

**AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 25TH DAY OF MAY, 1999, AT 7:02 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  
David L. Sisk, Vice Chairman, Roberts District

John J. McGlennon, Jamestown District (Absent)  
Ronald A. Nervitt, Powhatan District  
M. Anderson Bradshaw, Stonehouse District  
Sanford B. Wanner, County Administrator  
Frank M. Morton, III, County Attorney

**B. PLEDGE OF ALLEGIANCE**

Board, staff, and the audience stood and recited the Pledge of Allegiance in honor of Memorial Day, May 31, 1999.

**C. PUBLIC COMMENT**

1. Mr. Ed Oyer, 139 Indian Circle, asked who would be accountable for structural repairs needed at Toano Middle School and spoke on geo-technical reports found in the school files. He asked for a response to the question of why a 2,600 foot cul-de-sac was approved in The Retreat subdivision.
2. Mr. Dan Jackson, 6090 Mooretown Road, speaking on behalf of a number of persons on Mooretown Road, stated unhappiness with the design of the intersection of Mooretown Road and International Parkway and commented that the citizens had no input on that design. He asked the Board to continue dialogue with York County.
3. Ms. Carolyn Baker, 6290 Mooretown Road, voiced concern that Industrial Boulevard would cut off Mooretown Road at the northern end and Mooretown Road might be renamed. She asked the Board to negotiate with York County to preserve the legacy and heritage of Mooretown Road.
4. Ms. Shirley Hundley, 6113 Mooretown Road, spoke in favor of keeping the Mooretown Road name, and expressed a concern of the dangerous situation where her driveway entered to the main highway.

**D. PRESENTATIONS****1. Newport News Waterworks, King William Reservoir Update, David Morris**

Mr. David Morris, Newport News Waterworks, stated that the Army Corps of Engineers' decision regarding the permit was expected in June. He expressed optimism that the regional project would be in the best interest of all concerned.

**2. Williamsburg Area Chamber of Commerce, George M. Hudgins, Jr.**

Mr. George M. Hudgins, Jr., Coordinator for the Capital Campaign Team of the Williamsburg Area Chamber of Commerce, outlined a new building project for the Chamber of Commerce and the Williamsburg Convention and Visitors Bureau. He requested that the County contribute \$100,000 of a \$700,000 Capital Campaign budget, as an investment in the infrastructure of the Chamber of Commerce.

Mr. Edwards asked staff to put the request for funding on a future agenda after additional information was received.

Mr. McGlennon arrived at 7:35 p.m.

**E. HIGHWAY MATTERS**

Mr. Quintin Elliott, Williamsburg Area Resident Engineer, Virginia Department of Transportation (VDOT), introduced newest member of the residency, Mr. John Mazur, Land Development Subdivision and Site Plan Review. Mr. Elliott announced that Route 199 opening day would be August 6, 1999.

Mr. Edwards asked if changes could be made to the Mooretown Road/International Parkway intersection.

Mr. Elliott responded that changes would include delay in project to purchase additional right-of-way and costs to remove and redesign with possible repayment of Federal funding.

Mr. Sisk asked about the safety of the length of the bridge span on Monticello Boulevard. Mr. Elliott responded that designers build in safety and a similar span crosses Magruder Boulevard on Hampton Center Parkway in Newport News.

Mr. McGlennon asked about status of projects on Jamestown and Sandy Bay roads, and Centerville Road. Mr. Elliott responded that with good weather, projects could be completed in 30 days.

Mr. Bradshaw asked that VDOT mow the drainage ditches with steep slopes on Forge Road.

Mr. Sisk asked about signage for slowing of traffic on Canterbury Place in The Hamlet subdivision.

Mr. Nervitt reported a citizen's concern on Centerville Road that the sidewalk is too high for handicapped person to negotiate.

Mr. Nervitt asked what could be done about safety concerns regarding four-lanes of Industrial Boulevard narrowing into two-lane Mooretown Road residential neighborhood.

Mr. Elliott stated that York County would have to request consideration of a change.

Board members thanked Mr. Elliott for several completed projects.

#### F. CONSENT CALENDAR

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

Mr. Sisk made a motion to approve the Consent Calendar.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

1. Minutes of May 11, 1999, Regular Meeting
2. Dedication of Streets in Governor's Land and Raintree Villas

### RESOLUTION

#### DEDICATION OF STREETS IN GOVERNOR'S LAND

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

### RESOLUTION

#### DEDICATION OF STREETS IN RAIN TREE VILLAS

WHEREAS, the streets described on the attached Additions Form SR-5(A), fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of James City County; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised this Board the streets meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation entered into an agreement on November 1, 1993, for comprehensive stormwater detention which applies to this request for addition.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby requests the Virginia Department of Transportation to add the streets described on the attached Additions Form SR-5(A) to the secondary system of State highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements.

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage.

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

3. Pre-Tax Purchase of Prior Virginia Retirement System (VRS) Service

**RESOLUTION**

**AUTHORIZATION TO PICK UP THE EMPLOYEE'S CONTRIBUTION**

**TO VRS FOR PAST SERVICE CREDIT**

**UNDER §414(h) OF THE INTERNAL REVENUE CODE**

WHEREAS, James City County desires to provide its employees with tax deferral pursuant to §414(h) of the Internal Revenue Code with respect to their member contributions to the Virginia Retirement System, the State Police Officers Retirement System, and the Judicial Retirement System (collectively referred to as VRS) for the permissible purchase of past service credit by picking up member contributions to the VRS; and

WHEREAS, the pick up is authorized under Virginia Code Sections 51.1-142.I and 51.1-143.C.; and

WHEREAS, the VRS keeps track of such picked up member contributions and is prepared to treat such contributions as employee contributions for all purposes of VRS.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that effective the first pay day on or after the later of May 25, 1999, or the date the member executes a binding and irrevocable salary reduction election relating to the past service permitted to be purchased, James City County shall pick up all or a portion of the member contributions of its employees to VRS based on the terms of the salary reduction election, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States.

BE IT FURTHER RESOLVED that the binding salary reduction election to be executed by the member shall include the following: 1) the beginning and ending date of the election; 2) the amount of

the salary reduction on a pay period by pay period basis; 3) the total amount of contribution expected to be involved; 4) a statement that the member may not receive the contributed amounts instead of having them paid by James City County to the VRS; and 5) an agreement that the member will not purchase the service credit through a lump sum payment during the period in which the salary reduction election is in effect.

BE IT FURTHER RESOLVED the member may revoke the salary reduction election only in the event of an unforeseeable emergency as that phrase is used and defined in IRC Section 457 and Treasury Regulation Section 1.457-2(h)(4) and if such revocation is made, the member may not make a new salary reduction election during his period of employment.

BE IT FURTHER RESOLVED that such contributions, although designated as member contributions, are to be made by James City County in lieu of member contributions.

BE IT FURTHER RESOLVED that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees.

BE IT FURTHER RESOLVED that member contributions made by James City County under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement.

BE IT FURTHER RESOLVED that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by James City County directly instead of having them paid to VRS; and it is further

BE IT FURTHER RESOLVED that notwithstanding any contractual or other provisions, the wages of each member of VRS who is an employee of James City County shall be reduced by the amount of member contributions picked up by James City County on behalf of such employee pursuant to the foregoing resolutions.

## G. PUBLIC HEARINGS

### 1. Case No. ZO-1-99. Zoning Ordinance Amendment/Planned Unit Development District (Continued from May 11, 1999)

Mr. Joseph R. McCleary, Business and Industrial Zoning Ordinance Committee, stated that the case had been deferred at the May 11, 1999, Board of Supervisors meeting, to revise language in Section 24-498, Setback and yard regulations, regarding buffers in the Planned Unit Development - Residential (PUD-R) section. Mr. McCleary stated that the Committee supported the revisions to facilitate the goals outlined in the Comprehensive Plan.

In concurrence with staff and the Committee, the Planning Commission unanimously recommended approval of the ordinance amendments.

Mr. Nervitt spoke of his concern with Section 24-487 allowing conceptual plans to serve as final plans.

Mr. O. Marvin Sowers, Jr., Director of Planning, responded that the conceptual plans have to be in final detail for the subdivision or site plan review.

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

Mr. Edwards deferred action on this case until after action of Item G-1 later in the meeting.

2. Case No. ZO-10-98. Manufactured Home Parks (Continued from May 11, 1999)

Mr. Paul D. Holt, III, Senior Planner, stated that the item had been deferred at the May 11, 1999, Board of Supervisors meeting, to allow revisions relating to buffers and natural open space.

In concurrence with the Grab Bag Update Committee and staff, the Planning Commission unanimously recommended approval of the ordinance amendment.

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

Mr. Edwards deferred action on this case until after action of Item G-1 later in the meeting.

3. Case No. SUP-5-99. Penske Truck Rental and Automotive Repair

Mr. Christopher M. Johnson, Planner, stated that Mr. F. C. Johnson had applied for a special use permit to operate a truck rental facility with accessory automotive repair, on 1.09 acres, zoned B-1, General Business, located at 7214 and 7218 Merrimac Trail, further identified as Parcel Nos. (7-1)(7-2) on James City County Real Estate Tax Map No. (41-4).

Mr. Johnson stated access to the site would be from two existing entrances, traffic would be at lower levels than previous site use generated, and public water and sewer were available. Staff determined the proposal was consistent with surrounding zoning and development and the Comprehensive Plan.

In concurrence with staff, the Planning Commission unanimously recommended approval with conditions listed in the resolution.

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

Mr. Sisk made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

## RESOLUTION

### CASE NO. SUP-5-99. PENSKE TRUCK RENTAL AND AUTOMOTIVE REPAIR

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, Virginia, following its public hearing on April 5, 1999, found Case No. SUP-5-99 to be consistent with the 1997 Comprehensive Plan and voted 7-0 to recommend approval of Case No. SUP-5-99 to permit a truck rental facility with accessory automotive repair at 7214 and 7218 Merrimac Trail.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-5-99 as described herein, with the following conditions:

1. The applicant shall, within 60 days of approval of this special use permit, submit a site plan depicting the required gravel surface and designated parking area for the proposed rental vehicles and trailers as described in Condition 2, or the special use permit shall become void. This plan shall be approved by the Director of Planning and all improvements shall be installed prior to the issuance of a Certificate of Occupancy.
2. There shall be no more than fifteen (15) rental vehicles and trailers on the site at any one time. In order to minimize any increase in storm water runoff from the site, the amount of impervious cover shall be limited to that necessary to accommodate the fifteen rental vehicles plus any required parking. The vehicles shall be parked only in the location identified on the site plan required in Condition 1.
3. The applicant shall submit a landscape screening plan acceptable to the Director of Planning in accordance with the James City County Landscape Ordinance. All plantings shown on the plan shall be installed within ninety (90) days after approval of the site plan. If weather conditions are not conducive to planting the required material during this period, the applicant shall supply a bond or letter of credit prior to final approval of the site plan. The bond or letter of credit shall be acceptable to the Director of Planning in an amount sufficient to cover all planting materials and labor.
4. Prior to final site plan approval, the applicant shall screen the side of the existing building facing Adams Road with landscaping or paint it with a color approved by the Director of Planning.
5. Free-standing signs shall be ground-mounted, monument style, and shall be approved by the Director of Planning.
6. Should new exterior lighting be installed, such fixtures shall have recessed fixtures with no lens, bulb, or globe extending below the casing. A lighting plan shall be submitted, and approved, by the Director of Planning which indicates no glare will occur outside the property lines. "Glare" shall be defined as more than 0.1 footcandle at the property line or any direct view of the lighting source from the street or adjoining residentially designated property.
7. Automotive repair services shall be limited to the maintenance and repair of rental trucks and trailers and shall solely occur inside the area of the existing building designated on the site plan required in Condition 1.
8. If construction has not commenced on the project within twenty-four (24) months from the date of issuance of the special use permit, the permit shall become void. Construction shall be defined as the obtaining of permits for the grading of the parking lot and renovations to the rear of the building for the automotive repair facility.
9. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence or paragraph shall invalidate the remainder.

1. Case Nos. Z-3-99 and SUP-7-99. Carolina House of Williamsburg

Mr. Holt stated that Vernon Geddy, III, on behalf of Williamsburg Health Investors, LLC, had applied for an amended special use permit, SUP-8-98, James Point Nursing Facility and Office Development, approved by the Board of Supervisors at its July 14, 1998 meeting. Mr. Holt stated that the owners wish to construct a 22,000 square foot assisted living facility in lieu of the 20,000 square feet of office space, on 28.34 acres, zoned R-8, Rural Residential and LB, Limited Business, located at 1811 Jamestown Road, further identified as Parcel No. (1-70) on James City County Real Estate Tax Map No. (47-3).

Mr. Holt stated that Mr. Geddy, on behalf of the applicant, had applied to rezone approximately 2.2 acres from LB, Limited Business, to R-8, Rural Residential, to ensure the assisted living facility would be entirely in zone R-8.

Staff determined that the proposal was compatible with surrounding zoning; development and preservation of Jamestown Road frontage and sensitive areas within the property outweigh concerns about inconsistencies with the Comprehensive Plan; and traffic was less than that of the approved office development.

In concurrence with staff, the Planning Commission unanimously recommended approval of the rezoning and the special use permit with conditions listed in the resolution.

Mr. Edwards opened the public hearing.

1. Vernon Geddy, III, Esq., stated that the assisted living facility would have less impact on traffic and one-story building would be visibly less intrusive than two-story with approximately half the parking spaces needed, although land used would be the same because one-story building covered more area.

Mr. Edwards closed the public hearing.

Mr. McGlennon made a motion to approve the rezoning resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

## RESOLUTION

### CASE NO. Z-3-99. CAROLINA HOUSE OF WILLIAMSBURG

#### ASSISTED LIVING FACILITY

WHEREAS, in accordance with §15.2-2204 of the Code of Virginia, and Section 24-15 of the James City County Zoning Ordinance, a public hearing was advertised, adjoining property owners notified, and a hearing scheduled on Case No. Z-3-99, for rezoning approximately 2.2 acres from LB, Limited Business, to R-8, Rural Residential; and

WHEREAS, this case is being approved concurrently with James City County Case No. SUP-7-99; and

WHEREAS, on May 3, 1999, the Planning Commission recommended unanimous approval of this project; and

WHEREAS, the property is identified as a portion of Parcel No. (1-70) on the James City County Real Estate Tax Map No. (47-3).



NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-3-99.

Mr. McGlennon made a motion to approve the special use permit resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

## **RESOLUTION**

### **CASE NO. SUP-7-99. CAROLINA HOUSE OF WILLIAMSBURG**

#### **ASSISTED LIVING FACILITY**

- 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, Mr. Vernon Geddy, III, has applied on behalf of Williamsburg Health Investors, L.L.C., to amend the conditions of SUP-8-98, James Point Nursing Facility and Office Development, which was approved on July 14, 1998; and
- WHEREAS, the applicant has requested a special use permit to allow for the operation of a 22,000- square foot assisted living facility in lieu of the 20,000 square feet of office space approved under case no SUP-8-98; and
- WHEREAS, the property is located on land zoned R-8, Rural Residential, and can be further identified as Parcel No. (1-70) on the James City County Real Estate Tax Map No. (47-3); and
- WHEREAS, this case is being approved concurrently with James City County Case No. Z-3-99; and
- WHEREAS, the Planning Commission, following its public hearing on April 5, 1999, voted unanimously to recommend approval of this application.

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-7-99 as described herein with the following conditions:

1. **Construction.** If construction has not begun on the project within 24 months of the issuance of the special use permit, it shall become void. Construction shall be defined as the obtaining of permits for the construction of foundations and/or footings.
2. **Uses.** The uses of the property shall be limited to a skilled nursing facility no greater than 50,000 square feet and an assisted living facility no greater than 22,000 square feet, and shall be developed in accordance with the master plan entitled, "Carolina House of Williamsburg Assisted Living Facility," prepared by Rickmond Engineering, dated January 15, 1999.
3. **Architecture.** The developer shall submit with the first site plan for the skilled living facility and for the first site plan for the assisted living facility, architectural elevations of the buildings to include colors and examples of external materials for the roofs and walls, for review and approval by the Director of Planning. Colors and

materials shall be used that make the structures blend in with the natural environment of the site. All structures shall have gable roofs. The skilled living facility and the assisted living facility shall be limited to one story in height.

4. Conservation Easement. The owner shall place in a conservation easement acceptable to the County, all land above, and including the 50-foot contour, as generally identified on the conceptual plan entitled "Carolina House of Williamsburg Assisted Living Facility," prepared by Rickmond Engineering, dated January 15, 1999. No land disturbance or grading shall be permitted above the 50-foot contour unless approved by the Director of Planning. In no case shall any land disturbance or grading occur above the 55-foot contour.
5. Buffers and Enhanced Landscaping. There shall be a minimum 100-foot undisturbed wooded buffer between the development and abutting properties generally to the west of the skilled living facility. There shall be a minimum 50-foot undisturbed wooded buffer between the proposed assisted living facility and the residential properties to the east, supplemented with enhanced evergreen landscaping in a manner that provides an effective visual screen as approved by the Director of Planning.
6. Access. Access to the property shall be limited to a single entrance on Jamestown Road. There shall be no access to the property from Sandy Bay Road. The entrance drive shall not have a median strip.
7. Lighting. All light poles shall not exceed 20 feet in height unless otherwise approved by the Director of Planning prior to final site plan approval. Security lighting affixed to any building shall be directed downward and shall not glare on adjacent property. All external lighting fixtures shall have recessed fixtures with no bulb, lens, or globe extending below the casing, so as to prevent any view of the light source from the side of the fixture.
8. Accessory Structures. Any storage shed or structure housing utilities on the property shall be subject to Condition 3 above and shall be landscaped as determined by the Director of Planning.
9. Dumpsters. Dumpsters or refuse containers shall be screened from view with a wood fence and shall be located no less than 150 feet from adjacent properties.
10. Archaeological Study. The developer shall submit to the County and to the Virginia Department of Historic Resources (VDHR), an archaeological study prepared in accordance with the County Archaeological Condition Policy on all disturbed areas of the site. The study or studies shall be reviewed and approved by the Director of Planning prior to any land disturbance. The recommendations of the approved study or studies shall be implemented in accordance with the County's Archaeological Condition Policy.
11. Limits of Development. The property zoned LB, Limited Business, on the master plan shall not be developed and shall be maintained as open space as defined in the James City County Zoning Ordinance, except for: the area labeled as "Assisted Living Facility," the single access road generally shown on the plan, and the existing pond proposed for a BMP. The Director of Planning shall approve any and all land disturbance and building demolition activity in this area.

12. Jamestown Road Frontage Land Dedication. Except for the allowed development and land disturbance areas identified in Condition 11 above, and identified on the master plan entitled "Carolina House of Williamsburg Assisted Living Facility," prepared by Rickmond Engineering, dated January 15, 1999, the remainder of the area zoned LB, Limited Business, shall be dedicated in fee or by conservation easement, approved by the County Attorney to an organization acceptable to the Director of Planning prior to final site plan approval.
13. Prior to the issuance of a certificate of occupancy for the assisted living facility, the natural open space along Jamestown Road shall be seeded with a native woodland mix to enhance the buffer. The composition of this mix shall be indicated on the site plan and shall be approved by the Director of Planning prior to final site plan approval.
14. Single Legislative Act. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

#### H. BOARD CONSIDERATIONS

1. Case Nos. ZO-13-98. R-1/Limited Residential District; ZO-14-98. R-2/General Residential District; and ZO-5-98. Residential Cluster Overlay District

Ms. Tamara A. M. Rosario, Senior Planner, stated alternatives had been prepared for the remaining issues on the ordinances.

On Habitat Preservation Requirement, Board and staff discussed the alternatives and agreed that the policy should be included and changed at a later date. Staff stated that the item would be advertised so that the public would have the opportunity to comment.

On BMP In Buffers, Mr. Bradshaw spoke of his concern that staff could preclude the Planning Commission from considering exceptions.

Mr. Edwards stated that the original language would allow staff and Planning Commission recommendation.

Mr. Bradshaw made a motion to amend the language in Section 24-245 (F) with deletion of staff designation.

On a roll call, the vote was: AYE: Nervitt, Sisk, Bradshaw (3). NAY: McGlennon, Edwards (2).

On Sidewalks on Both Sides, Board members discussed being consistent with the previous amendment, although the difference was that the requirement could be waived.

On a roll call, the vote was: AYE: Sisk, Bradshaw (2). NAY: Nervitt, McGlennon, Edwards (3).

Mr. Sisk made a motion to approve Case No. ZO-13-98. R-1, Limited Residential District.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Sisk made a motion to approve ZO-14-98. R-2, General Residential District.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Sisk made a motion to approve ZO-5-98. Residential Cluster Overlay District.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Bradshaw made a motion to approve the Definitions Ordinance.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Nervitt made a motion to approve the Streetscape Guidelines Policy.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Sisk made a motion to approve the Group or Shared Parking Policy.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. McGlennon made a motion to approve the Natural Resource Policy.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Bradshaw made a motion to approve the Zoning Ordinance Transition resolution.

Board and staff discussion followed regarding the number and size of the subdivisions which would be grandfathered and reversing 1997 decision would be perceived as unfair.

On a roll call, the vote was: AYE: Sisk, McGlennon, Bradshaw (3). NAY: Nervitt, Edwards (2).

## **RESOLUTION**

### **ZONING ORDINANCE TRANSITION**

WHEREAS, the Board of Supervisors is considering comprehensive revisions and amendments to sections of Chapter 24, Zoning, of the Code of the County of James City, Virginia, as described in Case Nos. ZO-5-98, ZO-13-98, and ZO-14-98; and

WHEREAS, the orderly transition from the existing zoning regulations to revised regulations requires a transition ordinance to affect changes in law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby grandfathers proposed developments which meet the criteria identified below under the regulations in effect prior to the May 25, 1999, adoption of the comprehensive revisions to the James City County Zoning Ordinance, as described in Case Nos. ZO-5-98, ZO-13-98, and ZO-14-98, if one or more of the following are met:

1. A proposed development with proffered conditions that:
  - a. define the permitted densities or number of lots or dwelling units; or

- b. were accepted by the County after July 1, 1990, which included a requirement for the dedication of real property of substantial value, for substantial cash payments, or for construction of substantial public improvements, the need for which was not generated solely by the rezoning itself; or
- 2. A proposed development with a cluster master plan approved on or before May 25, 1999; or
- 3. A subdivision which has received preliminary subdivision approval on or before May 25, 1999; or
- 4. A proposed development that has been rezoned to R-1 or R-2 on or after July 1, 1990; or
- 5. A proposed development in which at least one section has received preliminary subdivision approval for a major subdivision after July 1, 1990, and has maintained preliminary approval or received final subdivision approval.

BE IT FURTHER RESOLVED by the Board of Supervisors of James City County, Virginia, that for the purposes of this resolution, "proposed development" shall mean one parcel or several contiguous parcels of land zoned the same, which were part of a single rezoning application, or shown on a conceptual or master plan as being a single development.

BE IT FURTHER RESOLVED that because the Board of Supervisors regards the adoption of the ordinance revisions in Case Nos. ZO-5-98, ZO-13-98, and ZO-14-98 as the end of a unified revision process begun with Case No. ZO-1-97, the adoption of the above provisions for grandfathering in this resolution is appropriate. Future ordinance revisions may well have more limited grandfathering provisions.

98. Mr. Edwards asked for motions on Agenda Items F-1, Case No. ZO-1-99, and F-2, Case No. ZO-10-

Mr. Sisk made a motion to approve Case No. ZO-1-99.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Nervitt made a motion to approve Case No. ZO-10-98.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. McCleary commended the members of the Business and Industrial Zoning Ordinance Committee, and stated some of its recommendations would be brought forward at the next update of the Comprehensive Plan.

Mr. Edwards declared a break at 9:20 p.m.

Mr. Edwards reconvened the Board into open session at 9:32 p.m.

Mr. Sisk was absent.

2. Virginia Retirement System New Early Retirement Option

Ms. Carol M. Luckam, Human Resource Manager, stated that Virginia Retirement System unreduced retirement at age 50 with 30 years of service would go into effect July 1, 1999, unless a jurisdiction adopted a resolution electing not to participate.

Ms. Luckam further stated staff recommendation was to decline participation for the reasons that retirement at age 50 was counter to national trends and the cost of the program exceeded the benefit to the majority of County employees.

Board members discussed costs of experienced employees retiring at 50 years of age, losing employees to other jurisdictions which have the retirement option benefit, and the effect on public safety employees.

Mr. Edwards made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, Bradshaw, Edwards (3). NAY: McGlennon (1). ABSENT: Sisk (1).

**RESOLUTION**

**ELECTION NOT TO PARTICIPATE IN VIRGINIA RETIREMENT SYSTEM (VRS)**

**UNREDUCED RETIREMENT AT AGE 50 WITH 30 YEARS OF SERVICE**

WHEREAS, the VRS option of unreduced retirement at age 50 with 30 years of service runs counter to the National trend of people living and working longer, and counter to an increasingly older full retirement age for Social Security; and

WHEREAS, the cost of funding the unreduced retirement exceeds the benefits to the majority of County employees; and

WHEREAS, the County employees are currently eligible for unreduced retirement at age 55 with 30 years of service.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby elects to decline to have its employees fall under the provisions of Section 51.1-153(B)(2) of the Code of Virginia, permitting unreduced early retirement benefits at age 50 with at least 30 years of service. Such election is made in accordance with legislation passed by the General Assembly during its 1999 Regular Session and approved by the Governor with the knowledge that such unreduced early retirement benefits will become effective on July 1, 1999, in the absence of this election.

NOW, THEREFORE, BE IT FURTHER RESOLVED that Sanford B. Wanner, County Administrator and Clerk to the Board of James City County, is hereby authorized and directed in the name of the James City County Board of Supervisors to execute any documents required to effect this resolution.

### 3. Authorization of Architectural Services, Government Center

Mr. William C. Porter, Jr., Assistant County Administrator, stated that at a work session held January 27, 1999, the Board of Supervisors accepted the Facility Master Plan with accompanying recommendation for an additional Government Center building. He further stated that a request for proposal for architectural services for expansion of the Government Center had been advertised.

Staff recommended approval of the resolution authorizing the County Administrator to enter into an agreement with Daniel, Mann, Johnson and Mendenhall (DMJM) for architectural services and site design services for the construction of a Government Center office building, in an amount not to exceed \$209,872.

Board members discussed who would make decision of building appearance and does County use prequalified contractors.

Mr. Nervitt made a motion to approve the resolution.

On a roll call, the vote was: AYE: Nervitt, McGlennon, Bradshaw, Edwards (4). NAY: (0). ABSENT: Sisk (1).

## RESOLUTION

### AUTHORIZATION - ARCHITECTURAL SERVICES FOR THE GOVERNMENT CENTER

WHEREAS, a contract for architectural services was negotiated with Daniel, Mann, Johnson & Mendenhall (DMJM); and

WHEREAS, the Board of Supervisors has approved the Government Center Master Plan and County office building; and

WHEREAS, monies have been appropriated in the FY 2000 Capital Projects Budget to cover the payment of architectural services fees.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the County Administrator to execute all necessary contract documents with the architectural firm of Daniel, Mann, Johnson & Mendenhall for services for the construction of a County office building at the James City County Government Center in an amount not to exceed \$209,872.

### **I. PUBLIC COMMENT**

1. Mr. Lanson Howell, 2639 Jolly Pond Road, stated that a neighbor's garage business was not in compliance with hours of operation and completion of improvements.

Mr. Edwards asked staff to follow-up on Mr. Howell's statement.

### **J. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Sanford B. Wanner, County Administrator, stated that a State announcement had been made that James City County may receive \$255,000 reimbursement for estimated ice storm costs. He stated that staff had

just submitted for State reimbursement and the State has not completed review of the final reimbursement request. He announced that a meeting had been held with United States Postal Service, which had three proposals for sites for a new post office building, and who would begin negotiations for the preferred site.

Mr. Wanner explained that preparations were being made by School staff to bring estimated repair costs for the Toano Middle School structure to the Williamsburg-James City County School Board on Monday, June 1, 1999. He stated County staff was committed to working with the Schools Division to take proper action to get the project completed.

Mr. Wanner announced a James City Service Authority Board of Directors' meeting, followed by a James City County Transit Board of Directors' meeting, and recommended an executive session following the Transit meeting for appointment of individuals to the Regional Issues Committee and Boards and/or Commissions.

#### **K. BOARD REQUESTS AND DIRECTIVES**

Mr. McGlennon announced a public information meeting to be held May 26, 1999, 7:00 p.m., at the Stryker Building in Williamsburg regarding Jamestown/Route 199 intersection.

Mr. Edwards recessed the Board for a James City Service Authority meeting, at 9:54 p.m.

Mr. Edwards reconvened the Board, at 10:10 p.m. Mr. Sisk was present.

Mr. Sisk asked that staff prepare a request for a Watch for Children sign for the Hamlet subdivision.

Mr. Sisk announced that he would be out of town for the June 22, 1999, Board of Supervisors' meeting. He stated that he would be back to attend the June 29, 1999, joint meeting with Williamsburg-James City County School Board and Williamsburg City Council.

Mr. Edwards made a motion to go into executive session pursuant to Section 2.1-344(A)(1) of the Code of Virginia to consider a personnel matter, appointment of individuals to County boards and/or commissions, at 10:12 p.m.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Edwards reconvened the Board into open session at 10:25 p.m.

Mr. Edwards made a motion to approve the executive session resolution.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

### **RESOLUTION**

#### **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 were heard, discussed or considered by the Board as were identified in the motion, Section 2.1-344(A)(1), appointment of individuals to County boards and/or commissions.

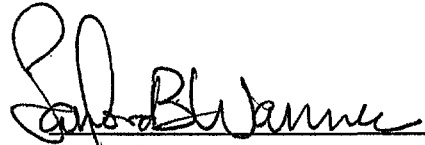
Mr. Edwards made a motion to appoint Mr. Albert R. Johnson and Ms. Peggy Wildman to the Regional Issues Committee, for a three-year term, term expiring January 1, 2002, respectively.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

Mr. Edwards made a motion to adjourn.

On a roll call, the vote was: AYE: Nervitt, Sisk, McGlennon, Bradshaw, Edwards (5). NAY: (0).

The Board adjourned at 10:28 p.m.

  
Sanford B. Wanner  
Clerk to the Board

MAY 25 1999

ORDINANCE NO. 31A-195

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

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 3, LIMITED RESIDENTIAL DISTRICT, R-1, SECTION 24-231, STATEMENT OF INTENT; SECTION 24-232, PERMITTED USES; SECTION 24-233, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY RENUMBERING SECTION 24-234, AREA REQUIREMENTS WITH NEW NUMBER 24-235; BY AMENDING AND RENUMBERING SECTION 24-235, SETBACK REQUIREMENTS WITH NEW NUMBER 24-236; BY AMENDING AND RENUMBERING SECTION 24-236, MINIMUM LOT WIDTH WITH NEW NUMBER 24-237; BY AMENDING AND RENUMBERING SECTION 24-237, YARD REGULATIONS WITH NEW NUMBER 24-238; BY AMENDING AND RENUMBERING SECTION 24-238, HEIGHT LIMITS WITH NEW NUMBER 24-240; BY AMENDING SECTION 24-239, SPECIAL PROVISIONS FOR CORNER LOTS; BY AMENDING AND RENUMBERING SECTION 24-240, SIGN REGULATIONS WITH NEW NUMBER 24-241; BY AMENDING AND RENUMBERING SECTION 24-241, OVERALL DENSITY WITHIN MAJOR SUBDIVISIONS WITH NEW NUMBER 24-234; BY ADDING NEW SECTION 24-242, OPEN SPACE WITHIN MAJOR SUBDIVISIONS; SECTION 24-243, OWNERSHIP OF OPEN SPACE; SECTION 24-244, BMP REQUIREMENTS; AND SECTION 24-245, 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 3, Limited Residential District, R-1, Section 24-231, Statement of intent; Section 24-232, Permitted uses; Section 24-233, Uses permitted by special use permit only; Section 24-234, Overall density within major subdivisions; Section 24-235, Area requirements; Section 24-236, Setback requirements; Section 24-237, Minimum lot width; Section 24-238, Yard regulations; Section 24-239, Special provisions for corner lots; Section 24-240, Height limits; Section 24-241, Sign regulations; Section 24-

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242, Open space within major subdivisions; Section 24-243, Ownership of open space; Section 24-244, BMP requirements; and Section 24-245, Buffer requirements.

Chapter 24. Zoning

Article V. Districts

Division 3. Limited Residential District, R-1

**Sec. 24-231. 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 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 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.

**Sec. 24-232. Permitted uses.**

In the Limited Residential District, R-1, structures to be erected or land to be used, shall be for the following uses:

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.

Home occupations as defined.

Houses of worship.

Off-street parking as required by section 24-53.

Schools, libraries and fire stations.

Single-family *detached* dwellings with a maximum gross density of one dwelling unit per acre in accordance with section 24-234(a).

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Timbering in accordance with section 24-43.

Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

**Sec. 24-233. Uses permitted by special use permit only.**

In the Limited Residential District, R-1, buildings, 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:

Accessory apartments in accordance with section 24-32.

Cemeteries and memorial gardens.

Day care and child day care centers.

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

*Fire stations.*

Golf courses, country clubs.

Home care facilities.

*Houses of worship.*

*Libraries.*

*Neighborhood resource centers.*

Publicly owned solid waste container sites.

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 right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Rental of rooms to a maximum of three rooms.

Residential cluster development in accordance with article VI, division 1 of this chapter.

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Retail shops and food service establishments associated with community recreation facilities.

Schools.

*Single-family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-234(c).*

Telephone exchanges and telephone switching stations.

Transmission pipelines (public or private), 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.

Water facilities (public or private), and sewer facilities (public), 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, with no additional connections to be made to the line, which are intended to serve an individual customer and which are accessory to existing or proposed development, and distribution lines and local facilities within a development, including pump stations, *the following* are permitted generally and shall not require a special use permit:

(a) *private connections to existing mains that are intended to serve an individual customer and are accessory to existing or proposed development, with no additional connections to be made to the line.*

(b) *distribution lines and local facilities within a development, including pump stations.*

Water impoundments, new or expansion of, 50 acres or more and dam heights of 25 feet or more.

**Sec. 24-241 234. Overall density within major subdivisions.**

(a) All major subdivisions shall have a maximum gross density of one unit per acre. For the purposes of this section, the term "major subdivision" shall be defined as a division of a tract of land into six or more lots, *except for minor subdivision as defined below. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-255.*

(b) *For the purposes of this section, the term "minor subdivision" shall be defined as a division of a tract of land into not more than five lots abutting an existing public road within the transportation department road system and which does not create a new street or extend an existing street.* Any contiguous property owned by the same subdivider, or deemed by the development review committee as a logical part of a contiguous subdivision cannot be subdivided into greater than five lots without meeting the density requirements of a major subdivision.

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(c) Upon application, the board of supervisors may grant a special use permit for subdivisions to have a maximum gross density of more than one unit per acre, but of no more than two units per acre upon finding the developer has made assurances in a master plan or otherwise for the following:

(1) Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.

(2) Implementation of the county's Archaeological Policy.

(3) Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist and are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.

(4) Provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.

(5) Implementation of the county's Natural Resources Policy.

**Sec. 24-234 235. Area requirements.**

(a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 15,000 square feet.

(b) *Public sewage disposal only.* Lots served by a public sewage disposal system but not a public water distribution system shall have a minimum area of 17,500 square feet.

(c) *Public water distribution only.* 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) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal systems shall have a minimum area of 30,000 square feet.

(e) *Applicability to certain lots.* 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.

**Sec. 24-235 236. 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 ~~Where~~ the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line"; ~~provided, that~~ all subdivisions platted

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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.

**Sec. 24-236 237. Minimum lot width.**

- (a) Lots of up to ~~and including~~ 43,560 square feet shall have a minimum width at the setback line of 100 feet.
- (b) Lots of more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-237 238. Yard regulations.**

- (a) *Side.* The minimum side yard for each main structure shall be 15 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 15 feet.
- (b) *Rear.* Each main structure shall have a minimum rear yard setback of 35 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 15 feet.

**Sec. 24-239. Special provisions for corner lots.**

- (a) ~~Of the two sides of a corner lot, the~~ *The* front of the lot shall be deemed to be the shorter of the two sides fronting on streets.
- (b) No structure shall be located closer than 35 feet to the side street.
- (c) Each corner lot shall have a minimum width at the setback line of 125 feet.

**Sec. 24-238 240. Height limits.**

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

- (1) 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 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school, church or library 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.

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- (3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, home television antennae and home radio aerals and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:
  - a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
  - e. Such structure will not be contrary to the public health, safety and general welfare.
- (4) No accessory building which is within 15 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, 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 feet in height.

**Sec. 24-240 241. Sign regulations.**

To assure an appearance and condition which is consistent with the purposes of the Limited Residential District, R-1, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

**Sec. 24-242. Open space within major subdivisions.**

(a) Within every subdivision consisting of 50 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 ten percent of the net developable area of the site. The developable area of right-of-way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.



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(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding under the 100-year storm event, and wetlands shall be maintained as open space. Areas with slopes of 25 percent or more which are contiguous to the above-mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.

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

(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; and

(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; and

(3) No part of a private yard or area determined by the planning director to be a part thereof, with the exception of easements for greenescapes, shall be counted as meeting the open space requirements of this chapter; and

(4) No more than 50 percent of the required open space shall be used for active recreational uses.

(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.

**Sec. 24-243. Ownership of open space.**

Within any residential 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 a declaration of covenants and restrictions or other document necessary to establishing a mandatory permanent home owners organization has been approved by the county attorney and has 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; and

(2) The extent of common interest held by the owner of each individual parcel in the tract held in common.

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**Sec. 24-244. BMP requirements**

To assure an appearance and condition which is consistent with the purpose of the Limited Residential District, R-1, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.

**Sec. 24-245. Buffer requirements**

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.
- (3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.

(b) **Perimeter buffers.** Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-86(c) of this chapter.

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

- (1) The development is less than 5 acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

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In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

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

(e) *All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning commission under the following circumstances:*

(1) *The buffer in which the temporary stockpile is to occur is nonwooded, defined as having no mature trees.*

(2) *The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved burning in that buffer.*

(3) *Stockpiles shall not exceed 35 feet in height.*

(4) *Stockpiles shall be temporary, with a time limit of six months.*

(5) *Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.*

(f) *Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:*

(1) *The need is necessitated by site conditions rather than economic factors; and*

(2) *The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.*

(g) *An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon the recommendation of the Environmental Director and the approval of the planning commission.*

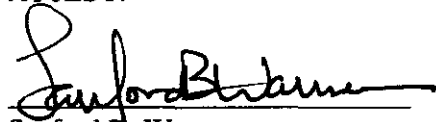
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(h) Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.

Secs. 24-242 ~~246~~ - 24-250. Reserved.

  
 Jack D. Edwards  
 Chairman, Board of Supervisors

ATTEST:

  
 Sanford B. Wanner  
 Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 1999.

lmtres.ord

MAY 25 1999

ORDINANCE NO. 31A-196

BOARD OF SUPERVISOR  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DIVISION 4, GENERAL RESIDENTIAL DISTRICT, R-2, SECTION 24-251, STATEMENT OF INTENT; SECTION 24-252, PERMITTED USES; SECTION 24-253, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-255, OVERALL DENSITY WITHIN MAJOR SUBDIVISIONS TO NEW NUMBER 24-254; BY AMENDING AND RENUMBERING SECTION 24-254, AREA REQUIREMENTS WITH NEW NUMBER 24-255; BY AMENDING AND RENUMBERING SECTION 24-256, OPEN SPACE WITHIN MAJOR SUBDIVISIONS WITH NEW NUMBER 24-263; BY AMENDING AND RENUMBERING SECTION 24-257, SETBACK REQUIREMENTS WITH NEW NUMBER 24-256; BY RENUMBERING SECTION 24-258, MINIMUM LOT WIDTH WITH NEW NUMBER 24-257; BY RENUMBERING SECTION 24-259, YARD REGULATIONS WITH NEW NUMBER 24-258; BY AMENDING SECTION 24-261, HEIGHT LIMITS; BY RENUMBERING SECTION 24-262, SPECIAL PROVISIONS FOR CORNER LOTS WITH NEW NUMBER 24-259; BY RENUMBERING SECTION 24-263, SIGN REGULATIONS WITH NEW NUMBER 24-262; BY ADDING NEW SECTION 24-264, OWNERSHIP OF OPEN SPACE; BY ADDING NEW SECTION 24-265; BMP REQUIREMENTS; AND BY ADDING NEW SECTION 24-266, 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 4, General Residential District, R-2, Section 24-251, Statement of intent; Section 24-252, Permitted uses; Section 24-253, Uses permitted by special use permit only; Section 24-254, Overall density within major subdivisions; Section 24-255, Area requirements; Section 24-256, Setback requirements; Section 24-257, Minimum lot width; Section 24-258, Yard regulations; Section 24-259, Special provisions for corner lots; Section 24-261, Height limits; Section 24-262, Sign regulations; Section 24-

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263, Open space within major subdivisions; Section 24-264, Ownership of open space; Section 24-265, BMP requirements; and Section 24-266, Buffer requirements.

Chapter 24. Zoning

Article V. Districts

Division 4. General Residential District, R-2

**Sec. 24-251. Statement of intent.**

The General Residential District, R-2, is composed of certain quiet, low-density residential areas plus certain open areas where similar residential development 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, 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 more than one family under certain conditions plus certain additional community-oriented uses that serve the residents of the district.

**Sec. 24-252. Permitted uses.**

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

Accessory apartments in accordance with section 24-32.

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 *with a maximum gross density of one unit per acre* in accordance with article VI, division 1 of this chapter.

Home occupations, *as defined*.

Houses of worship.

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Off-street parking as required by section 24-53.

Residential cluster development *with a maximum gross density of one unit per acre* in accordance with article VI, division 1 of this chapter.

Retail shops associated with community recreation facilities.

Schools, libraries and fire stations.

Single-family *detached* dwellings *with a maximum gross density of one unit per acre in accordance with section 24-254(a).*

Three-family dwellings contained within a residential cluster development *with a maximum gross density of one unit per acre* in accordance with article VI, division 1 of this chapter.

Timbering in accordance with section 24-43.

Two-family dwellings contained within a residential cluster development *with a maximum gross density of one unit per acre* in accordance with article VI, division 1 of this chapter.

Water impoundments, new or expansion of, less than 50 acres and with dam heights of less than 25 feet.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

**Sec. 24-253. Uses permitted by special use permit only.**

In the 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:

Cemeteries and memorial gardens.

Day care and child *Child day* care centers.

Electrical generation facilities (public or private), electrical substations with a capacity of 5,000 kilovolt amperes or more; and electrical transmission lines capable of transmitting 69 kilovolts or more.

*Fire stations.*

*Four-family dwellings contained within a residential cluster development with a gross density of more than one unit per acre in accordance with article VI, division 1 of this chapter.*

Golf courses, county *country* clubs.

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Home care facilities.

*Houses of worship.*

*Libraries.*

*Neighborhood resource centers.*

Publicly owned solid waste container sites.

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 right-of-ways and track and safety improvements in existing railroad right-of-ways are permitted generally and shall not require a special use permit.

Rental of rooms to a maximum of three rooms.

*Residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division I of this chapter.*

*Schools.*

*Single-family detached dwellings with a maximum gross density of more than one unit per acre in accordance with section 24-254(c).*

Telephone exchanges and telephone switching stations.

*Three-family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division I of this chapter.*

Transmission pipelines (public or private), 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.

*Two-family dwellings in accordance with section 24-254.*

*Two-family dwellings contained within a residential cluster development with a maximum gross density of more than one unit per acre in accordance with article VI, division I of this chapter.*

Water facilities (public or private), and sewer facilities (public), 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, *the following are permitted generally and shall not require a special use permit:*



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- (a) private connections to outstaying existing mains, with no additional connections to be made to the line, which ~~that are~~ intended to serve an individual customer and which are accessory to existing or proposed development, and ~~with no additional connections to be made to the line;~~
- (b) distribution lines and local facilities within a development, including pump stations, are permitted generally and shall not require a special use permit.

Water impoundments, new or expansion of, 50 acres or more and a dam heights of 25 feet or more.

Sec. 24-255 ~~254~~. Overall density within major subdivisions.

(a) All major subdivisions shall have a maximum gross density of one unit per acre. For the purposes of this section, the term "major subdivision" shall be defined as a division of a tract of land into six or more lots, ~~except for minor subdivisions as defined below. In these instances, the lots in a minor subdivision must still adhere to the area requirements set forth in section 24-255.~~

(b) ~~For the purposes of this section, the term "minor subdivision" shall be defined as a division of a tract of land into not more than five lots abutting an existing public road within the transportation department road system and which does not create a new street or extend an existing street.~~ Any contiguous property owned by the same subdivider, or deemed by the development review committee as a logical part of a contiguous subdivision cannot be subdivided into greater than five lots without meeting the density requirements of a major subdivision.

(c) ~~Upon application, the board of supervisors may grant a special use permit for subdivisions to have a maximum gross density of more than one unit per acre, but of no more than two units per acre upon finding the developer has made assurances in a master plan or otherwise for the following:~~

- (1) ~~Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.~~
- (2) ~~Implementation of the county's Archaeological Policy.~~
- (3) ~~Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist and are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.~~
- (4) ~~Provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.~~
- (5) ~~Implementation of the county's Natural Resources Policy.~~

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**Sec. 24-254 ~~255~~. Area requirements.**

- (a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 10,000 square feet.
- (b) *Public sewage disposal only.* 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) *Public water distribution only.* 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) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal systems shall have a minimum area of 30,000 square feet.
- (e) *Applicability to certain lots.* 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.

**Sec. 24-257 ~~256~~. Setback requirements.**

Structures shall be located a minimum of 25 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 50 feet from the centerline of the street. This shall be known as the "setback line"; 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. *Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.*

**Sec. 24-258 ~~257~~. 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 more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-259 ~~258~~. 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.

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**Sec. 24-254 255. Area requirements.**

- (a) *Public water/sewage disposal.* Lots served by public water and public sewage disposal systems shall have a minimum area of 10,000 square feet.
- (b) *Public sewage disposal only.* 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) *Public water distribution only.* 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) *Individual water/sewage disposal.* Lots served by individual water and sewage disposal systems shall have a minimum area of 30,000 square feet.
- (e) *Applicability to certain lots.* 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.

**Sec. 24-257 256. Setback requirements.**

Structures shall be located a minimum of 25 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 50 feet from the centerline of the street. This shall be known as the "setback line"; 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. *Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.*

**Sec. 24-258 257. 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 more than 43,560 square feet shall have a minimum width at the setback line of 150 feet.

**Sec. 24-259 258. 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.

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(b) *Rear.* Each main structure shall have a minimum rear yard of 35 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.

**Sec. 24-262 259. Special provisions for corner lots.**

- (a) The front of the lot shall be the shorter of the two sides fronting on streets.
- (b) No structures shall be located closer than 25 feet to the side street.
- (c) Each ~~corner~~ lot shall have a minimum width at the setback line of 100 feet.

**Sec. 24-260. 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.
  - (4) Required to meet all other requirements of this district.
- (b) In addition to the above requirements, 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 feet; and
  - (3) Have no minimum side yard requirement on the common side lot line.
- (c) Upon application, the board of supervisors may grant a waiver from the public sewer connection requirement referenced above upon finding:
  - (1) The development site is a single lot recorded or legally in existence prior to the date of adoption of this section; and
  - (2) The State Health Department has approved the location and adequacy of the proposed septic drainfields; and

- (3) The proposed two-family dwelling is located in the Primary Service Area and is in accord with the James City Service Authority Regulations Governing Utility Service.

**Sec. 24-261. Height limits.**

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

- (1) 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 15 feet plus one foot or more of side yard for each additional foot of building height over 35 feet.
- (2) A public or semipublic building such as a school, church or library 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.
- (3) Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, home television antennas and home radio aerials and wireless communications facilities that utilize alternative mounting structures or are building mounted in accordance with division 6, Wireless Communications Facilities, may be erected to a total height of 60 feet from grade. Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade. Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver for these structures to exceed 60 feet in height but not to exceed 100 feet, from grade to the top of the structure, and for wireless communications facilities that utilize alternative mounting structures or are building mounted to exceed 60 feet in height but not to exceed 120 feet in grade to the top of the structure, upon finding that:
  - a. Such structure will not obstruct light to adjacent property;
  - b. Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
  - c. Such structure will not impair property values in the surrounding area;
  - d. Such structure is adequately designed and served from the standpoint of safety, and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the building is reasonably well located in relation to fire stations and equipment, so as to offer adequate protection to life and property; and
  - e. Such structure will not be contrary to the public health, safety and general welfare.
- (4) 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, that ~~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 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 feet in height.

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**Sec. 24-263 262. Sign regulations.**

To assure an appearance and condition which is consistent with the purpose of the General Residential District, R-2, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter.

**Sec. 24-256 263. Open space within major subdivisions.**

(a) Within every subdivision consisting of 50 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 15 percent of the net developable area of the site. *The developable area of right-of-way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.*

(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding *under the 100-year storm event*, marsh and *wetlands shall be maintained as open space.* Areas with slopes exceeding 25 percent gradient, shall be maintained as open space of 25 percent or more which are contiguous to the above-mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.

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

- (1) No land lying within a proposed or existing utility easement or drainage facility is counted toward the minimum open space requirement; *and*
- (2) The land is suitable *in its size, shape, and location* for the *conservation and* recreational use intended, with adequate access *for the entire development and served with adequate facilities for such purpose;* and
- (3) *No part of a private yard or area determined by the planning director to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and*
- ~~(4)~~ No more than 50 percent of the required open space shall be used for active recreational uses.

(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.

***Sec. 24-264. Ownership of open space.***

*Within any residential 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 a declaration of covenants and restrictions or other document necessary to establishing a mandatory permanent home owners organization has been approved by the county attorney and has 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; and*
- (2) The extent of common interest held by the owner of each individual parcel in the tract held in common.*

***Sec. 24-265. BMP requirements.***

*To assure an appearance and condition which is consistent with the purpose of the General Residential District, R-2, structural BMPs serving the properties within the district shall comply with the landscaping regulations in article II, division 4 of this chapter.*

***Sec. 24-266. Buffer requirements.***

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

- (1) The minimum right-of-way buffer on Community Character Corridor roads as defined in the Comprehensive Plan shall be 150 feet, except when the average lot depth of the parent parcel is less than 600 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*
- (2) The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*
- (3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.*

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(b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-86(c) of this chapter.

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

- (1) The development is less than five acres and a majority of the development's units are dedicated to affordable housing; or
- (2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or
- (3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

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

(e) All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning commission under the following circumstances:

- (1) The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.
- (2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.
- (3) Stockpiles shall not exceed 35 feet in height.
- (4) Stockpiles shall be temporary, with a time limit of six months.
- (5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.



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(f) Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:

(1) The need is necessitated by site conditions rather than economic factors; and


(2) The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.

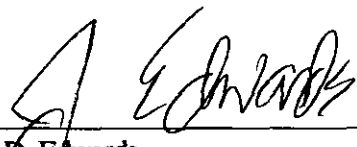
(g) An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon the recommendation of the Environmental Director and the approval of the planning commission.

(h) Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.

Secs. 24-264 267 - 24-273. Reserved.

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

  
Jack D. Edwards  
Chairman, Board of Supervisors

SUPERVISOR	VOTE
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 1999.

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ORDINANCE NO. 31A-197

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VI, OVERLAY DISTRICTS, DIVISION 1, RESIDENTIAL CLUSTER DEVELOPMENT, SECTION 24-538, STATEMENT OF INTENT; SECTION 24-539, RESIDENTIAL CLUSTER DEVELOPMENT DEFINED; SECTION 24-540, WHERE PERMITTED; SECTION 24-541, MINIMUM SITE SIZE; SECTION 24-542, PERMITTED USES; BY AMENDING AND RENUMBERING SECTION 24-544, SETBACK REQUIREMENTS WITH NEW NUMBER 24-545; BY ADDING NEW SECTION 24-544, BUFFER REQUIREMENTS; BY RENUMBERING SECTION 24-545, MINIMUM LOT WIDTH AND AREA REQUIREMENTS WITH NEW NUMBER SECTION 24-546; BY AMENDING AND RENUMBERING SECTION 24-546, YARD REGULATIONS WITH NEW NUMBER SECTION 24-547; BY AMENDING AND RENUMBERING SECTION 24-547, DENSITY WITH NEW NUMBER 24-548; BY DELETING OLD SECTION 24-548, DENSITY BONUSES; BY AMENDING, RENUMBERING AND RENAMING SECTION 24-549, DENSITY BONUSES - PERFORMANCE ASSURANCE WITH NEW NUMBER AND NAME SECTION 24-551, PERFORMANCE ASSURANCE; BY ADDING NEW SECTION 24-549, DENSITY STANDARDS; BY ADDING NEW SECTION 24-550, BMP REQUIREMENTS; BY AMENDING AND RENUMBERING SECTION 24-550, AMOUNT OF OPEN SPACE REQUIRED WITH NEW NUMBER SECTION 24-552; BY AMENDING AND RENUMBERING SECTION 24-551, OWNERSHIP OF OPEN SPACE WITH NEW NUMBER SECTION 24-553; AND BY AMENDING AND RENUMBERING SECTION 24-552, REVIEW AND APPROVAL PROCESS WITH NEW NUMBER SECTION 24-554.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VI, Overlay Districts, Division 1, Residential Cluster Development, Section 24-538, Statement of intent; Section 24-539, Residential cluster development defined; Section

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24-540, Where permitted; Section 24-541, Minimum site size; Section 24-542, Permitted uses; Section 24-544, Buffer requirements; Section 24-545, Setback requirements; Section 24-546, Minimum lot width and area requirements; Section 24-547, Yard regulations; Section 24-548, Density; Section 24-549, Density standards; Section 24-550, BMP requirements; Section 24-551, Performance assurance; Section 24-552, Amount of open space required; Section 24-553, Ownership of open space; and Section 24-554, Review and approval process.

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Article VI. Overlay Districts

Division 1. Residential Cluster Development

Sec. 24-538. Statement of intent.

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

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**Sec. 24-539. Residential cluster development defined.**

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

**Sec. 24-540. Where permitted.**

A residential cluster development is permitted in the R-1, R-2, and R-5 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, Multifamily Residential. The requirements of this article shall govern where there is a conflict with the requirements of the underlying district.

**Sec. 24-541. Minimum site size.**

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

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

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

**Sec. 24-542. Permitted uses.**

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

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Sec. 24-543. Utilities.

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

*Sec. 24-544. Buffer requirements.*

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

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

(2) *The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*

(3) *If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.*

(b) *Perimeter buffers.* Within any major subdivision approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24-86(c) of this chapter.

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

(1) *The development is less than five acres and a majority of the development's units are dedicated to affordable housing; or*

(2) *The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or*

(3) *The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.*

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In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

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

(e) *All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning commission under the following circumstances:*

(1) *The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.*

(2) *The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.*

(3) *Stockpiles shall not exceed 35 feet in height.*

(4) *Stockpiles shall be temporary, with a time limit of six months.*

(5) *Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.*

(f) *Wet ponds, dry detention basins, and other structural BMP's shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:*

(1) *The need is necessitated by site conditions rather than economic factors; and*

(2) *The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.*

(g) *An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon the recommendation of the Environmental Director and the approval of the planning commission.*

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(h) *Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.*

**Sec. 24-544 545. Setback requirements.**

The minimum setback from the right-of-way of internal streets shall be shown on the plan of development *and on the recorded subdivision plat.* The minimum setback from external streets shall be the same as that required by the zoning district in which the lot is located. *The approved setback lines shall be shown on the recorded subdivision plat, except as superseded by section 24-544. The minimum setback from internal streets may be reduced to zero, provided that no building in a residential cluster shall be closer than 35 feet to the internal edge of perimeter buffers. Off-street parking shall not be permitted within the required setbacks, except that parking spaces for single-family and two-family dwellings may be located within the required setback.*

**Sec. 24-545 546. Minimum lot width and area requirements.**

There are no lot width or area requirements.

**Sec. 24-546 547. 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 governed by the State of Virginia Building Code.
- (b) No building in a residential cluster development in an R-1, R-2, or R-5 district shall be closer than 35 feet to property outside the residential cluster development *the internal edge of perimeter buffers.*

**Sec. 24-547 548. Density.**

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

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<i>Comprehensive Plan Designation</i>	<i>Minimum</i>	<i>Maximum</i>
Low-Density Residential	0	4.0
Moderate-Density Residential	4.0	12.0

In areas designated as low-density residential by the Comprehensive Plan, the gross density may be as high as one unit per acre. In areas designated as moderate-density residential by the Comprehensive Plan the gross density shall be four 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 35 percent of the total area as ~~be~~ calculated ~~as shown~~ below:

<i>Gross Acreage</i>	
<i>Percentage of Nondevelopable Area</i>	<i>Gross Acreage Shall Equal:</i>
Less than 35	Total area of parcel
<del>35 or</del> More than 35	Developable land plus 35% of the parcel's land

Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding ~~under the 100-year storm event~~, wetlands and areas with slopes exceeding 25 percent gradient. If the cluster development lies in more than one Comprehensive Plan Land Use Designation, the number of dwelling units shall be calculated separately for each district ~~designation~~.

**Sec. 24-548. Density bonuses.**

(a) ~~— The allowable base density of four units per acre in moderate-density residential areas may be increased upon the granting of a density bonus by the planning commission. Upon application, the 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 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 may be awarded for each condition, specified in (1) through (16) below, which is met by the cluster development; provided, however, that in no case shall the accumulated density bonus exceed the maximum gross units per acre as noted in section 24-547. The density bonus percentages shall always be calculated against the allowable base density of four units per acre in moderate-density residential areas.~~

~~— (1) — For the provision of sidewalks on all internal streets a 20 percent density bonus may be awarded.~~



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- ~~———— (2) ——— For the creation of a perpetual scenic easement 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 50 feet wide as measured from the future road right-of-way for nongreenbelt roadways or an additional 50 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 RMA wetlands a 15 percent density bonus may be awarded. This wetlands buffer shall be at least 100 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 15 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 preserving 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 preserving 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 15 percent density bonus may be awarded.~~
- ~~———— (8) ——— For the provision of sidewalks joining the cluster development with any arterial road or public facility excluding pump stations, fire stations and solid waste container sites, a 20 percent density bonus may be awarded. This density bonus will only be granted for those sidewalks that are not already required by chapters 19 and 24 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 provision of paved bicycle paths interconnecting sections of the development and/or significant recreational facilities a 20 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 15 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 30 percent density bonus may be awarded.~~

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- ~~(12) For the provision of a mixture of housing types, where 60 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 19 percent of the site, a density bonus of ten percent may be granted; for 20 percent or greater of the site, a density bonus of 15 percent may be granted.~~
- ~~(14) A 40 percent density bonus may be granted if 30 or more percent of the residential units have actual sales prices at or below the maximum allowable sales prices for James City County as set by adjusting the 1991 Virginia Housing Development Authority's Home Mortgage Loan Program (\$81,500) base by the cumulative rate of inflation as measured by the consumer price index (CPI) annual average change. The annual increase shall not exceed 5 percent.~~
- ~~(15) A 50 percent density bonus may be granted if 30 or more percent of the residential units have sales prices at or below 80 percent of the maximum sales price for James City County as set by adjusting the 1991 Virginia Housing Development Authority's Home Mortgage Loan Program base (\$65,200) by the cumulative rate of inflation as measured by the consumer price index (CPI) annual average change. The annual increase shall not exceed 5 percent.~~
- ~~(16) A 25 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 subparagraphs (1) through (15).~~

~~In order to be awarded a density bonus under subparagraph (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.~~

***Sec. 24-549. Density Standards.***

***(a) Low Density Residential Cluster Development. Within any low density residential cluster development, the following standards shall apply:***

- (1) Residential cluster developments of one unit per acre or less may be permitted in areas designated low density residential on the comprehensive plan land use map upon the approval of a master plan by the planning commission in accordance with section 24-553.***
- (2) Residential cluster developments of more than one unit per acre, but of no more than two units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit from the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24-553.***

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*In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:*

- a. *Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.*
  - b. *Implementation of the county's Archaeological Policy.*
  - c. *Provision of sidewalks on at least one side of all internal streets in the development, including the entrance road. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property. In addition, a sidewalk shall be provided as required in section 24-35.*
  - d. *Provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.*
  - e. *Implementation of the county's Natural Resources Policy.*
- (3) *Residential cluster developments of more than two units per acre, but of no more than three units per acre may be permitted in areas designated low density residential on the comprehensive plan land use map upon the issuance of a special use permit by the board of supervisors and upon the approval of a master plan by the planning commission in accordance with section 24-553. In addition to items (2)(a) through (e) above, the developer shall make assurances in a master plan or otherwise for the following:*
- a. *Provision of pedestrian and/or bicycle trails, where topographically feasible, which connect cul-de-sacs throughout the development to each other and to the recreation area; or provision of sidewalks on both sides of all internal streets in the development, including the entrance road; or a combination of trails and sidewalks as stated above. This requirement may be waived by the planning commission if the development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property.*
  - b. *Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:*
    - I. *The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or*

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2. Along those segments of road, including the entrance road, where structures are not planned.
- (4) At its discretion, the board of supervisors may award density bonuses to a gross allowable base density of two dwelling units per acre for the following items, provided that no total density exceeds four dwelling units per acre in areas designated low density residential on the comprehensive plan land use map. In addition, the board of supervisors may waive one or more of the requirements for standards (3)(a) and (b) above in approving these density bonuses; however, standards (2)(a) through (e) shall remain as requirements of the developments.
- a. An additional 0.5 dwelling unit per acre may be awarded for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.
  - b. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vista, preservation of natural areas as suggested by the Natural Areas Inventory, protection of wildlife habitat corridors, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in The Sustainable Building Sourcebook from the City of Austin's Green Building Program, or the Sustainable Building Technical Manual by the United States Department of Energy.
  - c. An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exit points to the development, a mixture of unit types and/or unit prices, and group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.
- No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.
- (b) Moderate Density Residential Cluster Development. Within any moderate density residential cluster development, the following standards shall apply:
- (1) Residential cluster developments of four units per acre but less than nine units per acre may be permitted in areas designated moderate density residential on the comprehensive plan land use map and zoned R-5 upon the approval of a master plan by the planning commission in

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accordance with section 24-553. In order to achieve this density, the developer shall make assurances in a master plan or otherwise for the following:

- a. Implementation of Streetscape Guidelines as defined in the Streetscape Guidelines Policy.
  - b. Implementation of the county's Archaeological Policy.
  - c. Provision of sidewalks on both sides of all internal streets and drive aisles in the development, including the entrance road. This requirement may be waived or modified by the planning commission under the following circumstances:
    1. The development is infill development of less than 20 units where sidewalks do not exist or are not planned on adjacent property, or
    2. The planning director agrees with the applicant that there will be no practical destination point or route connected to the segment of sidewalk now or in the future.
  - d. Provision of recreation facilities as recommended in the county's Comprehensive Parks and Recreation Master Recreation Plan. Upon application for an exception, the Board of Supervisors may approve alternate facilities or allow cash contributions in lieu of constructing a percentage of the facilities, provided that the alternate facilities or cash contributions are consistent with the recommendations and contributions per unit presented in the master plan.
  - e. Construction of curb and gutter design on all streets within the development. This requirement may be waived or modified by the planning commission under the following circumstances:
    1. The development is infill development of less than 20 units where curb and gutter does not exist or is not planned on adjacent property, or
    2. Along those segments of road, including the entrance road, where structures are not planned.
  - f. Implementation of the county's Natural Resources Policy.
- (2) At its discretion, the planning commission may award density bonuses to a gross allowable base density of nine dwelling units per acre for the following items, provided that no total density exceeds 12 dwelling units per acre in areas designated moderate density residential on the comprehensive plan land use map. Standards (1)(a) through (f) shall remain as requirements of the developments.

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- a. *An additional 0.5 dwelling unit per acre for every ten percent of the total number of dwelling units dedicated to affordable housing. The applicant must provide the planning director confirmation of the initial sale price for the affordable units prior to the issuance of building permits. The applicant shall also enter into an agreement with the county, approved by the county attorney, which restricts the initial sales prices of the designated affordable units to an actual sales price at or below the allowable sales price limit set for the year in which the unit is built for a period of five years, and which controls the project phases in which such units are built. Such units shall be generally dispersed throughout the proposed development and not concentrated in one area of the development.*
- b. *An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates environmentally sensitive natural design features such as preservation of scenic vistas, preservation of natural areas as suggested by the Natural Areas Inventory, and the creation of buffer areas around RMA wetlands, and sustainable building practices as referenced in The Sustainable Building Sourcebook from the City of Austin's Green Building Program, or the Sustainable Building Technical Manual by the United States Department of Energy.*
- c. *An additional 0.5 dwelling unit per acre for superior layout and quality design which incorporates community design features such as interconnecting streets, multiple entrance/exist points to the development, a mixture of unit types and/or unit prices, and group or shared parking. Such layout and design elements shall appear on any residential cluster plan submitted for a special use permit.*
- d. *An additional one dwelling unit per acre for land dedicated and accepted by the county for a public use site. The site shall be suitable for the proposed use, and shall be a minimum of five acres.*

*No density bonus shall be awarded for any improvement, design, or action otherwise required by county, state, or federal law.*

**Sec. 24-550. BMP requirements.**

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

**Sec. 24-549. Density bonuses- 551. Performance assurance.**

For all improvements proposed by the applicant pursuant to section 24-548 549, assurances shall be provided, satisfactory to the county attorney, that such improvements will be constructed and completed for use by project residents within a specific, reasonable period of time.



**Sec. 24-550 552. 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 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 less than 40 percent of the net developable area of the site in low-density residential areas and 35 percent of the net developable area in moderate-density residential areas. *These amounts may be reduced to the following percentages at the discretion of the planning commission if the proposed development dedicates the following percentage of its total units to affordable housing:*

<i>Percentage of Total Units Dedicated to Affordable Housing</i>	<i>Percentage of Open Space Required in Low Density Residential</i>	<i>Percentage of Open Space Required in Moderate Density Residential</i>
<i>10 to 55</i>	<i>30</i>	<i>25</i>
<i>More than 55 to 100</i>	<i>25</i>	<i>20</i>

Golf courses may be counted as open space for the purpose of meeting this requirement to a maximum of 30 percent of the required open space. *The developable area of right-of-way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.*

(b) In addition, all nondevelopable areas consisting of all stream beds, areas subject to flooding *under the 100-year storm event*, and wetlands and areas with slopes exceeding 25 percent gradient shall be maintained as open space. *Areas with slopes of 25 percent or more which are contiguous to the above-mentioned areas may be incorporated into individual lots provided that the sloped areas are placed in conservation easements approved by the county attorney.*

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

- (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; *and*
- (2) The land is suitable in its size, shape and location for the conservation and recreational uses *purposes for which it is intended*, with adequate access for the entire development and served with adequate facilities for such purpose; *and*
- (3) *No part of a private yard or area determined by the planning commission to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and*

(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.

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**Sec. 24-551 553. 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 *a declaration of covenants and restrictions or other documents necessary to establishing a permanent homeowners organization has been* approved by the county attorney shall have *and has* 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.

**Sec. 24-552 554. 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 *planning commission and board of supervisors in instances where a special use permit is required or to the development review committee in cases where a special use permit is not required.* The planning director and the development review committee shall recommend action on the plan to the planning commission, *and to the board of supervisors in instances where a special use permit is required. The planning commission and board of supervisors, where applicable,* 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, *or* natural vegetation or farmland; *and*
- (2) The cluster development will not impair the character of the area or create unacceptable adverse off-site infrastructure impacts; and
- (3) The proposed project is in accordance with the Comprehensive Plan of James City County; *and*
- (4) *The structures within the residential cluster development are sited in a way that preserves prominent open space features which are within or adjoin the site, such as open fields or farmland, scenic vistas, sight lines to historic areas or structures, and archaeological sites.*

(b) *Master plan of development.* The master plan of development shall identify proposed areas and uses of open space including the nondevelopable areas. 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 36 inches by 48 inches. It shall include:



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- (1) An inset 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, ~~existing above and below ground utility easements, scenic easements,~~ 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 parking areas,~~ 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 ~~or required per the density standards,~~ 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 24-550 ~~551(a)~~ and the total amount of open space.
  - (6) Master water, sewer and drainage plans and schematic plans.
  - (7) ~~All required setbacks, right-of-way buffers and perimeter buffers; all preserved tree areas, preserved slopes, open space areas and proposed bicycle/pedestrian access thereto; and proposed storm water management facilities.~~
- (c) *Status of master plan.* 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.* 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 master plan of development.
  - (4) Impair 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 ~~and board of supervisors, where applicable,~~ for review and action.

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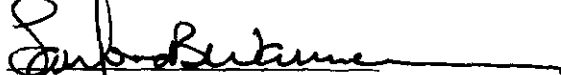
(e) *Master plan review fees.* Submittal of a master plan shall be accompanied by the fee charged for master plan review in accordance with section 24-7 of this chapter.

(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 24-552 ~~§§~~(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 III of this chapter or the county's subdivision ordinance, whichever is appropriate. ~~However, all sectional plans submitted for moderate density cluster development shall be reviewed in accordance with and meet the requirements of article III of this chapter.~~

Secs. 24-553 ~~§§~~ - 24-563. Reserved.

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

  
Jack D. Edwards  
Chairman, Board of Supervisors

SUPERVISOR	VOTE
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 1999.

rescluster.ord

MAY 25 1999

ORDINANCE NO. 31A-198

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article I, In General, Section 24-2, Definitions.

Chapter 24. Zoning

Article I. In General

Sec. 24-2. Definitions.

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

*Affordable housing. Units with sales price at or below the allowable sales price for James City County as set by adjusting the 1998 Hampton Roads Regional Loan Fund Partnership sales price limit (\$90,000) as referenced in the Hampton Roads Regional Loan Fund Handbook (March 1998) by the cumulative rate of inflation as measured by the consumer price index (CPI) annual average change. The annual increase shall not exceed five percent.*

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*Arterial streets. A street specifically designed to move high volumes of traffic from collector streets through the county and not designed to serve abutting lots except indirectly through intersecting streets. Arterial streets shall include all U.S. Highways, state primaries with one, two or three-digit numbers, state secondary roads with three-digit numbers, and any other street which the subdivision agent determines is functionally equivalent to these transportation department classifications. This definition shall not include three-digit numbered streets which are part of a recorded subdivision or an extension thereof.*

*Dwelling. Any structure which is designed for use for residential purposes, except hotels, motels, boardinghouses, lodging houses and tourist cabins,*


- (1) *Single-family detached. A detached structure arranged or designed to be occupied by one family, the structure having only one dwelling unit.*
- (2) *Two-family. A structure containing two dwelling units separated from one another by a solid wall or floor. For the purpose of this chapter, the term "two-family dwelling" shall not apply to a single-family dwelling containing an accessory apartment.*
- (3) *Multiple family. A structure arranged or designed to be occupied by more than two families.*

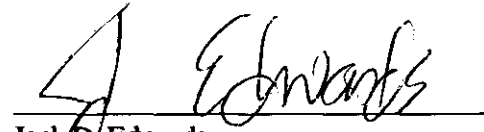
*Neighborhood Resource Center. A facility used primarily by residents of adjacent neighborhoods for the sharing of information and services of a public, nonprofit, or charitable nature. Primary uses may include resource libraries, meeting rooms, offices for neighborhood organizations or related staff, and education rooms. Accessory uses may include food preparation areas, health areas, community gardens, and parking.*

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*"Neighborhood Resource Center" does not include any facility with sales or residential units, nor does it include facilities for private lodges or clubs.*

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

  
Jack D. Edwards  
Chairman, Board of Supervisors

<u>SUPERVISOR</u>	<u>VOTE</u>
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 1999.

defin.ord

## STREETSCAPE GUIDELINES POLICY

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### Goal

To preserve existing, healthy, durable, mature trees, and to plant new trees appropriate to James City County's climate, along residential streets, subdivision entrances and common areas in order to preserve and/or to reestablish tree canopies in these areas.

Tree preservation/planting shall be accomplished such that, within 20 years growing time, the minimum tree canopy over residential streets shall be 20%.

### Guidelines for Street Trees

In all residential subdivisions, deciduous shade trees and/or shrubs shall be planted along all rights-of-way within and abutting the subdivision. Street tree plans shall be prepared by a certified landscape architect and shall be reviewed and approved by the Director of Planning. The street tree plans shall adhere to the following guidelines:

- Trees and/or shrubs shall be located within a minimum five-foot landscape preservation easement contiguous to such right-of-way.
- The easement shall contain, at a minimum, one tree per an average 40 linear feet of street on each side of the street or one shrub per an average 20 linear feet of street on each side of the street. The mix of trees and shrubs shall be approved by the Planning Director.
- Trees and/or shrubs may be spaced no greater than 75 feet apart along 60% of the street frontage.
- All trees that are planted shall be native species and shall have a minimum caliper of 1 ½".
- Existing trees which are within 20 feet of the edge of the right-of-way, and which are protected and preserved in accordance with the requirements of the Zoning Ordinance, may be used to satisfy this planting requirement. Canopies that are a mixture of existing and planted trees or shrubs shall have similar or complementary branch characteristics.

Upon completion of installation, a certified landscape architect shall verify, in writing, that the trees or shrubs were installed in accordance with the plans.

### Guidelines for Entrances

Entrances shall be landscaped with appropriate combinations of native trees, shrubs, grasses, and ground covers except where the existing mature trees have been preserved or protected in such areas. Unless the Director of Planning or his designee determines that such landscape treatment is unnecessary, impractical, or in conflict with drainage, utilities, sight distance or other required features of the subdivision, the cleared portions of the entrances and associated common areas in a residential subdivision shall be landscaped with a minimum of 1 tree and 3 shrubs per 400 square feet of planted area exclusive of roadways, sidewalks, recreation facilities or other impervious areas.

In wooded areas, entrance features including walls, fences and signs shall be minimized to reduce the amount of clearing to accommodate entrance roads. In no case shall clearing for entrance roads and abutting utility easements exceed 60 feet.

## NATURAL RESOURCE POLICY

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As part of the Chesapeake Bay ecosystem, James City County is endowed with many natural resources, including rare, threatened, and endangered species, rare and exemplary natural communities, and significant geologic features. Where the Natural Areas Inventory indicates that significant natural resource potential exists, the County seeks to identify and protect these resources, and staff will recommend the following condition or proffer be added to all special use permit and rezoning cases. In making a final determination as to when studies may be required, staff will consult the Natural Areas Inventory to see if the sites are located in any B1, B2, or B3 areas and will seek the recommendation of the Virginia Department of Conservation and Recreation Division of Natural Heritage or other qualified persons if necessary.

*A natural resource inventory of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the study area shall be submitted to the Director of Planning for his review and approval prior to land disturbance. If the inventory confirms that such a resource either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. All inventories and conservation management plans shall meet the Virginia Division of Natural Heritage's standards for preparing such plans, and shall be conducted under the supervision of a qualified biologist as determined by the Virginia Division of Natural Heritage or the United States Fish and Wildlife Service. All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site.*

I. In interpreting this condition, the following procedures and guidelines will be followed:

1. *A natural resource inventory of suitable habitats for S1, S2, S3, G1, G2, or G3 resources in the study area shall be submitted to the Director of Planning for his review and approval prior to land disturbance. Since the County lacks the expertise to review such documents, the County will send the studies to the Virginia Division of Natural Heritage (VDNH) for review. VDNH's responsibility is to determine if the study meets their standards and has been conducted under the supervision of a qualified biologist. This is the preferred option for review of these studies.*

The developer may request that staff hire an independent biologist to review the study. The Director of Planning shall select the independent biologist. The developer will pay the full costs of this review. It would be the independent biologist's responsibility to determine if the study meets the VDNH's standards, and if it has been conducted under the supervision of a qualified biologist. The

developer will take risk in this matter. If at some point in the future the developer needs to go before the VDNH, and comments are made regarding previous studies, it will be the County's position that all VDNH issues need to be resolved. The County's biologist will not participate in this process other than to provide technical assistance to the County as requested by the County.

2. *If the inventory confirms that such a resource either exists or could be supported by a portion of the site, a conservation management plan shall be submitted to and approved by the Director of Planning for the affected area. The conservation management plan shall list conservation management measures for each of the areas meeting the criteria listed in the condition and shall include, at a minimum, the extent of impact to the area, a description of the probable boundaries, and recommendations for treatment of the area. These plans shall be reviewed by staff who may, if necessary, consult with VDNH. The developer may request review by an independent biologist subject to the provisions of Guideline No. 1. Once identified concerns have been addressed, staff (not VDNH) will approve the study.*
3. *All approved conservation management plans shall be incorporated into the plan of development for the site, and the clearing, grading or construction activities thereon, to the maximum extent possible. Upon approval by the Director of Planning, a mitigation plan may substitute for the incorporation of the conservation management plan into the plan of development for the site. The preferred option for implementation of the conservation management plan is to fully incorporate it into the plan of development. However, should the recommendations of the conservation management plan severely impact the plan of development, the expectation is that all reasonable measures shall be taken to implement the conservation management plan. As an alternative under severe conditions, the Director of Planning may consider and approve a mitigation plan which provides for the permanent conservation of an equally or more rare resource off-site. The preference is for the same resource to be conserved.*

II. In Implementing and updating this condition, the following procedures and guidelines will be followed:

1. Maps indicating the general location of natural areas shall be included within the text of the Comprehensive Plan with appropriate cross-references to documents such as the Natural Areas Inventory and Natural Areas Conservation Planning Report.
2. A developer may advertise on-site preservation efforts in accordance with the regulations of the sign ordinance and after consultation with a professional biologist and the Director of Planning.



## GROUP OR SHARED PARKING POLICY

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### Goal

To replace traditional driveways and rows of perpendicular or angled parking in front of structures so that the overall emphasis of streetscapes in these developments becomes landscaping and structures rather than parking areas.

### Guidelines

Parking should be clustered into small bays (up to approximately 6 spaces) located off the street or drive aisle, or into single rows of 2 or 3 parallel parking spaces adjacent to the street or drive aisle. Slight variations from this guideline may be approved by the Director of Planning or the Planning Commission.

Successful examples of similar parking facilities are Quarterpath Trace in Kingsmill and Counselors Close in Williamsburg.

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Below: Example of a small bay of parking located off the street

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Above: Example of single rows of 2 or 3 parallel parking spaces adjacent to street

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MAY 25 1999

ORDINANCE NO. 31A-193

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

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 14, PLANNED UNIT DEVELOPMENT DISTRICT, SECTION 24-484, DOCUMENTS REQUIRED FOR SUBMISSION; SECTION 24-487, RELATIONSHIP OF FINAL PLANS TO MASTER PLANS; SECTION 24-495, ADDITION OF LAND TO AN EXISTING PLANNED UNIT DEVELOPMENT; SECTION 24-497, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN; SECTION 24-499, PERMITTED USES; BY AMENDING AND RENAMING SECTION 24-498, SETBACK, SIDE AND REAR YARD REQUIREMENTS, WITH NEW NAME SETBACK REQUIREMENTS AND YARD REGULATIONS; BY DELETING SECTION 24-501, SETBACK REQUIREMENTS FOR INDUSTRIAL USES; BY RENUMBERING SECTION 24-502, REQUIREMENTS FOR COMMERCIAL USES IN THE PUD-R DISTRICT WITH NEW NUMBER SECTION 24-501; BY RENUMBERING SECTION 24-503, REQUIREMENTS FOR LIGHT INDUSTRIAL USES IN THE PUD-C DISTRICT WITH NEW NUMBER SECTION 24-502; BY RENUMBERING SECTION 24-504, RESERVED WITH NEW NUMBER SECTION 24-503.

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 14, Planned Unit Development District, Section 24-484, Documents required for submission; Section 24-487, Relationship of final plans to master plans; Section 24-495, Addition of land to an existing planned unit development; Section 24-497, Requirements for improvements and design; Section 24-498, Setback requirements and yard regulations; Section 24-499, Permitted uses; Section 24-501, Requirements for commercial uses in the PUD-R District; Section 24-502, Requirements for light industrial uses in the PUD-C District; and Section 24-503, Reserved.

Chapter 24. Zoning

Article V. Districts

Division 14, Planned Unit Development District, PUD

**Sec. 24-484. Documents required for submission.**

(b) *Master plan.* The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 30 inches by 48 inches. It shall include:

- (4) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and right-of-ways with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication to public use within the project. Common open space shall be located so as to enhance the living environment of the proposed development. Generally this shall mean that the common open space shall be distributed throughout the site *in moderate-sized, concentrated, contiguous areas* and not aggregated in large areas that provide little or no benefit to the individual uses or the development at large.

Each section or area of the master plan shall be designated as follows:

Area Designations

Type of Development

A	Single-family
B	Attached structures containing two to four dwelling units
C	Attached structures less than three stories and containing more than four dwelling units

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D	Attached structures of three or more stories and containing more than four dwelling units
E	Commercial uses
F	Wholesale and warehouse uses
G	Office uses
H	Light industrial uses
I	Institutional or public uses
J	Areas of common open space, with recreation areas noted

For purposes of this article, the term "common open space area" shall refer to any tract of land intended to be used in common primarily by residents of the planned unit development.

**Sec. 24-487. Relationship of final plans to master plan.**

Following the establishment of a planned unit development district and approval of the board of supervisors of a master plan, the applicant may furnish to the planning commission seven copies of a final plan of any part or section of the community shown on the master plan. The term "final plan" shall mean site plan or subdivision plat. Final plans shall be submitted for review in accord with article III of this chapter or the county's subdivision ordinance. The final plans shall be consistent with the master plan as approved, but may alter to any degree which the planning commission believes does not alter the basic concept or character of the development. *The planning commission may make this determination using conceptual preliminary plans. If the variations are approved at the conceptual preliminary plan level, final plans shall be consistent with the variations approved by the planning commission.*

**Sec. 24-495. Addition of land to an existing planned unit development.**

Additional land area may be added to an existing planned unit development if it is adjacent to (except for public roads), forms a logical addition to and if it is ~~the addition will come under common~~ the same ownership or control as the original parcel. The procedure for an addition shall be the same as if an original application were filed, and the requirements of this article shall apply, except the minimum acreage requirement.

**Sec. 24-497. Requirements for improvements and design.**

- (d) *Street.* All streets shall meet the requirements of the Virginia Department of Transportation or the requirements of the county subdivision regulations, whichever is greater. Such streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan. The construction of streets, whether public or private, shall be guaranteed by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney and director of code compliance ~~environmental director~~. Private streets may be permitted upon the approval of the board of supervisors.
- (e) *Fire hydrants.* Fire hydrants shall be at locations and of types approved by the county director of code compliance ~~service authority~~ and county fire chief. No structure within the district shall generally be further than 400 feet from a hydrant.
- (i) *Signs.* All signs within a planned unit development district shall comply with article II, division 3 of this chapter. ~~To assure an appearance and condition which is consistent with the purposes of the planned unit development district, outdoor signs on the properties within the district shall comply with the regulations for exterior signs in article II, division 3 of this chapter, except that unique signing systems may be approved by the planning commission where such sign systems contribute significantly to the character of the planned community. However, in no case shall the sign's square foot size exceed the maximum allowed in article II, division 3 of this chapter.~~

**Sec. 24-498. Setback, side and rear yard requirements and yard regulations.**

- (a) **Peripheral setbacks.** Any planned unit development, PUD, district approved under this article, shall adhere to the following setback requirements:

(1) **Residential.**

- (a) **Perimeter setbacks.** For residential uses a minimum landscape setback of 50 feet shall be maintained from all property lines adjoining a different zoning district and/or the right-of-way of any existing or planned public roads which abut the site. Where attached structures in a PUD-R District adjoin an existing R-1, R-2 or R-6 District, or an A-1 or R-8 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum setback shall be 75 feet.

- (b) **Right-of-way buffer setbacks.** For residential uses, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:

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

- (2) The minimum right-of-way buffer on all external non-Community Character Corridor roads shall be 75 feet, except when the average lot depth of the parent parcel is less than 300 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.

(3) If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.

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

(1) A majority of the development's units are dedicated to affordable housing;  
or

(2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer; or

(3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The planning commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

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

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(e) All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designer. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning commission under the following circumstances:

(1) The buffer in which the temporary stockpile is to occur is nonwooded, defined as having no mature trees.

(2) The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.

(3) Stockpiles shall not exceed 35 feet in height.

(4) Stockpiles shall be temporary, with a time limit of six months.

(5) Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.

(f) Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:

(1) The need is necessitated by site conditions rather than economic factors;  
and



- (2) *The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been mitigated with additional plantings or berms as necessary.*
- (g) *An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angle to the property line upon the recommendation of the environmental director and the approval of the planning commission.*
- (h) *Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes the views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.*
- (b) (2) *Commercial.* For commercial uses a minimum landscape setback of 75 feet shall be maintained from all property lines adjoining a different zoning district and/or the right-of-way of any existing or planned public roads which abut the site *and/or existing or planned public roads or properties that are peripheral to the planned unit development district.*
- (c) (3) *Industrial, public or institutional uses.* For industrial, public or institutional uses a minimum landscaped setback of 100 feet shall be maintained from all property lines adjoining a different zoning district and/or the right-of-way of any existing or planned public roads which abut the site *and/or existing or planned public roads or properties that are peripheral to the planned unit development district.* Where industrial structures adjoin an existing residentially zoned

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district or an A-1 District that is designated low-density residential or rural lands on the Comprehensive Plan, the minimum landscaped setback shall be increased to 125 feet.

~~(d) *Internal setback requirements for industrial uses. A minimum setback of 50 feet shall be required from streets which are internal to the site for any industrial structure.*~~

~~(e) *Yard regulations.*~~ Except for setbacks required on the perimeter of the district and except for industrial structures ~~specified in Section 24-498 (a) and (b) above~~, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a planned unit development district other than as specified in approved final plans.

~~(e) *Parking restrictions in setbacks.*~~ Landscape setbacks shall not be used for streets or for parking except for entrances which may penetrate the setback.

**Sec. 24-499. Permitted uses.**

(a) In the planned unit development district, residential (PUD-R), all structures to be erected or land to be used shall be for the following uses:

(1) Residential uses:

Accessory buildings or structures, ~~as defined~~.

Apartments.

Coin laundries which are accessory to other residential uses and for the primary use of their residents.

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

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Fire stations.

Golf courses, country clubs.

Houses of worship.

Marinas, docks piers, boat basins and waterfront activities; if fuel is sold, then in accordance with section 24-38.

Nursing homes and facilities for the residence and/or care of the aged.

Off-street parking as required by section 24-53.

Restaurants which are accessory to permitted private clubs and marinas.

Retail shops associated with community recreation facilities.

Schools.

Single-family dwellings.

Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Townhouses.

Two-family dwellings.

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(2) Commercial uses:

Automotive service stations, with major repair in a fully enclosed building, or retail sale of automotive accessory items; if fuel is sold, then in accordance with section 24-38.

Banks and other similar financial institutions.

~~Barber and beauty shops.~~

Business and professional offices.

~~Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.~~

~~Drug stores and barber or beauty shops.~~

Dry cleaners and laundries.

~~Fire stations.~~

Funeral homes.

~~Houses of worship.~~

Indoor theaters, museums and public meeting halls.

~~Libraries.~~

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Medical clinics or offices.

Motels, hotels and resort facilities.

**Museums.**

Photography studios and sales, artist and sculptor studios, arts and crafts and handicraft shops, antique shops, reproduction and gift shops.

Plants and garden supply, hardware and paint, and home appliance sales and service, with storage in a fully enclosed building.

**Post offices.**

**Public meeting halls.**

**Public utilities.**

Radio and television stations.

Restaurants, tea rooms and taverns.

*Retail and service stores, including the following stores: books, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, greeting card, ice cream, jewelry sales and service, locksmith, music and records, pet, picture framing, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel and yard goods.*

Retail food stores, bakeries, fish markets.

Schools, fire stations, post offices, public utilities, houses of worship, libraries.

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Telephone exchanges and telephone switching stations.

Timbering in accordance with section 24-43.

Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities.

(b) In the planned unit development district, commercial (PUD-C), all structures to be erected or land to be used shall be for one or more of the following uses:

(1) Commercial uses: Same as paragraph (2) of subsection (a) above.

(2) Light industrial uses:

Printing and publishing.

Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted in a fully enclosed building, with no dust, noise, odor or other objectionable effect.

Research, design and development ~~facilities or~~ laboratories.

Wholesale and warehousing, with storage in a fully enclosed building.

(3) Theme parks.

(4) Apartments, townhouses and condominiums.

(5) Private streets within "qualifying industrial parks" in accordance with section 24-55.

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(c) In the planned unit development district, residential (PUD-R) or commercial (PUD-C), all structure to be erected or land to be used for the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors.

(1) Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities.

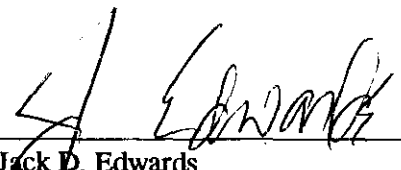
**Sec. 24-501. ~~Setback requirements for industrial use.~~**

~~A minimum landscape setback of 50 feet shall be required from streets which are internal to the site for any industrial structure.~~

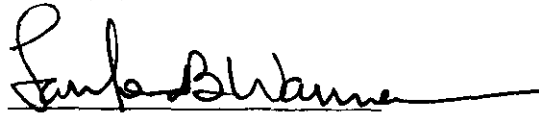
**Sec. 24-502. Requirements for commercial uses in the PUD-R District.**

**Sec. 24-503 ~~502~~. Requirements for light industrial uses in the PUD-C District.**

**Secs. 24-504 ~~503~~ - 24-513. Reserved.**

  
\_\_\_\_\_  
Jack D. Edwards  
Chairman, Board of Supervisors

ATTEST:

  
\_\_\_\_\_  
Sanford B. Wanner  
Clerk to the Board

SUPERVISOR	VOTE
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 1999.

MAY 25 1999

ORDINANCE NO. 31A-194

BOARD OF SUPERVISORS  
JAMES CITY COUNTY  
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE IV, MANUFACTURED HOME PARKS, SECTION 24-172, AREA REQUIREMENTS; BY AMENDING AND RENUMBERING SECTION 24-174, MINIMUM SETBACK REQUIREMENTS WITH NEW NUMBER 24-177; SECTION 24-175, MINIMUM YARD REQUIREMENTS WITH NEW NUMBER 24-178; BY RENUMBERING SECTION 24-176, UNDERGROUND UTILITIES WITH NEW NUMBER 24-180; SECTION 24-177, STREETS REQUIRED WITH NEW NUMBER 24-181; SECTION 24-178, STORM DRAINAGE WITH NEW NUMBER 24-182; SECTION 24-179, OFF-STREET PARKING REQUIRED WITH NEW NUMBER 24-183; SECTION 24-180, FIRE HYDRANTS REQUIRED WITH NEW NUMBER 24-184; SECTION 24-181, STREETLIGHTS REQUIRED WITH NEW NUMBER 24-185; SECTION 24-182, SOLID WASTE DISPOSAL WITH NEW NUMBER 24-186; SECTION 24-183, RECREATION AREA REQUIRED WITH NEW NUMBER 24-187; SECTION 24-184, APPLICABILITY OF VIRGINIA UNIFORM STATEWIDE BUILDING CODE WITH NEW NUMBER 24-188; SECTION 24-185, SITE PLAN REQUIRED WITH NEW NUMBER 24-189; SECTION 24-186, TEMPORARY TRAILER PARKS WITH NEW NUMBER 24-190; BY ADDING NEW SECTION 24-174, BUFFERS REQUIRED; SECTION 24-175, OPEN SPACE REQUIRED; SECTION 24-176, OWNERSHIP OF OPEN SPACE; AND SECTION 24-179, PERMITTED REDUCTION IN MINIMUM YARD 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 IV, Manufactured Home Parks, by amending Section 24-172, Area requirements; by amending and renumbering Section 24-174, Minimum setback requirements with new number 24-177; Section 24-175, Minimum yard requirements with new number 24-178;



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by renumbering Section 24-176, Underground utilities with new number 24-180; Section 24-177, Streets required with new number 24-181; Section 24-178, Storm drainage with new number 24-182; Section 24-179, Off-street parking required with new number 24-183; Section 24-180, Fire hydrants required with new number 24-184; Section 24-181, Streetlights required with new number 24-185; Section 24-182, Solid waste disposal with new number 24-186; Section 24-183, Recreation area required with new number 24-187; Section 24-184, Applicability of Virginia Uniform Statewide Building Code with new number 24-188; Section 24-185, Site plan required with new number 24-189; Section 24-186, Temporary trailer parks with new number 24-190; by adding new Section 24-174, Buffers required; Section 24-175, Open space required; Section 24-176, Ownership of open space; and Section 24-179, Permitted reduction in minimum yard requirements.

ARTICLE IV. MANUFACTURED HOME PARKS\*

**Sec. 24-171. Statement of intent.**

The regulations contained herein are intended to foster the quiet, low- and moderate-density residential character of manufactured home parks. The regulations are designed to stabilize and protect the residential areas in which manufactured home parks are likely to be developed and to promote and encourage a suitable

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\*Cross references-Virginia Uniform Statewide Building Code, § 4-1 et seq.; fire protection, Ch. 9; garbage and refuse, Ch. 10; public parks and recreation facilities, Ch. 16; subdivision provisions regarding fire protection, § 19-63; subdivision provisions regarding street lights, § 19-64.

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environment for family life, both inside of the manufactured home park and in the surrounding area. To these ends, the location of manufactured home parks and the expansion of existing manufactured home parks shall require, in addition to the site plan approval required by article III of this chapter, a special use permit as provided for in article V of this chapter.

**Sec. 24-172. Area requirements.**

(a) Each manufactured home in a manufactured home park shall be placed upon a separate and individual lot.

~~(b) The buildable area of all lots shall be at least 80 feet in length, exclusive of all required setbacks.~~

~~(b)(c)~~ Lots containing or intended to contain a single manufactured home served by public water and public sewage disposal systems shall have a minimum area of 6,000 square feet.

~~(c)(d)~~ Lots containing or intended to contain a single manufactured home served by a public sewage disposal system or by a public water system shall have a minimum area of 10,000 square feet.

~~(d)(e)~~ Lots containing or intended to contain a single manufactured home served by private water and private sewage disposal systems shall have a minimum area of 20,000 square feet.

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**Sec. 24-173. Minimum lot width.**

(a) The minimum width of a lot less than 10,000 square feet in area shall be 60 feet measured at the setback line.

(b) The minimum width of a lot more than 10,000 square feet in area, but less than 20,000 square feet in area, shall be 80 feet measured at the setback line.

(c) The minimum width of a lot 20,000 square feet or greater in area shall be 100 feet measured at the setback line.

***Sec. 24-174. Buffers required.***

*(a) Right-of-way buffer. Within any manufactured home park with six or more units approved under this article, there shall be planned and maintained buffers along all external existing and planned arterial road rights-of-way, as follows:*

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

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- (2) *The minimum right-of-way buffer on all non-Community Character Corridor roads shall be 75 feet, except when the average lot depth is less than 200 feet. In those cases, the required buffer shall be at a depth of 25 percent of the average lot depth.*
- (3) *If the buffer is non-wooded as defined for the purpose of this article as having no mature trees, then a minimum of two trees per 400 square feet of area shall be planted with a minimum 50 percent of said trees being evergreen. Otherwise, the buffer shall remain undisturbed or supplemented with additional plantings to achieve the planting ratio stated above.*
- (b) *Perimeter buffers. Within any manufactured home park with six or more units approved under this article, there shall be planned and maintained a perimeter buffer along the perimeter property lines of the development, except for areas adjacent to road rights-of-way. The minimum perimeter buffer shall be 35 feet. Landscaping guidelines for perimeter buffers shall follow the requirements in section 24.86(c) of this chapter.*
- (c) *Waiver Provisions. In instances where properties have more than a 300-foot average depth and are located along a Community Character Corridor, or in all instances of perimeter buffers, the planning commission may reduce the buffer depth requirements of this section for residential developments when:*
- (1) *The development is less than five acres; or*

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(2) The developer demonstrates that due to natural or protected features, or due to adjoining physical features, a reduced buffer will screen the development as effectively as a full buffer;  
or

(3) The developer demonstrates that the development will be adequately screened and buffered from the road using berms and landscaping. Such a request shall be supplemented with a landscaping plan and/or planting plan with photos of the existing site.

In no case shall the right-of-way buffer be reduced by a waiver provision to less than 75 feet. The perimeter buffer shall not be reduced by a waiver provision to less than 20 feet. The planning commission may also, in the event of granting a waiver, require additional landscaping as determined on a case by case basis.

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

(e) All required buffers shall be exclusive of lots, remain free of structures and parking, and remain undisturbed, except for additional plantings and selective clearing approved by the director of planning or his designee. Soil stockpiles and staging areas shall not be permitted within any buffer, except that temporary soil stockpiles may be allowed upon approval by the planning commission under the following circumstances:

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- (1) *The buffer in which the temporary stockpile is to occur is non-wooded, defined as having no mature trees.*
- (2) *The stockpile should not be visible from a Community Character Corridor or Community Character Area, unless the soil stockpiling is needed for approved berming in that buffer.*
- (3) *Stockpiles shall not exceed 35 feet in height.*
- (4) *Stockpiles shall be temporary, with a time limit of six months.*
- (5) *Once the use of the temporary soil stockpiles is completed, the ground must be adequately prepared for planting and revegetated in a manner that meets or exceeds the amount and quality of vegetation on the site previously.*
- (f) *Wet ponds, dry detention basins, and other structural BMPs shall not generally be permitted in the buffers, except that the planning commission may approve them under the following circumstances:*
  - (1) *The need is necessitated by site conditions rather than economic factors; and*
  - (2) *The screening/buffering effect of the buffer has been retained by the design of the BMP and any degradation has been minimized by its design and mitigated with additional plantings or berms as necessary.*

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(g) *An entrance road, community and directional signage, bicycle and/or pedestrian paths, and utility connections and drainage improvements shall be permitted within the buffer with approval of the planning commission. Permitted utilities and constructed drainage conveyance systems shall cross the buffer at or near a perpendicular angle to the property line, with clearing kept to a minimum necessary to accommodate the utilities, except that minor improvements to natural drainage channels may be permitted at different angles to the property line upon the recommendation of the environmental director and the approval of the planning commission.*

(h) *Entrance roads through these buffers shall be built to the narrowest cross-section possible. Roads and open space shall be located and designed in a manner that minimizes views of structures within the development from the adjoining primary or secondary road as determined by the planning commission.*

***Sec. 24-175. Open space required.***

(a) *Within every manufactured home park consisting of 50 or more units, there shall be planned and set aside permanently an amount of open space to be maintained exclusively for recreation and/or conservation purposes. The amount of such open space shall not be less than ten percent of the net developable area of the site. The developable area of right-of-way buffers and perimeter buffers may be counted as open space for the purpose of meeting this requirement to a maximum of 50 percent of the required open space.*

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(b) In addition, all nondevelopable area consisting of all stream beds, areas subject to flooding under the 100-year storm event, wetlands and areas with slopes exceeding 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) 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; and

(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; and

(3) No part of a private yard or area determined by the director of planning to be a part thereof, with the exception of easements for streetscapes, shall be counted as meeting the open space requirements of this chapter; and

(4) No more than 50 percent of the required open space shall be used for active recreational purposes.

(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.



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~~Sec. 24-176. Ownership of open space.~~

~~Within any manufactured home park approved under this article on which a tract is intended to be used for conservation and/or recreation, no unit shall be leased, sold, or used within the development until a declaration of covenants has been approved by the county attorney and has been executed. Such documents shall set forth the provisions for permanent care and maintenance of the conservation and/or recreation property and shall include necessary bonds when required by the county.~~

**Sec. 24-1747. Minimum setback requirements.**

~~———— (a) ——— The minimum setback in a manufactured home park for manufactured homes and all accessory structures shall be 15 feet from the right-of-way of internal private streets.~~

~~———— (b) ——— The minimum setback in a manufactured home park for manufactured homes and all accessory structures shall be 35 feet from the right-of-way of internal public streets.~~

~~———— (c) ——— The minimum setback in a manufactured home park for manufactured homes and all accessory structures shall be 100 feet from the right-of-way of any public street which creates a boundary for the manufactured home park.~~

~~(a) The minimum setback in a manufactured home park for manufactured homes and all accessory structures shall be:~~

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(1) 15 feet from the right-of-way of internal private streets.

(2) 35 feet from the right-of-way of internal public streets.

(3) 100 feet from the right-of-way of any public street which creates a boundary for the manufactured home park

**Sec. 24-175~~8~~. Minimum yard requirements.**

(a) ~~Except as provided for in section 24-179,~~ No manufactured home shall be placed closer than 15 feet from any lot line within the manufactured home park.

(b) No manufactured home shall be placed closer than 100 feet from any property boundary separating the manufactured home park from adjacent property.

(e) 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 15 feet.

(d) 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 15 feet.

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**Sec. 24-179. Permitted reduction in minimum yard requirements.**

(a) *Provided that no manufactured home shall be placed closer than 100 feet from any property boundary separating the manufactured home park from adjacent property, within any manufactured home park with six or more units, the minimum distance from side or rear property lines and between any two structures shall be governed by the State of Virginia Building Code when all of the following requirements are met:*

- (1) *the manufactured home park is served with public water; and*
- (2) *the lot is internal to the manufactured home park.*

**Sec. 24-176 180. Underground utilities.**

All utilities within the manufactured home park, including, but not limited to, electrical distribution lines, telephone lines, cable television lines, natural gas lines, sewer lines and water lines, shall be placed underground.

**Sec. 24-177 181. Streets required.**

Each manufactured home lot shall front on a public or private street. All streets shall meet the design and construction standards of the Virginia Departments of Transportation or the county's subdivision

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ordinance, whichever is greater. The construction and maintenance of private streets shall be guaranteed by a surety bond, letter of credit, cash escrow or other form of surety approved by the county attorney and department of public works ~~the environmental director~~. Public streets shall be part of the Virginia Department of Transportation road system.

**Sec. 24-178 ~~182~~. Storm drainage.**

A storm drainage plan shall be included with the site plan of a manufactured home park ~~in accordance with the provisions of this chapter and of Chapter 23, Chesapeake Bay Preservation~~. It shall be the park owner's responsibility to provide for the adequate drainage and erosion controls and their maintenance within the manufactured home park.

**Sec. 24-179 ~~183~~. Off-street parking required.**

Each lot in a manufactured home park shall contain at least two off-street parking spaces, each at least nine feet by 18 feet in size, or shall have access to a parking lot which meets the design standards contained in the off-street parking requirements of section 24-53 and provides two spaces for each manufactured home lot it is intended to serve. The location and the design of any parking lot shall be shown on the site plan and is subject to approval with the site plan.

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**Sec. 24-180 ~~184~~. Fire hydrants required.**

Manufactured home parks served by a public water system shall provide fire hydrants located within the park such that no manufactured home lot is more than 500 feet by road frontage from a fire hydrant. Locations of the fire hydrant shall be approved by the ~~service authority and the county~~ fire chief and shown on the site plan.

**Sec. 24-181 ~~185~~. Streetlights required.**

The owner of the manufactured home park shall provide streetlights within the manufactured home park. The location of streetlights shall be shown on the site plan and approved by the zoning administrator. ~~Streetlights shall be installed as determined by the environmental director and in accordance with the Streetlight Policy, as approved by the governing body, and shall be shown on the site plan of development.~~

**Sec. 24-182 ~~186~~. Solid waste disposal.**

Each operator of a manufactured home park shall provide for the disposal of the solid waste generated by the park tenants. Dumpsters at locations shown and approved on the site plan or provisions for individual solid waste pickup at each manufactured home site shall be provided. If dumpsters are provided, they shall be placed on concrete pads with a drain connected to a septic drainfield as required by the health department and shall be screened by vegetation, landscaping and/or fences.

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**Sec. 24-183 187. Recreation area required.**

(a) Manufactured home parks with 25 lots or more shall have a developed recreation area to be maintained by the park owner.

(b) The area shall have terrain suitable for active recreation. The ~~total~~ size of the recreation area shall be not less than 400 square feet multiplied by the number of manufactured home spaces in the manufactured home park. The area(s) shall be shown on the site plan with a list of equipment and facilities ~~to be approved by the planning commission.~~

**Sec. 24-184 188. Applicability of Virginia Uniform Statewide Building Code.**

Manufactured homes located in manufactured home parks shall meet all applicable sections of the *Virginia Uniform Statewide Building Code* including, but not limited to, requirements for permanent tie downs located on each lot.

**Sec. 24-185 189. Site plan required.**

(a) Prior to development of a manufactured home park, a site plan shall be filed and approved as provided for in article III of this chapter.

(b) The construction and maintenance of all common open space areas, parking, recreation areas and other privately owned areas and facilities for the common use of the manufactured home park's tenants shall be the responsibility of the park owner.

**Sec. 24-186 ~~190~~. Temporary trailer parks.**

Special use permits for temporary trailer parks may be issued by the governing body, subject to the following conditions:


- (1) That the location of a temporary trailer park is necessary for the housing of construction workers employed on an industrial or highway construction project.
- (2) That the request is filed by or certified to by the industry or State Department of Transportation as being essential to the construction.
- (3) That a minimum area of 2,000 square feet be provided for each space.
- (4) That sanitary facilities conform to the State Health Department's "Trailer Camp Sanitation" requirements.
- (5) That the period of operating such temporary park shall concur with the anticipated period of the construction. Applications for renewal may be submitted if more time is required to

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complete the project. However, such renewal applications must be filed at least 45 days prior to the expiration of the original temporary use permit.

- (6) The governing body, in granting such a special use permit, may require the posting of a bond to assure that the temporary trailer court will be removed and the site left in good order at the expiration of the permit.
- (7) The governing body shall establish such additional requirements as are in the best interest of the public.

Secs. 24-187 ~~191~~ - 24-196. Reserved.

  
Jack D. Edwards  
Chairman, Board of Supervisors

ATTEST:

  
Sanford B. Wanner  
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NERVITT	AYE
SISK	AYE
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of May, 1999.

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