

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 18TH DAY OF FEBRUARY, NINETEEN HUNDRED NINETY-TWO, AT 1:05 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

Jack D. Edwards, Chairman, Berkeley District
Judith N. Knudson, Vice Chairman, Jamestown District

Perry M. DePue, Powhatan District
David L. Sisk, Roberts District
Stewart U. Taylor, Stonehouse District
David B. Norman, County Administrator
Frank M. Morton, III, County Attorney

B. MINUTES - February 3, 1992

Mr. Edwards asked if there were corrections or additions to the minutes.

Mr. Edwards made a motion to approve the minutes.

On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

C. HIGHWAY MATTERS

Mr. Quintin Elliott, Resident Engineer, was available to answer questions.

Ms. Knudson asked about construction and funding of turnarounds on Lake Powell Dam Road if abandoned.

Mr. Elliott responded that a T-type turnaround would be required on the east side, no turnaround on the west side, with funds coming from Secondary Road Incidental Construction.

Ms. Knudson asked that a speed limit study be done on the 55 mph portion of Route 5.

Mr. DePue thanked Mr. Elliott for the prompt repair completed at the intersection of Jolly Pond Road and Centerville Road, and asked for a review on how to accomplish long-term repair at the intersection of Longhill Road and Centerville Road.

D. CONSENT CALENDAR

Mr. Edwards asked if any member of the Board wished to remove an item from the Consent Calendar.

Mr. Edwards asked that Item No. 2 be removed and made a motion to approve Item No. 1.

On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

1. After School Care Program - Little Creek Dam AreaR E S O L U T I O NAFTER SCHOOL CARE PROGRAM

WHEREAS, the Board of Supervisors recognized the need for structured programs for at risk youth; and

WHEREAS, the Virginia Department of Social Services has awarded the James City County Parks and Recreation a grant of \$10,000 to provide an After School Care Program; and

WHEREAS, the Little Creek Dam area of the County is in critical need for such a program.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, makes the following appropriation:

From the Commonwealth of Virginia	\$10,000
To Parks and Recreation After School Care Program	\$10,000

2. Appointments to Task Force on County Financial Planning

Mr. Edwards stated that the Board of Supervisors had appointed seven persons, listed in the resolution, to a Task Force on County Financial Planning, with its purpose to make suggestions about this year's budget and to make a report by September 30, 1992, which will assist in future County financial planning.

On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

R E S O L U T I O NTASK FORCE ON COUNTY FINANCIAL PLANNING

WHEREAS, the Board of Supervisors of James City County, at its January 21, 1992, meeting approved a Task Force on County Financial Planning; and

WHEREAS, the purpose of the Task Force was to participate in the current budget process, evaluate policy recommendations, needs and priorities and to increase overall citizen involvement in financial planning; and

WHEREAS, the Task Force, comprised of seven persons, will make a final report of recommendations to improve the budget process and substance in the future by September 30, 1992.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, at its February 3, 1992, meeting appointed Gilbert A. Bartlett, Elizabeth Davis, Robert Demer, Abram Frink, Robert E. Gilley, James Lee, Roger Priest, Financial Management staff as Task Force staff and Sanford B. Wanner as Administrative designee as a nonvoting member, to the Task Force on County Financial Planning with terms ending September 30, 1992.

E. PUBLIC HEARINGS

1. Case No. ZO-12-91. Zoning Ordinance Amendment/R-1, Limited Residential District; R-2, Limited Residential District; and R-3, General Residential District

At the February 3, 1992, Board of Supervisors meeting, Mr. Friel stated that the Residential District Subcommittee of the Planning Commission had proposed changes to R-1, Limited Residential; R-2, Limited Residential District; and, R-3, General Residential District.

In concurrence with the Subcommittee and staff, the Planning Commission, by a vote of 9-1, recommended approval of the Ordinance Amendment and Zoning map.

Mr. Edwards continued the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Edwards declared a delay on discussion until later in the meeting following Board consideration of Zoning Ordinance Amendment/Residential Cluster Development.

2. Ordinance Amendment, Chapter 2, Administration, Section 2-18, Planning Commission

Mr. Morton stated that the public hearing was a follow-up to the Emergency Ordinance adopted at the Board of Supervisors January 21, 1992, meeting which changed the number of members on the Planning Commission.

Mr. Edwards opened the public hearing, and as no one wished to speak, he closed the public hearing.

Ms. Knudson asked that wording on page 1 be changed from "no less than" to "no fewer than."

Mr. Edwards made a motion to approve the Ordinance with the word change.

On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

F. BOARD CONSIDERATIONS

1. Case No. SUP-26-91. Jack L. Massie Contractor, Inc.

No staff presentation was made. In summary of the case, during a presentation at the February 3, 1992, Board of Supervisors meeting, Mr. R. Patrick Friel, Senior Planner, stated that Mr. Gary M. Massie had applied on behalf of Jack L. Massie Contractor, Inc., for a special use permit to allow a mineral resource management area (borrow pit) on 219 acres zoned A-1, General Agricultural, located at 5781 Centerville Road, further identified as Parcel (1-79A) on James City County Tax Map No. (31-2) and Parcels (1-6), (1-6A) and (1-7) on James City County Tax Map No. (30-2).

Staff recommended denial of the special use permit for reasons of the industrial impact in the area primarily developed and designated residential and rural development; impact would produce noise, dust and traveling inconvenience in the area; this type of use would set a precedent for future development in this corridor; truck traffic would decrease on Centerville Road after other road improvements if there are no additional projects which generate industrial type traffic; and, proposal was inconsistent with development standards of the Comprehensive Plan.

In conclusion at the February 3, 1992, Board of Supervisors' meeting, Mr. Friel stated that the Planning Commission, by a 9-1 vote, recommended approval of the special use permit with 14 conditions listed in the resolution. Staff recommended addition of Condition 15, limiting special use permit to seven years, if the Board chose approval.

Mr. DePue made a motion to approve the special use permit with deletion of Condition 15 as recommended by the Planning Commission.

On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

R E S O L U T I O NCASE NO. SUP-26-91. JACK L. MASSIE CONTRACTOR, INCORPORATED

WHEREAS, the Board of Supervisors of James City County has adopted by Ordinance specific land uses that shall be subjected to a special use permit process; and

WHEREAS, the Planning Commission of James City County, following its public hearing on December 10, 1991, voted 8-1 and recommended approval of Case No. SUP-26-91 to permit a borrow pit in the A-1, General Agricultural district, on property identified as Parcel (1-79A) on James City County Real Estate Tax Map No. (31-1) and Parcels (1-6), (1-6A) and (1-7) on James City Real Estate Tax Map No. (30-2).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve the issuance of Special Use Permit No. SUP-26-91 as described herein with the following conditions:

1. All erosion and sedimentation control measures shown on the Land Disturbing Permit shall be installed prior to any clearing or grading of any cell.
2. No more than 2 cells, as identified on the Master Plan prepared by AES and dated July 1991, shall be open at one time. No more than 40 acres of the site shall be disturbed at one time.
3. Inert materials such as broken concrete, bricks, blocks, broken roadway, and unsuitable soil removed from Jack L. Massie job sites may be used to refill the cells. Non-inert materials shall not be disposed of on this site. If it is determined that non-inert materials are being disposed of on site, the special use permit shall become void.
4. A 50-foot undisturbed buffer shall be provided on all Resource Management Area (RMA) wetlands as defined in Section 19B-3 of the James City County Code.
5. Prior to the commencement of any work within a cell, a Phase I Archaeological Study for that cell shall be submitted to the Director of Planning for his review and approval. The study shall meet the guidelines set forth in the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and shall be conducted under the supervision of a qualified archaeologist who meets the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards. The developer shall undertake a Phase II and/or a Phase III Study of archaeological sites identified in the Phase I Study, if identified by the Phase I Study as warranting Phase II or Phase III Study. Such studies shall be submitted to and approved by the Planning Director prior

to any land disturbing on or adjacent to such sites. The recommendations of such studies shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon. If as a result of a Phase II Study, the Planning Director determines the site is eligible for inclusion in the National Register of Historical Places based on the Criteria established by the Department of the Interior, the developer shall develop and implement a plan for inclusion of the site on the National Register of Historic Places and for the mitigation of potential adverse impacts on the site.

6. A right- and left-turn lane shall be installed to VDOT standards at the proposed entrance of the site within 18 months from the date of issuance of this permit in the location shown on the Master Plan prepared by AES and dated July 1991. The existing entrance to the site as identified on the Master Plan shall be abandoned when the new entrance is completed. The location of this entrance may be shifted; however such a shift shall be approved by the Planning Director.
7. A gate shall be provided on the proposed entrance road no further than 200 feet from Centerville Road. The Planning Director may waive this requirement if evidence is presented that due to topographic and safety constraints the entrance must be placed further than 200 feet from Centerville Road.
8. A 100-foot undisturbed buffer shall be provided on the eastern boundary of that area shown as Cell 8 on the Master Plan prepared by AES and dated July 1991. An undisturbed buffer shall be provided along Centerville Road as shown on the Master Plan. A 50-foot undisturbed buffer shall be provided on the perimeter of the remainder of the site.
9. The hours of operation shall be limited to daylight hours (6:00 a.m. to 9:00 p.m. in the summer, 6:00 a.m. to 6:00 p.m. in the winter), Monday through Saturday.
10. A reforestation plan for each cell on the site shall be approved by the Virginia Department of Forestry Area Forester prior to the commencement of land disturbing on the next cell. A mixture of hardwoods and softwoods to reflect the current species ratio shall be provided. All restored areas shall be returned to a condition adequate to support and encourage the growth of trees. A minimum of 800 seedlings an acre shall be planted during the reclamation of the cell.
11. The buffer areas shall be staked in the field prior to clearing so the operators know the limits of their work.
12. The maximum side slope of all reclaimed areas shall be 3:1 or flatter.

13. Berms and sediment traps shall be provided to protect wetlands above Dry Ponds 1 and 3 as shown on the Master Plan prepared by AES and dated July 1991. These facilities shall be placed around the perimeter of all disturbed areas adjacent to these wetlands. The design of these facilities shall be incorporated into and approved by the Director of Code Compliance as part of the site plan for the project.
14. All property along Centerville Road, necessary for the 4 laning of the road, shall be dedicated to the County at its request.

2. Case No. Z0-11-91. Zoning Ordinance Amendment/ Residential Cluster Development

Mr. Jeffrey J. Mihelich, Planner, reiterated that the proposed Residential Cluster Development Ordinance was reviewed by a three-person subcommittee of the Planning Commission, who recommended a number of significant changes which would implement many of the provisions of the updated Comprehensive Plan.

Mr. Mihelich further stated that the case was deferred at the February 3, 1992, Board of Supervisors meeting to allow time to consider open space requirements and gross acreage (density transfer) calculations.

In concurrence with staff, the Planning Commission by a vote of 9-1 recommended approval of the ordinance.

Mr. DePue asked for clarification of the current procedures regarding private roads.

Mr. John T. P. Horne, Manager, Development Management, stated that private roads were not approved in routine development and were rare in our community.

Staff emphasized the proposed ordinance was workable with the current private roads policy.

Ms. Knudson made a motion to approve the Ordinance amendment.

On a roll call, the vote was: AYE: Taylor, Sisk, Knudson, Edwards (4). NAY: DePue (1).

1. Case No. Z0-8-91. Zoning Ordinance Amendment/ Timbering

Mr. Horne stated that action was deferred at the Board of Supervisors' February 3, 1992, meeting on the proposed amendment to regulate timbering activities by requiring a special use permit in certain zoning districts.

He further stated that the regulation could be accomplished by requiring an administrative timbering permit with guidelines with an appeal process to the Board of Supervisors.

With Board concurrence, Mr. Edwards deferred the case and asked staff to pursue the administrative option with guidelines.

4. Norge Lane Duplex Options

Mr. O. Marvin Sowers, Jr., Director of Planning, stated that staff had outlined options for proposed construction of a duplex on a single lot on Norge Lane. He summarized those options as A) develop the property under the current Ordinance; B) amend the A-1 regulations and apply for a special use permit; C) amend the R-2 regulations and rezone; and, D) rezone to R-2 and extend public sewer.

Staff's recommendation was not to amend the Ordinance.

The Board discussed vested property rights and the need for affordable housing.

Staff responded that vesting provisions of the Ordinance allow construction of a single-family dwelling on a nonconforming lot, as a reasonable use of property.

Mr. Taylor made a motion to approve Option C.

Discussion by the Board of waiving the public water and sewer requirements and amendment of the Ordinance ensued.

Without objection, Mr. Edwards deferred the case until the March 2, 1992, Board of Supervisors' meeting to allow staff to prepare additional information, specifically to Option C.

Case No. Z0-12-91

Mr. Edwards made a motion to approve Case No. Z0-12-91, which was discussed and postponed earlier in the meeting.

On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

5. Lake Powell Road Abandonment Procedure

Mr. Horne stated that the Virginia Department of Transportation closed that portion of Lake Powell Road that crossed the spillway and dam due to continued deterioration and for immediate safety to the traveling public. Mr. Horne further stated that two options for the permanent disposition of this section were repair of the dam spillway and abandonment of a portion of Lake Powell Road.

Staff recommended the abandonment of a portion of Lake Powell Road because the cost of upgrading the embankment and spillway was unjustified by public use of the roadway.

The Board questioned funding available for repair of the dam spillway and responsibility of maintenance of the spillway and road.

Mr. Quintin Elliott, Resident Engineer, stated that funding would come from the Secondary Road funds if the project was placed on the Six-Year Secondary Road Plan. He reiterated that the property owner had responsibility for the maintenance of the spillway and VDOT maintained the road surface.

Mr. Sisk asked about source of funding for the Jolly Pond Road dam.

Mr. Elliott responded that he would have that researched.

Mr. Edwards made a motion to set two meetings; the first to present and exchange information informally and the second to be a public hearing before the Board of Supervisors.

On a roll call, the vote was AYE: DePue, Taylor, Sisk, Knudson, Edwards (5). NAY: (0).

G. PUBLIC COMMENT

1. Mr. Douglas Johnson, 26 Magruder Lane, questioned how deep below the surface of Lake Powell Road did VDOT maintenance extend.

2. Mr. R. M. Hazelwood, Toano, asked about the status of his request for a response to his letter to Mr. Thomas K. Norment, Jr., dated December 3, 1991, regarding the increase in cost of well drilling which increases the cost of housing, and that silt fencing does not serve its intended purpose.

Mr. Norman stated that the letter was being reviewed by staff.

3. Mr. R. E. Gilley, 227 Gate House Boulevard, clarified that a washout occurred on Lake Powell Road approximately 100 yards from the dam in 1938, but the dam had never experienced a washout.

4. Mr. Darr Barshis asked for a public solution to the Lake Powell Road dam problem.

H. REPORTS OF THE COUNTY ADMINISTRATOR

Mr. David B. Norman, County Administrator, recommended an executive session pursuant to Section 2.1-344(a)(1) of the Code of Virginia to consider a personnel matter, appointments to Boards and/or Commissions.

Mr. Edwards declared a five-minute recess, and Mr. DePue left the meeting at 2:47 p.m.

I. BOARD REQUESTS AND DIRECTIVES

Ms. Knudson asked the status of responding to correspondence regarding the Master Gardener program.

Mr. Sanford B. Wanner, Assistant County Administrator, stated a response had been drafted.

Ms. Knudson asked whether the residents of Mill Creek Landing could appeal a ruling of the Zoning Administrator to the Board of Zoning Appeals.

Mr. Morton requested a short time to research the County code.

Mr. Edwards recessed the Board for a James City Service Authority Board of Directors' meeting at 3:00 p.m.

Mr. Edwards reconvened the Board into open session at 3:30 p.m.

Mr. Morton responded to Ms. Knudson's request that the issue involved the Chesapeake Bay Preservation Act and therefore any appeal would have to be made to the Wetlands Board; moreover, under that Act, only an owner of property subject to an administrative decision could appeal to the Wetlands Board, but adjoining property owners have no right of appeal.

Mr. Edwards made a motion to convene into executive session as recommended above by the County Administrator at 3:32 p.m.

On a roll call, the vote was: AYE: Taylor, Sisk, Knudson, Edwards (4). NAY: (0). ABSENT: DePue.

Mr. Edwards reconvened the Board into open session and made a motion to approve the executive session resolution at 3:56 p.m.

On a roll call, the vote was: AYE: Taylor, Sisk, Knudson, Edwards (4). NAY: (0). ABSENT: DePue.

R E S O L U T I O N

MEETING DATE: February 18, 1992

CERTIFICATION OF EXECUTIVE MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge; (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies; and, (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

Mr. Edwards made a motion to appoint Ms. Knudson and Mr. DePue as Board representatives to the Schools Liaison Committee and Mr. Sisk and Mr. Edwards as Board representatives to the Courthouse Committee.

On a roll call, the vote was: AYE: Taylor, Sisk, Knudson, Edwards (4). NAY: (0). ABSENT: DePue.

Mr. Sisk made a motion to adjourn.

On a roll call, the vote was: AYE: Taylor, Sisk, Knudson, Edwards (4). NAY: (0). ABSENT: DePue.

The Board adjourned at 3:58 p.m.



David B. Norman
Clerk to the Board

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FEB 18 1992

ORDINANCE NO. 55A-13BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, OTHER BOARDS AND COMMISSIONS, BY AMENDING SECTION 2-18, PLANNING COMMISSION.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 2, Administration, is hereby amended and reordained by amending Section 2-18, Planning commission.

Chapter 2. Administration

Article V. Other Boards and Commissions


Section 2-18. Planning commission.

(a) A planning commission is hereby created for this county pursuant to authority contained in Sections 15.1-427 and 15.1-437 of the Code of Virginia. This commission shall consist of *no fewer than seven nor more than ten nine* residents of the county, qualified by knowledge and experience to make decisions on questions of community growth and development, each appointed by the Board of Supervisors for a term of four years. At least one-half of the members of the commission shall be owners of real property. An *eleventh additional* member of the commission may be appointed *by from* the Board of Supervisors.

Ordinance to Amend and Reordain
Chapter 2. Administration
Page 2

(b) The planning commission shall have the powers and perform the duties prescribed for local planning commissions in Chapter 11, Title 15.1 of the Code of Virginia.

Ordinance to Amend and Reordain
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Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
DEPUE	AYE
TAYLOR	AYE
SISK	AYE
KNUDSON	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 18th day of February, 1992.

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FEB 18 1992

ORDINANCE NO. 31A-137

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA BY AMENDING ARTICLE IX, RESIDENTIAL CLUSTER DEVELOPMENT, BY AMENDING SECTION 20-499, STATEMENT OF INTENT; SECTION 20-500, RESIDENTIAL CLUSTER DEVELOPMENT DEFINED; SECTION 20-501, WHERE PERMITTED; SECTION 20-503, PERMITTED USES; SECTION 20-506, MINIMUM LOT WIDTH; SECTION 20-507, YARD REGULATIONS; SECTION 20-508, DENSITY; SECTION 20-509, DENSITY BONUSES; SECTION 20-510, DENSITY BONUSES--PERFORMANCE ASSURANCE; SECTION 20-511, AMOUNT OF OPEN SPACE REQUIRED; SECTION 20-512, OWNERSHIP OF OPEN SPACE; SECTION 20-513, REVIEW AND APPROVAL PROCESS; AND BY DELETING SECTION 20-514, SPECIAL PROVISIONS FOR STAGE DEVELOPMENT OF RESIDENTIAL CLUSTERS; TO MORE CLOSELY CONFORM WITH THE ADOPTED COMPREHENSIVE PLAN AND TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF JAMES CITY COUNTY BY ENSURING THAT AN ADEQUATE SUPPLY OF DECENT, SAFE AND SANITARY HOUSING EXISTS FOR COUNTY CITIZENS AND TO MAINTAIN AND IMPROVE THE HIGH LEVEL OF ENVIRONMENTAL QUALITY IN THE COUNTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20. Zoning, is hereby amended and reordained by amending Section 20-499. Statement of Intent; Section 20-500. Residential Cluster Development Defined; Section 20-501, Where Permitted; Section 20-503; Permitted Uses; Section 20-506, Minimum Lot Width and Area Requirements; Section 20-507, Yard Regulations; Section 20-508, Density; Section 20-509, Density Bonuses; Section 20-510, Density Bonuses--Performance Assurance;

Section 20-511, Amount of Open Space Required; Section 20-512, Ownership of Open Space; Section 20-513, Review and Approval Process; by deleting Section 20-514, Special Provisions for Stage Development of Residential Clusters; to more closely conform with the adopted Comprehensive Plan and to protect the public health, safety and welfare of the residents of James City County by ensuring that an adequate supply of decent, safe and sanitary housing exists for County citizens and to maintain and improve the high level of environmental quality in the County

Chapter 20. Zoning

Article IX. Residential Cluster Development

Section 20-499. Statement of Intent.

The purpose and intent of this Article is to promote the efficient and well planned use of land in ~~single family and two family~~ residential areas and to encourage the provision and conservation of open space and the establishment of recreational uses to serve specific developments, *to promote affordable housing, and to implement the goals, objectives, strategies and standards in the Comprehensive Plan.* Residential cluster developments shall preserve the integrity of their sites by protecting and promoting the

preservation of features such as *wetlands*, steep slopes, stream valleys, ~~desirable natural~~ vegetation, ~~or~~ farmland, ~~or open space~~, and in doing so produce a more efficient and practicable development.

Section 20-500. 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 their *recreational facilities*, supporting roads, utilities, and other public facilities.

Section 20-501. Where Permitted.

A residential cluster development is permitted in the R-1, R-2, R-3, and R-5, ~~and R-7~~ zoning districts. *Residential cluster developments shall only be permitted on land designated Moderate Density Residential on the Comprehensive Plan when such land is zoned R-5, Multi-family Residential.* The requirements of this Article shall govern where there is a conflict with the requirements of the underlying district.

Section 20-503. 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. ~~except that structures containing three or more dwelling units shall not be permitted in a residential cluster development.~~

~~Two family dwellings shall be permitted with a Special Use Permit in a residential cluster development in the R-2 district.~~ In the event that the individual units within ~~a two-family attached~~ dwellings are proposed to be sold as separate living units, ~~a two-family lot the attached dwelling~~ may be divided ~~along the common wall separating the units~~ to permit separate deed descriptions for conveyance purposes. *A limited amount of commercial development will 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.*

Section 20-506. Minimum Lot Width *and Area Requirements.*

~~No lot width requirements.~~ *There are no lot width or area requirements.*

Section 20-507. Yard Regulations.

The rear and side yards may be reduced to zero provided that 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. Reductions of rear or side yards made under this provision shall also be subject to the following conditions:

(a) The minimum distance between any two buildings within the residential cluster development shall be ~~not less than ten feet~~ governed by the State of Virginia Building Code.

(b) No building in a residential cluster development in an R-1, R-2, R-3, or R-5 district shall be closer than thirty-five 35 feet to property outside the residential cluster development. ~~No building in a residential cluster in an R-7 district shall be closer than 50 feet to property outside the residential cluster development.~~

Section 20-508. Density.

In a residential cluster development, the *minimum and maximum* number of dwelling units per acre of ~~net developable gross area~~ acreage as calculated below shall be as follows:

Zoning District	Maximum Density
R-1	2.4
R-2	3.0
R-3, R-5	3.5
R-7	4.5

Comprehensive Plan

Designation	Gross Density		
	<u>Minimum</u>	<u>Allowable Base</u>	<u>Maximum</u>
Low Density Residential	0	2.5	4.0
Moderate Density Residential	4.0	4.0	12.0

In areas designated as Low Density Residential by the Comprehensive Plan, the gross density may be as high as 2.5 units per acre without accumulating density bonuses. In areas designated as Moderate Density Residential by the Comprehensive Plan the gross density shall be 4.0 units per acre without accumulating density bonuses.

For the purpose of calculating gross density, gross acreage shall equal the sum of total developable area and up to thirty-five percent of the total nondevelopable area as calculated below:

GROSS ACREAGE

<u><i>Percentage of Nondevelopable Area</i></u>	<u><i>Gross Acreage Shall Equal:</i></u>
<i>Less than 35%</i>	<i>Total Area of Parcel.</i>
<i>More than 35%</i>	<i>Developable Land Plus Up To 35% of the Parcel's Land.</i>

Net Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, ~~marsh~~ wetlands, and areas with slopes exceeding twenty-five percent ~~25%~~ gradient. If the cluster development lies in more than one ~~zoning-district~~ Comprehensive Plan Land Use Designation, the number of dwelling units shall be calculated separately for each district.

Section 20-509. Density Bonuses.

(a) *The allowable base density of 2.5 units per acre in Low Density Residential areas, and the 4.0 units per acre in Moderate Density Residential areas ~~permitted number of dwelling units defined in Section 20-508~~ may be increased upon the granting of a density bonus by the ~~Board of Supervisors~~ Planning Commission. Upon application, the ~~Board of Supervisors~~ Planning Commission may grant density bonuses in accordance with part (b) hereunder upon finding that the increased density will not impair the character of the area ~~nor likely reduce the value of surrounding buildings or property~~ or create unacceptable adverse off-site infrastructure impacts. A density bonus shall not be granted for any improvement, design, or action otherwise required by county, state, or federal law.*

(b) *A density bonus ~~equalling 2.5% of the density calculated according to Section 20-508~~ may be awarded for each condition, specified in (1) through ~~(11)~~ (16) below, which is met by the cluster development; provided, however, that in no case shall the accumulated density bonus' exceed ~~ten percent~~ the maximum gross units per acre as noted in Section 20-508. The density bonus percentages shall always be calculated against the allowable base density of 2.5 units per acre in Low Density Residential areas and 4.0 units per acre in Moderate Density Residential areas.*

1. *For the Pprovision of sidewalks on all internal streets a twenty percent density bonus may be awarded.*

2. For the Creation of a perpetual scenic easement ~~adjoining any road designated as a greenbelt on the Comprehensive Plan~~ dedicated to James City County or another group approved by the County a ten percent density bonus may be awarded. Such scenic easement shall be at least fifty feet wide as measured from the future road right-of-way for non-greenbelt roadways or an additional fifty feet in addition to the buffer area for roads designated as a greenbelt on the Comprehensive Plan.

3. For the Creation of a buffer area around ~~any marsh or perennial stream shown on U.S. Geological Survey topographic maps.~~ In tidal areas such buffer shall be at least 20 feet wide as measured from the ~~marsh or stream at mean high water.~~ For nontidal water courses the buffer shall be at least 20 feet wide as measured from the stream bank. RMA wetlands a fifteen percent density bonus may be awarded. This wetlands buffer shall be at least one-hundred feet wide as measured from the landward edge of the wetlands. The buffer area shall contain no structures or improvements of any kind, except that unpaved footpaths and water dependent facilities are permitted.

4. For the Dedication of land accepted by the County a fifteen percent density bonus may be awarded. Such land shall be dedicated for use as a school site, fire station site, park site, or other public facility site, shall be suitable for the proposed use and shall be at least two acres in size.

5. For Undertaking an archaeological survey of the site according to guidelines provided by the Virginia Historic Landmarks Commission a five percent density bonus may be awarded.

6. For Ppreserving any archaeological or historic site or structure judged to be of significant value by the Virginia Historic Landmarks Commission a ten percent density bonus may be awarded.

7. For Ppreserving in its natural state, any area demonstrated to be a habitat for any endangered, rare, or threatened species of plant or wildlife so designated by the State of Virginia or the federal government, or listed in Rare and Endangered Vascular Plant Species in Virginia, (Duncan M. Porter, Virginia Polytechnic Institute and State University, 1979) a fifteen percent density bonus may be awarded.

8. For the Pprovision of sidewalks joining the cluster development with any arterial road or public facility excluding pump stations, fire stations, and ~~dumpster locations~~ solid waste container sites, a twenty percent density bonus may be awarded. This density bonus will only be granted for those sidewalks that are not already required by Chapters 17 and 20 of the James City County Code. Such sidewalks shall be at least one half mile in length and shall meet the specifications of the Division of Code Compliance.

9. For the Pprovision of paved bicycle paths ~~at least one half mile in length~~ interconnecting sections of the development and/or significant recreational facilities a twenty percent density bonus may be awarded. For the provision of unpaved bicycle/walking paths interconnecting sections of the development a ten percent density bonus may be awarded.

10. For the construction within the project of any meaningful lake or wetlands area to be used for active or passive recreation or drainage regulation, provided that the lake is open and usable to the residents of the development for recreational purposes a fifteen percent density bonus may be awarded.

11. For the provision of a community swimming pool, a community recreation building or other similar major recreation facility such as tennis courts a thirty percent density bonus may be awarded.

12. For the provision of a mixture of housing types, where sixty percent or more of the residential units are other than single family homes a ten percent density bonus may be awarded.

13. For the preservation of existing wooded areas equal to: ten percent to nineteen percent of the site, a density bonus of ten percent may be granted; for twenty percent or greater of the site, a density bonus of fifteen percent may be granted.

14. A forty percent density bonus may be granted if thirty or more percent of the residential units have actual sales prices at or below the maximum allowable sales prices for James City County established under the Virginia Housing Development Authority's Home Mortgage Loan Program, as adjusted (\$81,500 as of October 1, 1991).

15. A fifty percent density bonus may be granted if thirty or more percent of the residential units have sales prices at or below eighty percent of the maximum sales price for James City County established under the Virginia Housing Development Authority's Home Mortgage Loan Program, as adjusted (\$65,200 as of October 1, 1991).

16. A twenty-five percent density bonus may be granted at the discretion of the Development Review Committee for development proposals that exhibit superior layout and quality design not generally found in other County developments. This density bonus will only be granted if the development proposal incorporates and meets other specific density bonus conditions listed in paragraphs 1.-15.

In order to be awarded a density bonus under paragraph 14. or 15. the developer must provide the Director of Planning confirmation of the initial sale price for the low or moderate cost units prior to the issuance of building permits for the bonus units. The developer shall also enter into an agreement with James City County which is approved by the County, restricting the initial sales prices of the low or moderate cost units for a period of five years and which controls the project phases in which such units shall be constructed.

Section 20-510. Density Bonuses--Performance Assurance.

For all improvements proposed by the applicant pursuant to Section 20-509, assurances shall be provided, satisfactory to the County Attorney, that such improvements will be constructed and completed for use by project residents within a ~~stated~~ *specific, reasonable* period of time.

Section 20-511. Amount of Open Space Required.

(a) Within every residential cluster development approved under this Article, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for ~~recreation--or~~ conservation and recreation purposes. *It is recommended that the open space be protected by establishing a permanent conservation easement.* The amount of such open space shall include not be less than ~~fifteen-(15)-percent~~ *fifty percent* of the net developable area of the site *in Low Density Residential Areas and thirty-five percent of the net developable area in Moderate Density Residential Areas* ~~of the net developable area of the site.~~ Golf courses may be counted as open space for the purpose of meeting this requirement to a *maximum of thirty percent of the required open space.*

(b) In addition, all non-developable area consisting of all stream beds, areas subject to flooding, ~~marsh~~ *wetlands* and areas with slopes exceeding twenty-five ~~(25)~~ percent gradient, shall be maintained as open space.

(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, the Planning Commission shall find that:

- ~~1. The required open space land contains in a contiguous area at least the minimum area for a single family residential lot required by the underlying zoning district;~~
- 2 1. No land lying within a proposed or existing road right-of-way, utility easement, or drainage facility is counted toward the minimum open space requirement;
- 3 2. The land is suitable *in its size, shape, and location* for the *conservation and* recreational uses intended, with adequate access *for the entire development* and served with adequate facilities for such purpose.

(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual maintenance of designated open space areas to relieve the County of future maintenance.

Section 20-512. Ownership of Open Space.

Within any residential cluster development approved under this Article on which a tract is intended to be used in common for recreational or other public or semipublic purposes, no lot shall be approved, recorded, sold, or used within the development until appropriate documents in a form approved by the County Attorney shall have been executed. Such documents shall set forth the following:

1. The nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property including necessary bonds when required by the County; and the method of assessing the individual property for its share of the cost of *adequately* administering, *and* maintaining, *and* replacing such common property.
2. The extent of common interest held by the owner of each individual parcel in the tract held in common with others.

Section 20-513. Review and Approval Process

(a) Review Required.

A *master* plan of development for a residential cluster development proposed under this Article shall be filed with the Planning Director who shall submit it to the Development Review Committee. The Planning Director and the Development Review Committee shall *recomm*end action on the plan to the Planning Commission, which shall approve the plan of development upon finding that:

1. Such cluster development will preserve the environmental integrity of the site by protecting features such as wetlands, steep slopes, stream valleys, natural vegetation or farmland;

2. The cluster development will not impair the character of the area ~~nor likely reduce the value of surrounding buildings or property~~ or create unacceptable adverse off-site infrastructure impacts; and

3. The proposed project is ~~substantially~~ in accordance with the Comprehensive Plan of James City County.

(b) *Master Plan of Development.*

The master plan of development shall ~~include all information required to be on a preliminary plat by the Subdivision Ordinance, and shall~~ identify proposed areas and uses of open space including the non-developable areas. ~~As marginal information the master plan of development shall show the total area of the site, the net developable area, the proposed facilities qualifying for density bonuses, the total number of dwelling units, and the number of bonus units, the minimum amount of open space required under Section 20-511(a), and the total amount of open space proposed.~~ The master plan of development shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or a planner. A scale shall be used so that the entire parcel can be shown on one piece of paper no larger than 30" 36" by 40" 48". It shall include:

1. An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or landmarks.

2. A north arrow.

3. *The location of existing property lines, watercourses, or lakes, wooded areas and existing woods which are within or adjoin the property.*
 4. *The boundaries of each section, topography, and approximate location of proposed streets, proposed areas and uses of open space, proposed recreation areas, proposed lots and/or buildings, and phasing of development.*
 5. *Marginal data which shows the gross acreage of the site, the net developable area, the proposed facilities qualifying for density bonuses, the total number of dwelling units and/or lots, the number of bonus units and/or lots, the minimum amount of open space required by Section 20-511(a), and the total amount of open space.*
 6. *Master water, sewer and drainage plans and schematic plans.*
- (c) ~~Status of Approved Plan of Development~~ *Master Plan.*

~~Upon approval of the plan of development under this Section, such plan shall be considered an approved preliminary plat, as defined in the Subdivision Ordinance, and such plan shall thereafter be controlled by the Subdivision Ordinance.~~

The approval of the master plan under this Section shall not be considered an approved preliminary plat as defined in the Subdivision Ordinance.

(d) Amendment of *Master Plan of Development*.

Upon application, an approved plan of development may be amended by the Planning Director; provided, however, that a proposed amendment does not:

1. Alter a recorded plat.
2. Conflict with the requirements of this Article.
3. Change the general character or content of an approved ~~overall~~ master plan of development.
4. Impair ~~property values~~ in the character of the surrounding area.
5. Result in any substantial change of major external access points.
6. Increase the approved number of dwelling units for any portion of the previously approved residential cluster development.

Proposed amendments that do not meet these criteria shall be referred to the Planning Commission for review and action.

(e) *Master Plan of Development - Review Fees.*

~~Submittal of a plan of development under this Section shall be accompanied by a fee in accordance with fees established for site plan review under 20-6 of the Chapter or subdivision review under Section 20-6 of this Chapter or subdivision review under Section 17-15 of the County's Subdivision Ordinance.~~ Submittal of a master plan shall be accompanied by the fee charged for master plan review in accordance with Section 20-6 of this Chapter.

(f) *Master Plan - Agreement.*

Prior to final approval of the first sectional plan, an agreement shall be executed between the developer and the County which shall be binding upon the developer, his successors, assigns or heirs to the effect that the approved master plan shall govern the development of the total residential cluster development. This provision does not preclude the adjustment of the plan in accordance with Section 20-513(d).

(g) *Sectional Plans - Action.*

Sectional plans submitted in accordance with Subsection (d) shall be reviewed in accordance with, and shall meet the requirements of, Article II of this Chapter or the County's Subdivision Ordinance, whichever is appropriate.

~~Section 20-514. Special Provisions for Stage Development of Residential Clusters.~~

~~Residential cluster developments may be developed in stages or sections in accordance with the following provisions:~~

~~(a) Review Required.~~

~~An overall plan of development shall be submitted, reviewed and approved in accordance with Section 20-513(a).~~

~~(b) Plan of Development.~~

~~The plan of development shall be prepared by a licensed surveyor, engineer, architect, landscape architect, or a planner. A scale may be used so that the entire parcel can be shown on one piece of paper no longer than 30" by 40". It shall include:~~

- ~~1. An insert map at a scale of not less than one inch to one mile, showing the property in relation to surrounding roads, subdivisions or landmarks.~~
- ~~2. A north arrow.~~
- ~~3. The location of existing property lines, watercourses, or lakes, wooded areas and existing woods which are within or adjoin the property.~~

4. ~~The boundaries of each section, topography, approximate location of proposed streets, proposed areas and uses of open space, proposed recreation areas, proposed lots and or buildings.~~

5. ~~Marginal data which shows the total area of the site, the net developable area, the proposed facilities qualifying for density bonuses, the total number of dwelling units and or lots, the number of bonus units and or lots, the minimum amount of open space required by Section 20-511(a), and the total amount of open space.~~

6. ~~Master water, sewer and drainage plans and schematic plans which shall indicate the phasing of development.~~

(c) ~~Status of Approved Plan of Development.~~

~~The approval of the plan of development under this Section shall not be considered an approved preliminary plat as defined in the Subdivision Ordinance.~~

(d) ~~Relationship of Sectional Plans to Plan of Development.~~

~~Following, or as a part of the establishment and approval of the plan of development by the Planning Commission, the applicant shall furnish to the Development Review Committee or the Planning Director, whichever is appropriate, sectional plans of any part or parts of the residential cluster~~

~~development. The term sectional plan shall mean site plan or subdivision plat. The sectional plans shall be consistent with the plan of development as approved, but may alter to any degree which the Planning Commission believes does not alter the basic concept or character of the development.~~

~~(e) Plan of Development Agreement.~~

~~Prior to final approval of the first sectional plan, an agreement shall be executed between the developer and the County which shall be binding upon the developer, his successors, assigns or heirs to the effect that the approved plan of development shall govern the development of the total residential cluster development. This provision does not preclude the adjustment of the plan in accordance with Section 20-513(d).~~

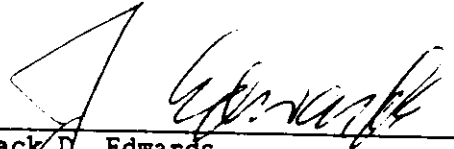
~~(f) Sectional Plans, Plan of Development Review Fees.~~

~~Submittals of a site plan or preliminary subdivision plat implementing any portion of the plan of development shall be accompanied by a fee in accordance with Section 20-6 of this Chapter or Section 17-15 of the County's Subdivision Ordinance. Submittal of a plan of development shall be accompanied by the fee charged for master plan review in accordance with Section 20-6 of this Chapter.~~

~~(g) Sectional Plans—Action.~~

~~Sectional plans submitted in accordance with Subsection (d) shall be reviewed in accordance with, and meet the requirements of, Article II of this Chapter or the County's Subdivision Ordinance, whichever is appropriate.~~

Section 20-515 - Section 20-523. Reserved


Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:


David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
DEPUE	NAY
TAYLOR	AYE
SISK	AYE
KNUDSON	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 18th day of February, 1992.

2030U

FEB 18 1992

BOARD OF SUPERVISOR
JAMES CITY COUNTY
VIRGINIAORDINANCE NO. 31A-138

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, DISTRICTS, DIVISION 4, LIMITED RESIDENTIAL DISTRICT, R-1, BY AMENDING SECTION 20-149, STATEMENT OF INTENT; SECTION 20-152, AREA REQUIREMENTS; SECTION 20-153, SETBACK REQUIREMENTS; SECTION 20-156, HEIGHT LIMITS; DIVISION 5, LIMITED RESIDENTIAL DISTRICT, R-2, BY AMENDING SECTION 20-169, STATEMENT OF INTENT; SECTION 20-170, PERMITTED USES; SECTION 20-171, USES PERMITTED BY SPECIAL USE PERMIT ONLY; AND SECTION 20-172, AREA REQUIREMENTS; BY RENUMBERING AND AMENDING SECTION 20-173, SETBACK REQUIREMENTS; SECTION 20-174, MINIMUM LOT WIDTH; SECTION 20-177, HEIGHT LIMITS; SECTION 20-178, SPECIAL PROVISIONS FOR CORNER LOTS; SECTION 20-179, SIGN REGULATIONS; BY RENUMBERING SECTION 20-175, YARD REGULATIONS; AND SECTION 20-176, SPECIAL PROVISIONS FOR TWO-FAMILY DWELLINGS; BY DELETING DIVISION 6, GENERAL RESIDENTIAL DISTRICT, R-3, BY DELETING SECTIONS 20-190 THROUGH 20-210; BY AMENDING THE ZONING MAP BY REZONING AND REDESIGNATING THE R-3 ZONING DISTRICT TO THE R-2 ZONING DISTRICT; TO ALLOW THESE DISTRICTS TO MORE CLOSELY CONFORM WITH THE ADOPTED COMPREHENSIVE PLAN IN ORDER TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF THE RESIDENTS OF JAMES CITY COUNTY BY ENSURING THAT AN ADEQUATE SUPPLY OF DECENT, SAFE AND SANITARY HOUSING EXISTS FOR COUNTY CITIZENS AND MAINTAINING AND IMPROVING THE HIGH LEVEL OF ENVIRONMENTAL QUALITY IN THE COUNTY.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Zoning, is hereby amended and reordained by amending Section 20-149, Statement of intent; Section 20-152, Area requirements; Section 20-153, Setback requirements; Section 20-156, Height limits; Section 20-169, Statement of intent; Section 20-170, Permitted uses; Section 20-171, Uses permitted by special use permit only; and Section 20-172, Area requirements; by adding new Section 20-173, Overall density within major subdivisions; and Section 20-174, Open space within major subdivisions; by renumbering and amending Section 20-175, Setback requirements; Section 20-176, Minimum lot width; Section 20-179, Height limits; Section 20-180, Special provisions for corner lots; Section 20-181, Sign regulations; by renumbering Section 20-177, Yard regulations; Section 20-178, Special provisions for two-family dwellings; by deleting Sections 20-190 through 20-210; and by amending the Zoning Map by rezoning and redesignating the R-3 Zoning District to the R-2 Zoning District; to allow these districts to more closely conform with the adopted Comprehensive Plan in order and to protect the public health, safety and welfare of the residents of James City County by ensuring that an adequate supply of decent, safe and sanitary housing exists for County citizens and maintaining and improving the high level of environmental quality in the County.

ARTICLE IV. DISTRICTS

DIVISION 4. LIMITED RESIDENTIAL DISTRICT, R-1

Section 20-149. Statement of Intent.

The Limited Residential District, R-1, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development ~~appears~~ is likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life, ~~and~~ to prohibit all activities of a commercial nature ~~and to implement the policies and designations of the Comprehensive Plan applicable to low density residential areas.~~ To these ends, development is limited to low density residential, and generally permitted uses are limited to single-family dwellings, plus certain additional community-oriented uses that serve the residents of this District.

Section 20-152. Area Requirements.

(e) These minimum sizes shall not apply to lots of less than 15,000 square feet recorded or legally in existence prior to April 8, 1985, ~~the date of adoption of this section.~~ ~~Such lots of less than 15,000 square feet used for residential purposes shall be limited to one single family residential use.~~

Section 20-153. Setback Requirements.

Structures shall be located a minimum of 35 *thirty-five* feet from any street right-of-way which is 50 *fifty* feet or greater in width. If the street right-of-way is less than 50 *fifty* feet in width, structures shall be located a minimum of 60 *sixty* feet from the center line of the street. This shall be known as the "setback line," ~~except~~ *provided* that ~~the following shall apply: all subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.~~

~~(a) Where 40% or more of frontage on one side of a street within the same block is improved with buildings, no building shall project beyond the average front yard so established.~~

~~(b) No building shall be required to have a front yard greater than that of one of two existing buildings on immediately adjoining lots on each side, whichever is the farthest removed from the street.~~

~~(c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.~~

Section 20-156. Height Limits.

Buildings may be erected up to two stories and shall not exceed ~~35~~ *thirty-five* feet in height from grade, ~~except~~ *provided* that:

(b) A public or semipublic building such as a school, church, or library, ~~or general hospital~~ may be erected to a height of ~~60~~ *sixty* feet from grade; provided, that the required front, side and rear yards shall be increased one foot for each foot in height over ~~35~~ *thirty-five* feet.

DIVISION 5. ~~LIMITED~~ *GENERAL* RESIDENTIAL DISTRICT, R-2.

Section 20-169. Statement of Intent.

The ~~Limited~~ *General* Residential District, R-2, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development ~~appears~~ *is likely to occur*. The regulations for this District are designed to stabilize and protect the essential characteristics of the District, to promote and encourage a suitable environment for family life, *to promote and encourage the clustering of residential developments to maximize shared and purposeful open space, to protect the natural environment and to promote a sense of community,* ~~and~~ to prohibit activities of a commercial nature *and to implement the policies and designations of the Comprehensive Plan applicable to low density residential areas*. To these ends, development is limited to low-density residential, and permitted uses are limited to dwellings designed to be occupied by one

family or two families more than one family under certain conditions plus certain additional community-oriented uses, that serve the residents of the District.

Section 20-170. Permitted Uses.

In the *Limited General* Residential District, R-2, structures to be erected or land to be used, shall be for the following uses:

~~Single family dwellings.~~

~~Accessory apartments in accord with Section 20-92.~~

~~Schools, libraries and fire stations.~~

~~Houses of worship.~~

~~Community--recreation--facilities--including--parks,--playgrounds, clubhouses,--boating facilities,--swimming pools,--ball fields,--tennis courts and other similar recreation facilities.~~

~~Retail shops associated with community recreation facilities.~~

~~Golf courses,--country clubs.~~

~~Off-street parking as required by this Chapter.~~

~~Accessory buildings or structures as defined.~~

~~Home occupations.~~

~~Water impoundments of less than 50 acres and with dam heights of less than 25 feet.~~

~~Residential cluster development in accordance with Article IX of this Chapter.~~

Accessory apartments in accord with Section 20-92.

Accessory buildings or structures as defined.

Community recreation facilities including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities.

Four-family dwellings contained within a residential cluster development in accordance with Article IX of this chapter.

Golf courses, country clubs.

Home occupations.

Houses of worship.

Off-street parking as required by this Chapter.

Residential cluster development in accordance with Article IX of this Chapter.

Retail shops associated with community recreation facilities.

Schools, libraries and fire stations.

Single-family dwellings.

Three-family dwellings contained within a residential cluster development in accordance with Article IX of this chapter.

Two-family dwellings contained within a residential cluster development in accordance with Article IX of this chapter.

Water impoundments of less than fifty acres and with dam heights of less than twenty-five feet.

Section 20-171. Uses Permitted by Special Use Permit Only.

In the ~~Limited General~~ Residential District, R-2, buildings to be erected or land to be used for the following or similar uses shall be permitted only after issuance of a Special Use Permit by the Board of Supervisors:

~~Two family dwellings.~~

~~Day care or child care centers.~~

~~Home care facilities.~~

~~Cemeteries and memorial gardens.~~

~~New or expansion of water impoundments for public or private use of 50 acres or more and a dam height of 25 feet or more.~~

~~Rental of rooms to a maximum of three rooms.~~

~~Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, are permitted generally and shall not require a Special Use Permit.~~

~~Public or private transmission pipelines, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products,~~

~~chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.~~

~~Public or private electrical generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights of way and track and safety improvements in existing railroad rights of way, are permitted generally and shall not require a Special Use Permit.~~

~~Publicly owned solid waste container sites.~~

~~Telephone exchanges and telephone switching stations.~~

Cemeteries and memorial gardens.

Day care or child care centers.

Home care facilities.

New or expansion of water impoundments for public or private use of fifty acres or more and a dam height of twenty-five feet or more.

Public or private electrical generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting sixty-nine kilovolts or more.

Publicly owned solid waste container sites.

Public or private transmission pipelines, including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions or private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a Special Use Permit.

Public or private water and sewer facilities, including but not limited to treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, private connections to existing mains which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a subdivision or development, are permitted generally and shall not require a Special Use Permit.

Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights-of-way and track and safety improvements in existing railroad rights-of-way, are permitted generally and shall not require a Special Use Permit.

Rental of rooms to a maximum of three rooms.

Telephone exchanges and telephone switching stations.

Two-family dwellings.

Section 20-172. Area Requirements.

(a) Lots served by public water and public sewage disposal systems shall have a minimum area of ~~12,000~~ 10,000 square feet.

(b) Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of ~~15,000~~ 12,000 square feet.

(c) Lots served by a public water distribution system but not a public sewage disposal system shall have a minimum area of 20,000 square feet.

(d) Lots served by individual water and sewage disposal system shall have a minimum area of 30,000 square feet.

(e) These minimum sizes shall not apply to lots of less than 12,000 square feet recorded or legally in existence prior to April 8, 1985, ~~the date of adoption of this section.~~ ~~Such lots of less than 12,000 square feet used for residential purposes shall be limited to one single family residential use.~~

Section 20-173. Overall Density within Major Subdivisions.

All major subdivisions shall have a maximum gross density of 2 units per acre.

Section 20-174. Open Space within Major Subdivisions.

(a) Within every subdivision consisting of fifty or more lots, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation or conservation and recreation purposes. The amount of such open space shall not be less than fifteen percent of the net developable area of the site;

(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding, marsh and areas with slopes exceeding twenty-five percent gradient, shall be maintained as open space;

(c) Before accepting the open space as meeting the requirements of paragraph (a) of this section, it shall be demonstrated that:

- 1. No land lying within a proposed or existing utility easement or drainage facility is counted toward the minimum open space requirement;*
- 2. The land is suitable for the recreational use intended, with adequate access; and*
- 3. No more than fifty percent of the required open space shall be used for active recreational uses; and*

(d) Evidence shall be given that satisfactory arrangements will be made for the perpetual preservation of designated open space areas to relieve the County of any obligation to maintain.

Section 20-173 5. Setback Requirements.

Structures shall be located a minimum of 35 twenty-five feet from any street right-of-way which is 50 fifty feet or greater in width. Where the street right-of-way is less than 50 fifty feet in width, structures shall be located a minimum of 60 fifty feet from the center line of the street. This shall be known as the "setback line"; ~~except, that the following shall apply:~~ all subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.

~~(a) Where 40% or more of frontage on one side of a street within the same block is improved with buildings, no building shall project beyond the average front yard so established.~~

~~(b) No building shall be required to have a front yard greater than that of one of two existing buildings on immediately adjoining lots on each side, whichever is the farthest removed from the street.~~

~~(c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.~~

Section 20-17~~A~~ 6. Minimum Lot Width.

(a) Lots of less than 20,000 square feet shall have a minimum width at the setback line of ~~80~~ *seventy-five feet*.

(b) *Lots of 20,000 square feet to 43,560 square feet shall have a minimum width at the setback line of 100 feet.*

(c) *Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.*

Section 20-17~~B~~ 7. Yard Regulations.

(a) *Side. The minimum side yard for each main structure shall be ten feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of ten feet.*

(b) Rear. Each main structure shall have a minimum rear yard of ~~35~~ *thirty-five* feet. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of ten feet.

Section 20-176 8. Special Provisions for Two-Family Dwellings.

a) Lots intended for two-family dwellings shall be:

1. served by a public water system;
2. served by a public sewer system;
3. required to have a minimum lot size of 15,000 square feet;
and
4. required to meet all other requirements of this District.

b) In addition to the above requirements, ~~where~~ *when* each dwelling unit of a two-family dwelling is on an individual lot, each individual lot shall:

1. have a minimum lot size of 7,500 square feet;
2. have a minimum lot width of ~~40~~ *forty* feet; and
3. have no minimum side yard requirement on the common side lot line.

Section 20-177 9. Height Limits.

Buildings may be erected up to two stories and shall not exceed ~~35~~ *thirty-five* feet in height from grade, except that:

(a) The height limit for dwellings may be increased to ~~45~~ *forty-five* feet and to three stories, ; provided that there are two side yards for each permitted use each of which is a minimum of ~~15~~ *fifteen* feet plus one foot or more of side yard for each additional foot of building height over ~~35~~ *thirty-five* feet.

(b) A public or semipublic building such as a school, church, or library ~~or general hospital~~ may be erected to a height of ~~60~~ *sixty* feet from grade, provided the required front, side and rear yards shall be increased one foot for each foot in height over ~~35~~ *thirty-five* feet.

(c) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennas and home radio aerials may be erected to a total height of ~~60~~ *sixty* feet from grade.

(d) No accessory building which is within ten feet of any lot line shall be more than one story high. All accessory buildings shall be less than the main building in height,; provided ~~however,~~ *that* the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and the

accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than ~~35~~ *thirty-five* feet in height.

Section 20-178 80. Special Provisions for Corner Lots.

(a) ~~For corner lots, -t~~ The front of the lot shall be the shorter of the two sides fronting on streets+ ;

(b) No structures shall be located closer than ~~35~~ *twenty-five* feet to the side street+ ; and

(c) Each ~~corner~~ lot shall have a minimum width at the setback line of 100 feet.

Section 20-179 81. Sign Regulations.

To assure an appearance and condition which is consistent with the purpose of the ~~Limited~~ *General* Residential District, R-2, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VII of this Chapter.

Section 20-180 2- Section 20-189. Reserved

~~DIVISION 6. GENERAL RESIDENTIAL DISTRICT, R 3~~

~~Section 20-190. Statement of Intent.~~

~~The General Residential District, R 3, is composed of certain quiet, low density residential uses plus certain open areas where similar development appears likely to occur. The regulations for this District are designed to stabilize and protect the essential characteristics of the District, to promote and encourage a suitable environment for family life and to limit activities of a commercial nature. To these ends, development is limited to low density, and permitted uses are limited to dwellings designed to house up to three families, plus certain public and semipublic, institutional and other related uses.~~

~~Section 20-191. Permitted Uses:~~

~~In the General Residential District, R 3, structures to be erected or land to be used, shall be for the following uses:~~

~~Single family dwellings.~~

~~Accessory apartments in accord with Section 20-92.~~

~~Two family dwellings.~~

~~Three family dwellings.~~

~~Schools, libraries and fire stations.~~

~~Houses of worship.~~

~~Community recreation facilities, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts, and other similar recreation facilities.~~

~~Retail shops associated with community recreation facilities.~~

~~Golf courses, country clubs.~~

~~Home occupations.~~

~~Off-street parking as required by this Chapter.~~

~~Accessory buildings or structures as defined.~~

~~Water impoundments of less than 50 acres and with a dam height of less than 25 feet.~~

~~Residential cluster development in accordance with Article IX of this Chapter.~~

~~Section 20-192. Uses Permitted by Special Use Permit Only.~~

~~In the General Residential District, R 3, structures to be erected or land to be used for the following or similar uses shall be permitted only after the issuance of a Special Use Permit by the Board of Supervisors:~~

~~Four family dwellings.~~

~~Home care facilities.~~

~~Hospitals, nursing homes, sanatoria, and rest homes.~~

~~Professional, business and governmental offices.~~

~~Tourist homes.~~

~~Lodges, civic clubs, fraternal organizations and service clubs.~~

~~Gemeteries and memorial gardens.~~

~~Day care and child care centers.~~

~~Rental of rooms to a maximum of three rooms.~~

~~New or expansion of water impoundments for public or private use of
50 acres or more and a dam height of 25 feet or more.~~

~~Public or private water and sewer facilities, including but not
limited to treatment plants, pumping stations, storage facilities and
transmission mains, wells and associated equipment such as pumps to be owned
and operated by political jurisdictions. However, private connections to
existing mains which are intended to serve an individual residential or
commercial customer and which are accessory to existing or proposed
development, and distribution lines and local facilities within a
subdivision or development, are permitted generally and shall not require a
Special Use Permit.~~

~~Public or private transmission pipelines, including pumping stations
and accessory storage, for natural gas, propane gas, petroleum products,
chemicals, slurry coal and other gases, liquids or solids. However, private
extensions or connections to existing pipelines, which are intended to serve
an individual residential or commercial customer and which are accessory to
existing or proposed development, are permitted generally and shall not
require a Special Use Permit.~~

~~Public or private electrical generation facilities, electrical substations with a capacity of 5,000 kilovolt amperes or more, and electrical transmission lines capable of transmitting 69 kilovolts or more.~~

~~Railroad facilities including tracks, bridges, switching yards and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad rights of way, and track and safety improvements in existing railroad rights of way, are permitted generally and shall not require a Special Use Permit.~~

~~Telephone exchanges and telephone switching stations.~~

~~Publicly owned solid waste container sites.~~

~~Section 20-193. Area Requirements.~~

~~(a) Lots served by public water and public sewage disposal systems shall have a minimum lot area of 10,000 square feet.~~

~~(b) Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 12,000 square feet.~~

~~(c) Lots served by a public water distribution system but not a public sewage distribution system shall have a minimum area of 20,000 square feet.~~

~~(d) Lots served by individual water and sewage disposal systems shall have a minimum lot area of 30,000 square feet.~~

~~These minimum sizes shall not apply to lots of less than 10,000 square feet recorded or legally in existence prior to April 8, 1985, the date of adoption of the Section. Such lots of less than 10,000 square feet used for residential purposes shall be limited to one single family residential use.~~

~~Section 20-194. Setback Requirements.~~

~~Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. If the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the center line of street. This shall be known as the "setback line", except that the following shall apply:~~

~~(a) Where 40% or more of frontage on one side of a street within the same block is improved with buildings, no building shall project beyond the average front yard so established.~~

~~(b) No building shall be required to have a front yard greater than that of one of two existing buildings on immediately adjoining lots on each side, whichever is the farthest removed from the street.~~

~~(c) All subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines.~~

~~Section 20-195. Minimum Lot Width.~~

~~(a) Lots of less than 20,000 square feet shall have a minimum width at the setback line of 75 feet.~~

~~(b) Lots of 20,000 square feet to 43,560 square feet shall have a minimum width at the setback line of 100 feet.~~

~~(c) Lots of 43,560 square feet or more, shall have a minimum lot width at the setback line of 150 feet.~~

~~Section 20-196. Yard Regulations.~~

~~(a) Side. The minimum side yard for each main structure shall be ten feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of ten feet.~~

~~(b) Rear. Each main structure shall have a minimum rear yard of 25 feet. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of ten feet.~~

~~Section 20-197. Special Regulations and Area Requirements for Two, Three, and Four Family Dwellings.~~

~~Lots intended for two, three, or four family dwellings shall be served by a public water system and a public sewer system. Each lot shall meet the requirements of this District. The minimum lot size for a two family dwelling on one lot shall be 12,000 square feet, for a three family dwelling on one lot shall be 18,000 square feet and for a four family dwelling on one lot shall be 22,000 square feet. The minimum lot size for two, three, and four family dwellings where each dwelling unit is on an individual lot shall be as follows:~~

~~(a) The minimum lot area for each unit of a two family dwelling shall be 6,000 square feet. The combined lot areas shall total a minimum of 12,000 square feet.~~

~~(b) The minimum lot area for each unit of a three family or four family dwelling where the units are constructed in a row shall be as follows:~~

~~The minimum lot area for exterior units shall be 6,000 square feet. The minimum lot area for interior units shall be 3,000 square feet.~~

~~(c) The minimum lot area for each unit of a three family or four family dwelling where the units are not constructed in a row shall be 5,000 square feet.~~

~~(d) The combined lot areas for a three family dwelling shall total a minimum of 18,000 square feet, and the combined lot areas for a four family dwelling shall total a minimum of 22,000 square feet.~~

~~(e) The minimum lot width shall be 50 feet; provided, however, the minimum lot width may be reduced to 20 feet for interior unit lots where the units are constructed in a row.~~

~~Section 20-198. Height Limits.~~

~~Buildings may be erected up to two stories and shall not exceed 35 feet in height from grade, except that:~~

~~(a) The height limit for dwellings may be increased to 45 feet and to three stories, provided that there are two side yards for each permitted use, each of which is a minimum of ten feet, plus one foot or more of side yard for each additional foot of building height over 35 feet.~~

~~(b) A public or semipublic building such as a school, church, library or hospital may be erected to a height of 60 feet from grade, provided that the required front, side and rear yards shall be increased one foot for each foot in height over 35 feet.~~

~~(c) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flag poles, home television antennae and home radio aerials may be erected to a total height of 60 feet from grade.~~

~~(d) No accessory building which is within ten feet of any property lot line shall be more than one story high. All accessory buildings shall be less than the main building in height; provided, however, the height of an accessory building may exceed the height of the main building if the grade of the lot is such that the elevation of the main building exceeds the elevation of the accessory building. The elevation of the main building and accessory building shall be measured from the level of the curb or the established curb grade opposite the middle of the main building. In no case shall an accessory building be more than 35 feet in height.~~

~~Section 20-199. Special Provisions for Corner Lots.~~

~~(a) For corner lots, the front of the lot shall be the shorter of the two sides fronting on streets.~~

~~(b) No structures shall be located closer than 35 feet to the side street.~~

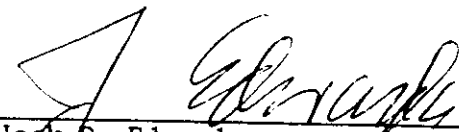
~~(c) Corner lots shall have a minimum width at the setback line of 100 feet.~~

~~Section 20-200. Sign Regulations.~~

~~To assure an appearance and condition which is consistent with the purposes of the General Residential District, R-3, outdoor signs on the properties within the District shall comply with the regulations for exterior signs in Article VII of this Chapter.~~

~~Section 20-201. Section 20-210. Reserved~~

This Ordinance amends and reordains the Official Zoning Map of James City County, existing on February 3, 1992, to rename the R-2 district from "Limited Residential District" to "General Residential District" and to rezone and redesignate the R-3, General Residential, District to the R-2, General Residential, District.


Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:


David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
DEPUE	AYE
TAYLOR	AYE
SISK	AYE
KNUDSON	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 18th day of February, 1992.