior to approval of the development plan.

Sec. 24-548. Density.

The density of a proposed subdivision shall be calculated as the number of units divided by the gross acreage. For the purposes of this section, the gross acreage shall be calculated as follows:

Percent non-developable	Percent of gross acreage added to the developable land
0 – 20 percent	Use total parcel acreage
21 – 40 percent	20
41 – 70 percent	15
71 – 100 percent	10

Illustration of Gross Acreage Calculation

- (a) If a 50-acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Because 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

(b) If a 50-acre parcel has 14 acres of non-developable land, then the non-developable area of the site is 28 percent. Because 28 percent is between 21 percent and 40 percent, the total developable area of the parcel (36 acres) and 20 percent of the total parcel acreage (ten acres) are added together to obtain the total acreage used to calculate allowed density (46 acres).

In this example, if an applicant sought a density of two dwelling units per acre, they would yield a maximum of 100 units in (a) and 92 units in (b).

Sec. 24-549. Density standards.

No project shall have a density (including bonuses) of more than four units per acre. In order to achieve the densities listed below, the developer shall provide at least the minimum amount of open space, and shall make assurances in a master plan, proffers, or other document approved by the county attorney, for the density bonus items. The approval process for cluster development shall be as stated in section 24-556.

Density	Percent of developable acreage as open space	Required density bonus points from list below
Up to 1	25 percent	None
More than 1, but no more than 2	25 percent	2
More than 2, but no more than 3	30 percent	4
More than 3, but no more than 4	35 percent	6

	Bonus Item Options	Bonus Points
A.	For every 10 percent of the units committed to provision of affordable and workforce housing (starting above the threshold set in the county’s housing opportunities policy, as amended)	2, up to a max of 4
B.	Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of better site design/low impact development techniques, as approved by the engineering and resource protection division	1.5
C.	Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division	1.5
D.	Meeting a majority of items (a) – (d) listed in section 24-551, Open space development design elements, as determined by the planning director	1.5
E.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units	1
F.	Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee	1
G.	Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved greenway master plan, the Virginia outdoors plan, or such other useful and logical location as approved by the parks and recreation director or designee	1

H.	Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present	1
I.	Retaining a single area of agricultural land designated on the United States Department of Agriculture (USDA) maps to be of prime or statewide importance that is at least five acres in size	1
J.	Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least five percent of the developable area of the site. <ol style="list-style-type: none"> 1. <u>100 foot buffers</u> around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer; 2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer</u> (retain at least 50 percent of these soils on site); 3. <u>Conservation area as identified by an approved watershed management plan</u>; or 4. <u>Wildlife habitat corridors</u> that: <ol style="list-style-type: none"> a. Protect a corridor at least 100 feet in width from one protected area (on or off the cluster property) to another protected area, and b. Consist of mature forestland 	1
K.	Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter	1
L.	Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director	0.5
M.	Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least five percent of the developable area of the site)	0.5
N.	Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the comprehensive plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA	0.5

Sec. 24-550. Open space.

Within every residential cluster development approved under this division, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for conservation and recreation purposes.

(a) Non-developable areas shall be maintained as open space and shall not be included on any private lot, and should be protected though a conservation easement dedicated to the county or other legal entity approved by the county attorney.

(b) In addition, a percentage of the developable area shall also be set aside as open space, as specified in section 24-549. The developable area open space may include, but is not limited to:

- (1) Areas on site necessary to meet county policies pertaining to natural resources, archaeology, and parks and recreation;
- (2) Areas on site used to achieve density bonus points in accordance with section 24-549;
- (3) The following areas, up to the percent specified:
 - a. Golf courses cannot exceed 30 percent of the developable open space required
 - b. Required right-of-way and perimeter buffers cannot exceed 50 percent of the developable open space required, and
 - c. Stormwater management facilities cannot exceed 20 percent of the developable open space required (this limitation applies to structural best management practices such as wet and dry ponds, but does not apply to bioretention or other low impact design measures).

(c) For the purpose of meeting the developable open space requirements specified in (b), open space area may not include:

- (1) Area on any individual private lots, or in the case of condominiums, within 15 feet of the units, or
- (2) Land within public road rights-of-way and utility or drainage easements.
- (d) Conceptual and/or master plans shall include a table with the open space information as follows:

Open space	
Nondevelopable open space, as defined	Acreage
Developable open space required	Acreage

Developable open space provided	Acreage
<ul style="list-style-type: none"> • Area(s) used to meet county policies pertaining to natural resources, archaeology, and parks and recreation (provide subtotals if applicable) 	
<ul style="list-style-type: none"> • Area(s) on site used to achieve density bonus points in accordance with section 24-549 	
<ul style="list-style-type: none"> • Area of golf courses 	
<ul style="list-style-type: none"> • Area in required right-of-way and perimeter buffers 	
<ul style="list-style-type: none"> • Area in stormwater management facilities 	
<ul style="list-style-type: none"> • Other qualifying open space area 	
Total nondevelopable and developable open space	

(e) Open space shall be arranged on the site in a manner that coordinates with Section 24-551, Open space development design elements. While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the open space.

(1) Conservation/general open space:

- a. Located to preserve existing significant natural and historic features and scenic viewsheds such as ponds and views to open water, particularly those than can be seen from public roads;

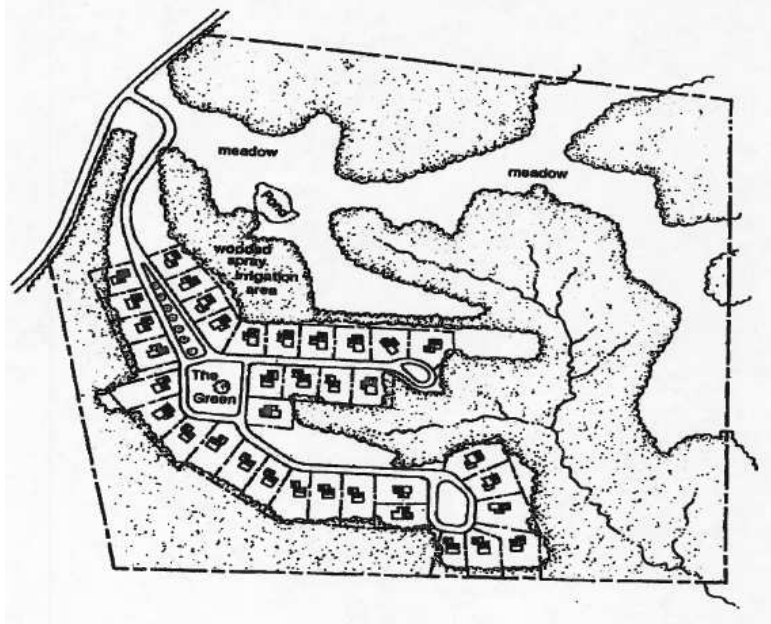


Figure 1
 (Graphic provided by Natural Lands Trust with permission)

- b. Located to adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future protected open space;

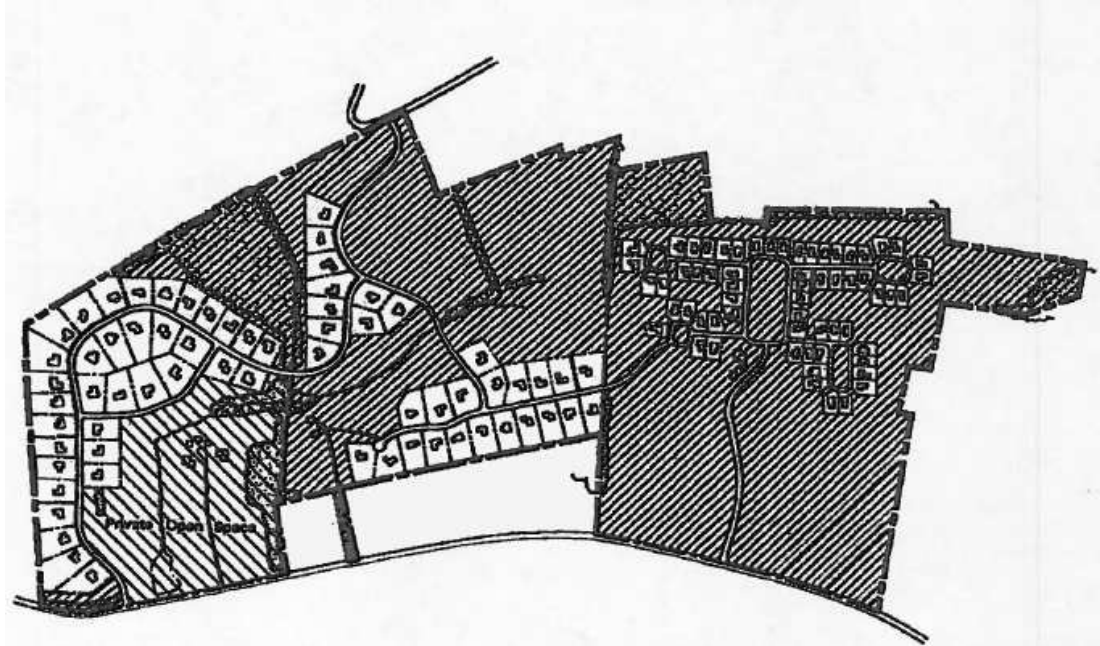


Figure 2
(Graphic provided by Natural Lands Trust with permission)

- c. Located to be interconnected and contiguous to the extent possible, and located to benefit and be accessible to the maximum number of units; and
- d. Prominently located within the development (for example, at the terminus of key views along roads, at the intersection of arterial or collector streets, at topographic high points or centrally located within the residential area).

(2) Recreation

- a. Cluster developments shall adhere to the parks and recreation master plan proffer guidelines. Any additional land intended for recreation shall be useable for the purpose intended, and also follow the design specifications in the parks and recreation master plan proffer guidelines.

Sec. 24-551. Open space development design elements.

While every site is different, the applicant, as part of the conceptual and/or master plan review process, shall demonstrate through a narrative document or exhibits that the following were considered in designing the development. These considerations shall be coordinated with the open space design.

- (a) The design should take advantage of the compact design by clustering development into a walkable scale neighborhood and preserving significant open space and natural features;
- (b) The development should be designed to complement existing topography and minimize the need for

alteration of the landscape;

- (c) The development should use a mixture of diverse unit types, lot sizes, and/or unit prices; and
- (d) The design should use a creative layout. Examples include:
 - (1) Fronting on open space;
 - (2) Constructed with one side exterior wall along the side property line to allow side or rear yard garages;
 - (3) Detached or attached homes on loop lanes;
 - (4) Use of better site design techniques such as group or shared parking, and shared driveways; and
 - (5) Clear access from the units to the open space by abutting it, or via sidewalks or trails.

Sec. 24-552. Establishment of homeowners association.

A homeowners association shall be established in accordance with chapter 19 of the county code. The homeowners association documents shall set forth the nature (recreation or conservation) and location of the open space(s) either through illustration or through incorporation by reference of the development's master plan. The documents shall generally describe the use and maintenance standards necessary to adhere to the nature of the open space(s) as shown on the development's master plan.

Sec. 24-553. BMP requirements.

To assure an appearance and condition which is consistent with the purpose of the residential cluster development overlay district, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

Sec. 24-554. Performance assurance.

For all improvements proposed by the applicant pursuant to section 24-549, assurances shall be provided, satisfactory to the county attorney, that such improvements will be constructed and completed for use by project residents within a specific, reasonable period of time.

Sec. 24-555. Pedestrian accommodations.

Pedestrian accommodations shall be provided in accordance with section 24-35.

Sec. 24-556. Review and approval process.

(a) Conceptual plan and master plan. Any conceptual plan or master plan for a residential cluster development proposed under this division shall include the elements listed below. For master plans, these elements shall be in addition to meeting the requirements of section 24-23.

- (1) Depiction and/or documentation of the items that the applicant plans to pursue when a bonus density above the base density is sought;
- (2) Conceptual development design, including required setbacks and buffers, and illustration of the features listed above in the open space and open space development design sections;
- (3) Marginal data and depiction which shows the gross acreage of the site, the nondevelopable area, the total number of dwelling units and/or lots, and, in the table format specified in section 24-550, the amount of open space required and the amount of open space provided; and
- (4) Conceptual stormwater design, illustrating use of better site design and low impact development techniques, where possible.

(b) Approval process.

- (1) In instances where a special use permit is not required by the residential district, a master plan shall be filed with the planning director who shall recommend action on the plan to the development review committee, which shall forward a recommendation to the planning commission. The planning commission shall approve the master plan upon finding that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the Comprehensive Plan.
- (2) In instances where a special use permit is required by the residential district:
 - a. Prior to submission of a master plan for legislative action, the applicant is strongly encouraged to file a conceptual plan for review by the development review committee. The development review committee shall provide a recommendation on the conceptual plan based upon its findings regarding the extent that the proposed cluster development meets the requirements of this ordinance and is in accordance with the applicable residential designation description of the comprehensive plan.
 - b. A master plan in accordance with section 24-23 shall be submitted and shall follow the process established in that section. The recommendations and findings of the development review committee on any conceptual plan shall be presented to the planning commission.

Secs. 24-557 - 24-563. Reserved.