

ADOPTED

SEP 12 2017

Board of Supervisors
James City County, VA

ORDINANCE NO. 31A-337

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS; DIVISION 15, MIXED USE, MU BY DELETING AND RESERVING SECTION 24-517, MINIMUM AREA OF DISTRICTS; AND BY AMENDING SECTION 24-519, DENSITY; SECTION 24-520, OPEN SPACE; AND SECTION 24-523, SETBACK AND BUFFER REQUIREMENTS.

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 V, Districts; Division 15, Mixed Use, MU; by deleting and reserving Section 24-517, Minimum area of districts; and by amending Section 24-519, Density; Section 24-520, Open space; and Section 24-523, Setback and buffer requirements.

Chapter 24. Zoning

Article V. Districts

Division 15. Mixed Use, MU

Sec. 24-517. ~~Minimum area of districts~~ *Reserved.*

~~Mixed use districts shall be located on a single parcel of land, or separate but adjacent parcels, which shall total not less than five acres. Mixed use districts may be located on a parcel of less than five acres provided that the purpose of the district is to provide for the development of a mixed use structure or mixed use structures within an area designated mixed use in the Comprehensive Plan.~~

Sec. 24-519. Density.

- (a) The number of dwelling units which may be constructed in any residential or mixed use-residential area designation as indicated on the master plan shall be determined by the number of gross acres at the site and the use proposed. The maximum densities of dwelling units per acre which may be constructed are:

Area Designation	Dwelling Type	Base Gross Density (Dwelling Units Per Acre)	Maximum Gross Density with Density Bonus (see Table under Section 24-519 (c))
A	Single-family structures	3	6
B	Multi-family dwellings containing up to four dwelling units	5	10
C	Multi-family dwellings containing more than four dwelling units	6	12
D	Apartments	9	18

- (b) The density of a proposed development 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 Land	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. Since 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.
- (b) If the 50 acre parcel instead had 14 acres of non-developable land, then the non-developable area of the site is 28 percent. Since 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).

- (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
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.	Achieving green building certification using EarthCraft, LEED or equivalent program for all units.	1
E.	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
F.	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
G.	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
H.	Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5 percent of the developable area of the site.	1
	1. 100 foot buffers 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. Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer (retain at least 50 percent of these soils on site)	
	3. Conservation area as identified by an approved watershed management plan	
	4. Wildlife habitat corridors that:	
	<ul style="list-style-type: none"> • Protect a corridor at least 100 feet in width from one protected area (on or off the development property) to another protected area, and • Consist of mature forestland 	
I.	Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements set forth in section 24-35 of this chapter.	1
J.	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
K.	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
L.	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

- (d) To achieve the intent of a mixed use development, *more than one land use category shall be used and no single use or use category shall exceed 80 percent of the developable land area within a mixed use area, as delineated on the master plan. Where the mixed use development contains one or more mixed use structures (vertical mixed use), the developable land area may be converted to square feet to demonstrate compliance with this requirement.*

Illustration of Vertical Mixed Use Buildings Calculation.

For a vertical mixed use building of 60,000 square feet in size, no one use could exceed 48,000 square feet.

- (e) *For areas designated neighborhood commercial or community commercial on the comprehensive plan, all proposed structures should be mixed use structures (vertical mixed use) and residential floor area should not exceed 50% of the total floor area. Either of these criteria may be modified if specifically shown on a master plan approved by the board of supervisors that exceeds mixed use designation development standards in the comprehensive plan.*

Sec. 24-520. Open space.

Development within the mixed use districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area shall not be counted towards meeting the open space requirement. For the purposes of this article, open space does not include any landscape area in parking lots ~~or adjacent to structures~~. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Preservation Ordinance, article II, division 4 of this chapter (Landscaping and tree preservation requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a Community Character Corridor on the Comprehensive Plan.
- (2) Buffer area(s) of no less than 50 feet around an RMA wetland as measured from the landward edge of the wetland.
- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.
- (4) Preservation of any developable area onsite that is set aside to meet the county's natural resource policy where preservation of such area is not required by other local, state or federal law.
- (5) Bikeways, bike paths, hiking trails, greenways or other similar amenity, excluding sidewalks.
- (6) Public or private picnic areas, parks, plazas or other gathering areas.
- (7) Public or private community facilities such as swimming pools, tennis courts, and recreation buildings. Golf courses may also be counted as open space for the purpose of meeting the open space requirement to a maximum of 60 percent of the required open space.

Open space area shall be protected by easements, maintenance agreements and/or other assurances satisfactory to the county attorney.

Sec. 24-523. Setback and buffer requirements.

- (a) ~~Location of structures. Structures shall be set back 50 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way or the internal arterial road right-of-way is less than 50 feet in width, structures shall be set back 75 feet or more from the centerline of the external existing or planned or internal arterial public road. Landscape area(s) along right(s)-of-way. A landscape area shall be provided along right(s)-of-way in accordance with section 24-98.~~
- (b) ~~Required buffer from mixed use districts. Perimeter buffer. For commercial, industrial, office, residential and mixed uses a buffer of 50 feet shall be maintained from the perimeter of a mixed use district. A perimeter buffer shall be planned and maintained along the perimeter property lines of the development, except for areas adjacent to rights-of-way. The minimum perimeter buffer depth shall be in accordance with the table below. The buffer shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development. Landscaping guidelines for perimeter buffers shall follow the requirements specified in section 24-96 of this chapter.~~

<i>Mixed Use Master Plan Area Designation</i>	<i>Adjacent Development*</i>	<i>Perimeter Buffer Width (in feet)</i>
<i>Single-family (A)</i>	<i>Residential</i>	15
	<i>Commercial</i>	30
	<i>Industrial</i>	50
<i>Multi-family and Apartments (B,C,D)</i>	<i>Residential</i>	30
	<i>Commercial</i>	30
	<i>Industrial</i>	50
<i>Commercial and Office (E,G), Institutional and Public Uses (I)</i>	<i>Residential</i>	30
	<i>Commercial</i>	0
	<i>Industrial</i>	0
<i>Wholesale and warehouse (F), Light Industrial (H)</i>	<i>Residential</i>	50
	<i>Commercial</i>	0
	<i>Industrial</i>	0
<i>Areas of common open space (J)</i>	<i>Residential</i>	50 if active recreation is present (pool, clubhouse, etc.) or 0 if area is passive open space
	<i>Commercial</i>	
	<i>Industrial</i>	
<i>Structures containing a mixture of uses (M), other structures, facilities or amenities (X)</i>	<i>Residential</i>	30
	<i>Commercial</i>	0
	<i>Industrial</i>	0
<i>Master Plans with Multiple Area Designations within a given land bay or tract</i>	<i>Residential</i>	Max Buffer width for each of the listed uses
	<i>Commercial</i>	Max Buffer width for each of the listed uses
	<i>Industrial</i>	Max Buffer width for each of the listed uses

* Residential=land zoned R-1, R-2, R-3, R-4, R-5, R-8, PUD-R, MU (area designations A, B, C, D), A-1; Commercial=land zoned LB, B-1, RT, EO, PL, MU (area designations E,G, I, M, X), PUD-C; Industrial=land zoned M-1, M-2, MU (area designations F, H).

In instances where a proposed Mixed Use area will form a logical component of an existing development (such as sharing entrances, roads, parking areas, etc.), the perimeter buffer shall be zero adjacent to the existing development, even if all, or components of, the existing development are not zoned Mixed Use.

~~(e) Setback and/or buffer modifications; criteria for determination. Reduction of the width of the setbacks and/or buffers specified in subsections (a) and (b) above may be approved for a mixed use zoning district that is designated mixed use by the Comprehensive Plan upon demonstration that the proposed setback and/or buffer, by substitution of technique or design, will achieve results which clearly satisfy the overall purposes and intent of the setback and/or buffer requirement of this section and the intent of section 24-86 (Landscaping and tree preservation requirements), shall have no additional adverse impact on adjacent properties or public areas, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the Comprehensive Plan. In addition, a request for a setback and/or buffer modification must meet one or more of the following criteria:~~

- ~~(1) The proposed setback and/or buffer is for the purpose of integrating proposed mixed use development with adjacent development;~~
- ~~(2) The proposed setback and/or buffer substantially preserves, enhances, integrates and complements existing trees and topography;~~
- ~~(3) The proposed setback and/or buffer is due to unusual size, topography, shape or location of the property, existing structures or other unusual conditions, excluding the proprietary interests of the developer.~~

~~Reduction of the width of the setbacks and/or buffers may also be approved for a mixed use zoning district that is not designated mixed use by the Comprehensive Plan upon finding that the proposed setback and/or buffer meets one or more of the criteria listed above and both of the following additional criteria:~~

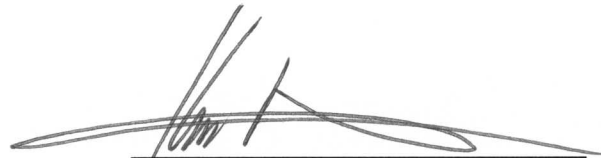
- ~~(1) Properties adjacent to the properties being considered for a reduction in setback and/or buffer must be compatible;~~
- ~~(2) The proposed setback and/or buffer reduction has been evaluated by appropriate county, state or federal agencies and has been found to not adversely impact the public health, safety or welfare.~~

(c) Buffer modifications; criteria for determination. The width of the buffer specified in (b) may be reduced with approval of the planning director. The planning director will consider a buffer reduction only if the reduced buffers do not have additional adverse impact on adjacent properties or public areas when compared to the required buffers, and will not result in detrimental impacts to the orderly development or character of the area, the environment, sound engineering or planning practice, or the goals, objectives, strategies and policies of the comprehensive plan; and if one or more of the following criteria are met:

- (1) The site is designated a community character area on the comprehensive plan land use map, and the proposed buffer will better complement the design standards of the community character area.*
- (2) The adjacent properties have setbacks or buffers that are non-conforming with this section, and the proposed buffer will better complement the established setbacks or buffers of adjacent properties, where such buffers help achieve the goals and objectives of the comprehensive plan.*
- (3) The applicant has offered extraordinary site design which exceeds the development standards of the comprehensive plan.*

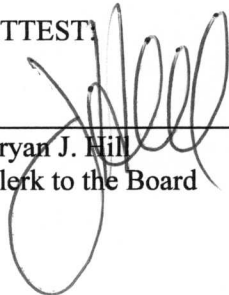
(4) *The buffer reduction will achieve results which clearly satisfy the overall purposes and intent of section 24-86 (Landscaping and tree preservation requirements).*

- (d) Requests for modifications. Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with the proposed alternative. The planning director shall approve, deny, or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.
- (e) Appeals. In the event the planning director disapproves the items specified in section 24-523 (d) 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.
- (f) No minimum lot size or yard requirements. Except for required setbacks and/or buffer specified in (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Mixed Use Development District, MU, other than as specified in approved final plans.
- (g) Uses prohibited. Setbacks and/or buffers shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback and/or buffer.



Kevin D. Onizuk
 Chairman, Board of Supervisors

ATTEST:



 Bryan J. Hill
 Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	_____	<input checked="" type="checkbox"/>	_____
SADLER	<input checked="" type="checkbox"/>	_____	_____
HIPPLE	<input checked="" type="checkbox"/>	_____	_____
LARSON	<input checked="" type="checkbox"/>	_____	_____
ONIZUK	<input checked="" type="checkbox"/>	_____	_____

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of September, 2017.