

APR 09 2013

ORDINANCE NO. 31A-288

Board of Supervisors
James City County, VA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS DIVISION 4, LANDSCAPING, SECTION 24-91, MODIFICATION, SUBSTITUTION, TRANSFER, AND SECTION 24-101, LANDSCAPE REQUIREMENTS BY ZONING DISTRICT.

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 Section 24-91, Modification, substitution, transfer, and Section 24-101, Landscape requirements by zoning district.

Chapter 24

ARTICLE II. SPECIAL REGULATIONS

DIVISION 4. LANDSCAPING

Sec. 24-91. Modification, substitution, transfers.

Generally the need for any modification, substitution or transfer shall be demonstrated by the applicant. Nothing in this section shall act to circumvent the landscape standards and purposes set forth in this division. Modifications, substitutions and transfers are intended to provide more flexibility in specific limited instances as more particularly described below.

- ~~(a) Findings for acceptance of modifications, substitutions, or transfers. The commission or planning director may modify, permit substitutions for any requirement of this section, or permit transfer of required landscaping on a site upon finding that:~~
- ~~(1) Such requirement would not promote the intent of this section;~~
 - ~~(2) The proposed site and landscape plan will satisfy the intent of this section and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this section;~~
 - ~~(3) The proposed site and landscape plan will not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this section as compared to a plan that strictly complies with the minimum requirements of this section;~~
 - ~~(4) Such modification, substitution or transfer shall have no additional adverse impact on adjacent properties or public areas; and~~
 - ~~(5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this section, shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of this section.~~

~~(b) Cases for modifications, substitutions, or transfers. Requests for modifications, substitutions or transfers may be granted in the following cases:~~

- (a) Cases for modifications. Modifications may be requested when an adjustment to planting mixtures or densities are needed. Planting density may be modified by proposing plants that are larger than minimum ordinance standards for plant size in exchange for a reduction in quantity when it can be demonstrated that due to site constraints planting to ordinance requirements will result in overplanting and where a transfer of plant materials cannot accomplish the same intent as described in the modification request. Applicants may propose a minimum 25 percent increase in plant size for a maximum 25 percent reduction in required plant quantity. Planting mixtures may be adjusted to provide more screening, complement surrounding areas, or to implement a planting theme.*
- (b) Cases for substitution. Substitutions of plant materials may be considered if it can be demonstrated that the substitution is warranted and is equal to or greater than the standard requirement.*
- (c) Cases for transfer. Transfers may be requested when it can be demonstrated that the transferred plant materials serve to provide a greater public benefit than the standard requirements would provide.*
- (d) All modifications, substitutions, or transfer requests shall be designed to mitigate existing site constraints or meet the conditions listed below:*
 - (1) The proposed landscape plan, by substitution of technique, design or materials of comparable quality, but differing from those required by this section, will achieve results which clearly satisfy the overall purposes of this ~~section~~ division in a manner clearly equal to or exceeding the desired effects of the requirements of this ~~section~~ division;*
 - (2) The proposed landscape plan substantially preserves, enhances, integrates and complements existing trees and topography;*
 - (3) Where, because of unusual size, topography, shape or location of the property or other unusual conditions, ~~excluding the proprietary interests of the developer~~, strict application of the requirements of this ~~section~~ division would result in significant degradation of the site or adjacent properties;*
 - (4) Where existing easements present site constraints in which this division would result in overcrowding of landscape plant materials;*
 - (5) Where, because of narrow parcels, unusually shaped lots, or sloping topography, strict application of the landscape standards of this division would result in overcrowding of landscape plant materials;*
 - (4)(6) The proposed landscape design or materials involve a readily discernible theme, historic or otherwise, or complements an architectural style or design;*
 - (5)(7) Where it is necessary to allow the subdivision of property on which commercial or industrial units will be for sale, for sale in condominium or for lease, and such units are constructed as part of a multiunit structure in which the units share common walls or are part of a multiple-structure development, and the entire development has been planned and designed as a cohesive, coordinated unit under a single master plan; or*

~~(6)~~(8) Where transfers of required landscape areas to other areas on a site are necessary to satisfy other purposes of this ~~section~~ *division*, including transfers to increase screening or preserve existing trees, provided such transfers do not reduce overall landscape requirements for a development.

~~(e)~~(e) *Process for requesting modifications, substitutions, or transfers.* Requests for modifications, substitutions or transfers shall be filed in writing with the planning director *at the time of plan submittal* and shall identify the specific requirement of this section and the reasons and justifications for such request together with the proposed alternative. Depending upon whether the landscape plan is subject to commission or administrative review, the commission or planning director shall approve, deny, conditionally approve or defer action on such request and shall include a written statement certifying the above findings. The commission or planning director may require the applicant to provide plans, documentation or other materials to substantiate these findings.


In the case of approvals or conditional approvals, this statement shall include a finding as to the public purpose served by such recommendations, particularly in regard to the purposes of this ~~section~~ *division*. The planning director shall notify the applicant in writing as to the reasons for such action within 30 days of submittal of administrative plans meeting all applicable submittal criteria or within five working days of such decision by the commission.

~~(a)~~(f) *Findings for acceptance of modifications, substitutions, or transfers.* The commission or planning director may modify, permit substitutions for any requirement of this ~~section~~ *division*, or permit transfer of required landscaping on a site upon finding that:

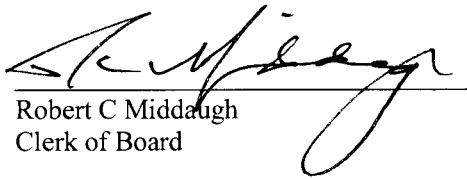
- (1) Such requirement would not promote the intent of this ~~section~~ *division*;
- (2) The proposed site and landscape plan ~~will~~ *shall* satisfy the intent of this ~~section~~ *division* and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this ~~section~~ *division*;
- (3) The proposed site and landscape plan ~~will~~ *shall* not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this ~~section~~ *division* as compared to a plan that strictly complies with the minimum requirements of this ~~section~~ *division*;
- (4) Such modification, substitution or transfer shall have no additional adverse impact on adjacent properties or public areas; and
- (5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this ~~section~~ *division*, shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of this section division.

Sec. 24-101. Landscape requirements by zoning district.

(c) *LB, Limited Business District; B-1, General Business District; M-1, Limited Business/Industrial District; M-2, General Industrial District; RT, Research and Technology District, PL, Public Lands District.*


John J McGlennon
Chairman, Board of Supervisors

ATTEST:


Robert C Middaugh
Clerk of Board

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	<u>X</u>	___	___
JONES	<u>X</u>	___	___
KENNEDY	<u>X</u>	___	___
ICENHOUR	<u>X</u>	___	___
BRADSHAW	<u>X</u>	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of April,
2013.

Chp24Landscaping_ord