

AT A REGULAR MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY, VIRGINIA, HELD ON THE 13TH DAY OF JULY, 1999, AT 7:01 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
Ronald A. Nervitt, Powhatan District
M. Anderson Bradshaw, Stonehouse District
Sanford B. Wanner, County Administrator
Frank M. Morton, III, County Attorney

B. PUBLIC COMMENT

1. Mr. Ed Oyer, 139 Indian Circle, spoke regarding size of schools and economic development incentives.

C. CONSENT CALENDAR

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

Mr. Edwards 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 June 22, 1999, Regular Meeting, June 23, 1999, Work Session, and June 29, 1999, Joint Meeting with Williamsburg-James City County School and Williamsburg City Council
2. Dedication of Streets in Scott's Pond, Section 1; Springhill, Phases 1 and 2; Saint George's Hundred, Section 5, Phases 3 and 4; The Meadows, Section 4, Phases 1, 2, and 3; and Meadow Lake, Sections 1 and 2

RESOLUTION

DEDICATION OF STREETS IN SCOTT'S POND, SECTION 1

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 have 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 SPRINGHILL, PHASES 1 AND 2

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 have 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 SAINT GEORGE'S HUNDRED****SECTION 5, PHASES 3 AND 4**

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 have 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 THE MEADOWS, SECTION 4, PHASES 1, 2, AND 3**

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 have 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 MEADOW LAKE, SECTIONS 1 AND 2

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 have 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. Establishment of Full-Time Limited Term Foster Care Social Worker

RESOLUTION

ESTABLISHMENT OF FULL-TIME LIMITED TERM SOCIAL WORKER POSITION

WHEREAS, the State Department of Social Services has provided additional funding for Foster Care staff; and

WHEREAS, the number of foster children has significantly increased and the need to support the program has reached critical levels.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby authorizes the creation of a full-time limited term Social Worker to serve in the Foster Care Unit effective August 1, 1999.

4. Creation of Rural Lands Study Committee**RESOLUTION****CREATION OF THE RURAL LANDS STUDY COMMITTEE**

WHEREAS, the Board of Supervisors of James City County is interested in developing strategies to address issues related to rural, agricultural, and forestal lands in accordance with the Comprehensive Plan; and

WHEREAS, the Planning Division has recommended the formation of a Rural Lands Study Committee as an appropriate way of examining rural, agricultural, and forestal lands in advance of the development of the 2002 James City County Comprehensive Plan and identifying specific implementation measures and programs for immediate formal action.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby endorse the formation of a Rural Lands Study Committee as described herein.

D. PUBLIC HEARINGS1. Case No. SUP-10-99. James City Service Authority Warhill Gravity Sewer Extension (Continued from June 8, 1999)

Mr. Christopher M. Johnson, Planner, stated that this case had been deferred at the June 8, 1999, Board of Supervisors and asked that the case be deferred indefinitely and stated that it would be readvertised.

Without Board objection, Mr. Edwards deferred the public hearing indefinitely.

2. Case Nos. Z-2-99 and SUP-11-99. Epstein Rest Home

Ms. Jill Schmidle, Senior Planner, stated that these cases had been deferred at the June 8, 1999, Board of Supervisors meeting to allow time to provide additional information regarding services provided and landscape buffering. She reiterated that Mr. Vernon Geddy, III, on behalf of Leonard Epstein, had applied to rezone 6.62 acres from R-5, Multifamily Residential, with proffers, to R-5, Multifamily Residential, with amended proffers, and for a special use permit to construct a 48-unit rest home/congregate housing facility for the elderly, located at 8679 Pocahontas Trail, further identified as Parcel No. (1-89) on James City County Real Estate Tax Map No. (52-3).

Staff determined the proposal met the intent of the FmHA funding program by offering services or providing access to services in the community and that a 50-foot buffer was sufficient along the suburban Community Character Corridor.

In concurrence with staff, the Planning Commission, by a vote of 6-1, recommended approval of the zoning with proffers, and the special use permit with conditions listed in the resolution.

Mr. Edwards opened the public hearing.

1. Mr. Vernon Geddy, III, representing Leonard Epstein, owner, stated that additional information regarding services and buffers had been provided and asked the Board to approve the cases.

Board members discussed the buffers, health services, recreational services, type of residential facility, handicapped parking spaces, and rental charges.

Mr. Edwards closed the public hearing.

Mr. Sisk made a motion to approve the two resolutions.

Mr. Nervitt asked the applicant to work with staff to address questions regarding landscaping/berms, recreation activities, sidewalks, and parking spaces.

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

RESOLUTION

CASE NO. Z-2-99. EPSTEIN REST HOME

WHEREAS, in accordance with Section 15.1-431 of the Code of Virginia and Section 24-13 of the James City County Zoning Ordinance, a public hearing was advertised, adjacent property owners notified, and a hearing was scheduled on Zoning Case No. Z-2-99 for rezoning approximately 6.62 acres from R-5, Multifamily Residential, with proffers, to R-5, Multifamily Residential, with amended proffers, located at 8679 Pocahontas Trail, further identified as Parcel No. (1-89) on James City County Real Estate Tax Map No. (52-3); and

WHEREAS, the Planning Commission of James City County, following its public hearing on May 3, 1999, recommended approval of Case No. Z-2-99, by a vote of 6 to 1.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-2-99 as described herein and accepts the voluntary proffers

RESOLUTION

CASE NO. SUP-11-99. EPSTEIN REST HOME

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

WHEREAS, the Planning Commission of James City County, following its public hearing on May 3, 1999, recommended approval of Case No. SUP-11-99 by a vote of 6-1 to permit the operation of a 48-unit rest home/congregate housing facility for the elderly at 8679 Pocahontas Trail, further identified as Parcel No. (1-89) on James City County Real Estate Tax Map No. (52-3).

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. SUP-11-99 as described herein with the following conditions:

1. Construction on this project shall commence within 36 months from the date of approval of this special use permit or this special use permit shall be void. Construction shall be defined as the excavation, approved footing inspection, and pouring of concrete footings.

2. The required rear landscape buffer shall screen this project from adjacent properties and shall be located on the east edge of the Hampton Roads Sanitation District easement.
3. All dumpsters and heating and cooling units shall be screened by landscaping or fencing approved by the Planning Director prior to final site plan approval.
4. Free-standing signs shall be ground-mounted, monument style, and shall be approved by the Planning Director prior to final site plan approval.
5. There shall be a 50-foot landscape buffer along the Pocahontas Trail right-of-way, containing enhanced landscaping, so that the required number of plants equals up to 133 percent of the County's Landscaping Ordinance requirements with up to 33 percent of the required number of trees being evergreen. The landscaping plan shall be approved by the Planning Director prior to final site plan approval.
6. All exterior light fixtures on the property shall have recessed fixtures with no lens, bulb, or globe extending below the casing. A lighting plan shall be submitted to, and approved by, the Planning Director which indicates no glare 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. Prior to the issuance of a certificate of occupancy, the applicant shall provide documentation to the Director of Planning demonstrating that services or programs shall be provided to all residents within the housing facility. Activities, services, or programs provided may include, but are not limited to, educational classes, health screenings, exercise and/or crafts and games. Group transportation, such as a van or shuttle bus, shall be provided to all residents of the facility in order to obtain off-site services.
8. This special use permit is not severable. Invalidity of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

3. Case No. SUP-12-99. The Unicorn Cottage

Ms. Tamara A. M. Rosario, Senior Planner, stated that Dr. Randolph Becker, on behalf of Ms. Sharon Dennis, had applied for a special use permit to allow expansion of the existing child day care business, on 5.93 acres, zoned R-8, Rural Residential, located at 3051 Ironbound Road, further identified as Parcel No. (1-65A) on James City County Real Estate Tax Map No. (47-1).

Staff determined that the proposal was consistent with surrounding zoning and development, and with the Comprehensive Plan.

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

Mr. Edwards opened the public hearing.

1. Mr. Peter Mellette, 125 Cherwill Court, member of the Universalist Church Board, stated that the Church Board supported the expansion request.

Mr. Edwards closed the public hearing.

Board members and Ms. Dennis discussed expansion of nursery, the fenced yard, and staff/child ratio.

Mr. McGlennon 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-12-99. UNICORN COTTAGE

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

WHEREAS, the Planning Commission of James City County, following its public hearing on June 7, 1999, recommended approval of Case No. SUP-12-99 by a vote of 7 to 0 to permit the operation of a child day care center on Parcel No. (1-65A) on James City County Real Estate Tax Map No. (47-1).

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-12-99 as described herein with the following conditions:

1. The proposed use shall have no more than 44 children in the existing single-story facility at any one time, and no more than 20 children in the church nursery at any one time, for a total of no more than 64 children at two facilities. Additional children above the number of 64 will require an additional special use permit. Any physical expansion of the facilities will require an additional site plan amendment to SP-93-94.
2. The proposed use shall take occupancy of the facility within one year of the date of issuance of the special use permit or the special use permit shall become void.
3. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

4. Case No. SUP-8-99. Poulston Motorcycle Customization Shop

Ms. Rosario stated that Mr. Charles B. Poulston, Jr., had applied for a special use permit to allow customization of motorcycles, on three acres, zoned A-1, General Agricultural, located at 8856 Richmond Road, further identified as Parcel No. (1-4B) on James City County Real Estate Tax Map No. (11-1).

Ms. Rosario stated that Mr. Poulston would be the sole employee and customize approximately three motorcycles a year.

Staff determined that the proposal was inconsistent with the Rural Lands designation of the Comprehensive Plan as the business was not related to agricultural and forestal uses and would set a precedent of allowing other uses to occur on property outside the Primary Service Area.

Staff recommended denial of the application, and the Planning Commission, by a vote of 5-2, recommended approval with conditions listed in the resolution.

Board and staff discussed Condition 12 as a standard condition; hours of operation; possibility of agricultural use of land; and business not visible from Route 60 West on a heavily wooded site.

Mr. Edwards opened the public hearing.

1. Mr. Walker Ware, speaking on behalf of the applicant, stated that Route 60 West was mostly commercial and had a concern about select hand clearing of the driveway. He asked the Board to approve the special use permit.

Board members asked about noise and traffic generated by the business. Mr. Ware responded that neither would create an impact.

Mr. Edwards closed the public hearing.

Mr. Sowers responded to Mr. Ware's concern about Condition No. 7 and suggested that the wording be changed to read after the word right-of-way in the first sentence "except for a single driveway and utilities" and delete the words "a single driveway, utilities" from the second sentence.

Board members discussed Condition No. 5 and Mr. Bradshaw asked that the wording "for or in the business" be added after the word sale in the last sentence.

Mr. Edwards stated he was not in favor of strip development and setting a precedent on rural land zoned agricultural.

Mr. Bradshaw voiced his support that the property could not be used for agriculture; the use was a transition from commercial to residential; and consideration of a small business.

Mr. Bradshaw made a motion to approve the amended resolution.

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

RESOLUTION

CASE NO. SUP-8-99. POULSTON MOTORCYCLE CUSTOMIZATION SHOP

- 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, a motorcycle customization shop falls under the category of automobile repair and service in the specially permitted uses of the A-1, General Agriculture, zoning district; and
- WHEREAS, the Planning Commission of James City County, following its public hearing on June 7, 1999, recommended approval of Case No. SUP-8-99 by a vote of 5 to 2 to permit the operation of a motorcycle customization shop on Parcel No. (1-4B) on James City County Real Estate Tax Map No. (11-1).

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-8-99 as described herein with the following conditions:

1. The total area of the main structure dedicated to the motorcycle shop use shall not exceed 700 square feet. At least one-half the total area of the structure shall be dedicated to a single-family residential use.
2. Modifications or additions to the proposed structure for commercial purposes shall be approved by the Planning Director and shall be compatible with the design and materials presented in the drawing labeled "Building Plan Elevation."
3. The dwelling on the property shall be the principal residence of the owner/operator of the motorcycle customization business.
4. Signage shall be limited to a maximum of sixteen-square feet to be approved by the Planning Director. The sign shall not be internally illuminated, but may be externally illuminated upon the approval of the Planning Director.
5. Site plan approval shall be required. Motorcycle customization work shall be limited to and performed within the first floor of the structure. No work shall be done outside. All storage of items used in this work, including parts, shall be stored inside, and no motorcycles or other products for sale, for or in the business, shall be displayed outside.
6. The location, design, and size of the parking area shall be approved by the Planning Director prior to final site plan approval. Drive aisles shall be limited to a maximum of 25 feet in width. The parking area shall be reserved for the vehicles of the owner/operator, customers, and visitors. Vehicles to be repaired shall be parked and stored inside the structure.
7. An undisturbed 100-foot wooded buffer shall be maintained from the edge of the right-of-way except for a single driveway and utilities. Select hand clearing for a footpath or slight reduction of the buffer width may be approved by the Planning Director; however, the Planning Director may require enhanced landscaping in these instances to maintain or improve the screening effect of the buffer.
8. Hours of operation shall be limited to Monday through Friday, 5 p.m. to 11 p.m., and Saturday and Sunday, 9 a.m. to 9 p.m. All lighting proposed for the site shall be approved by the Planning Director prior to final site plan approval.
9. On-site disposal of waste materials shall not be permitted. These materials shall include, but are not limited to, waste oil, brake fluid, solvents, and anti-freeze and discarded vehicle parts.
10. All engine testing shall only be conducted while the motorcycles are properly equipped with mufflers that meet or exceed the original manufacturer's specification for the motorcycle being tested.
11. If a certificate of occupancy for the business portion of the structure has not been obtained within a period of 24 months from the date of issuance of this permit, this permit shall become void.

12. This special use permit is not severable. Invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

5. Case No. SUP-17-99. Toano Middle School Temporary Trailers

Mr. Christopher M. Johnson, Planner, stated that Dr. Bill Leonard, on behalf of the Williamsburg-James City County School Board, had applied for a special use permit to locate three temporary classroom trailers at Toano Middle School, on 33 acres, zoned A-1, General Agricultural, located at 7817 Richmond Road, further identified as Parcel No. (1-51) on James City County Real Estate Tax Map No. (12-4).

Staff determined the proposal was consistent with surrounding zoning and development and with the Comprehensive Plan. Staff recommended approval of the resolution.

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

Mr. Bradshaw 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-17-99. TOANO MIDDLE SCHOOL

TEMPORARY CLASSROOM TRAILERS

WHEREAS, it is understood that all conditions for the consideration of an application for a special use permit have been met.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that a special use permit be granted for the placement of three temporary classroom trailers on property owned and developed by the applicant as described below and on the attached site location map.

Applicant: Williamsburg-James City County School Board

Real Estate Tax Map No.: (12-4)

Parcel No.: (1-51)

Address: 7817 Richmond Road

District: Stonehouse

Zoning: A-1, General Agricultural

Condition: 1. This permit shall be valid until July 1, 2000.

6. Case No. Z-4-99. Greensprings Plantation Proffer Amendment

Mr. Johnson stated that Mr. Vernon Geddy, III, on behalf of Greensprings Plantation, Inc., had applied to amend the Greensprings Plantation Proffer Agreement to provide for a single-family recreation center in Land Bay S-1 and delete the requirement that all single-family recreation areas be open to all single-family owners in Greensprings Plantation.

He further stated that the 1402 acres was zoned R-4, Residential Planned Community, located at the corner of John Tyler Highway, Route 5, and Centerville Road, and further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (46-1).

Staff determined that the proposed proffers amendment ensured that each Land Bay association would have the same type of facilities available to its residents; were consistent with surrounding residential development and zoning and with the Comprehensive Plan.

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

Mr. Edwards opened the public hearing.

Mr. Vernon Geddy, III, representative of the applicant, was available for questions.

Mr. Edwards 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. Z-4-99. GREENSPRINGS PLANTATION PROFFER AMENDMENT

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, adjacent property owners notified, and a hearing was scheduled on Case No. Z-4-99 for rezoning approximately 1402 acres from R-4, Residential Planned Community, with proffers, to R-4, Residential Planned Community, with revised proffers; and

WHEREAS, the site can be further identified as Parcel No. (1-1) on James City County Real Estate Tax Map No. (46-1); and

WHEREAS, the Planning Commission of James City County, following its public hearing on June 7, 1999, recommended approval of Case No. Z-4-99 by a vote of 7-0.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby approve Case No. Z-4-99 as described herein, and accepts the voluntary proffers.

7. Case No. ZO-19-98. Ordinance Amendment, Highway, Streets, Parking and Loading
8. Case No. ZO-20-98. Ordinance Amendment, Landscaping

Mr. Matthew W. Maxwell, Senior Planner, stated that the Community Character Committee and staff had substantially revised the ordinances to ensure consistency with the 1997 Comprehensive Plan. He briefly outlined the revision of the Parking Ordinance to Sections 24-55(b)(2); 24-57(d)(2),(e); 24-58; 24-59(a)(e)(f); and 24-60.

Mr. Maxwell also briefly outlined the revision of the Landscaping Ordinance to Sections 24-87(b); 24-89(b)(3); 24-91; 24-93; 24-94; 24-96; 24-96(c)(e); 24-97(b)(3); 24-98(d); and 24-99.

Mr. Maxwell further stated that the revisions would have a profound impact on development by preserving existing trees and enhanced roadway buffers throughout the County.

In concurrence with the Community Character Committee and staff, the Planning Commission unanimously recommended approval of the revised parking and landscaping ordinances.

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

Board and staff discussed landscape areas along right-of-way; definition of under story or ornamental trees of the Landscaping Ordinance and grass pavers and ways to reduce parking space availability of the Parking Ordinance.

The Board commended the Community Character Committee for its work.

Mr. Bradshaw made a motion to approve the two ordinances.

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

9. Resolution to Record a Declaration of Covenants to Protect 15.76+ Acres of Wetlands on Mainland Farm

Mr. John T. P. Horne, Manager of Development Management, stated that the United States Army Corps of Engineers had requested protective covenants be place on 15.76± acres of property located near Jamestown High School and part of the Greensprings Greenway being developed by James City County to fully protect the area for open space and wetlands preservation.

Staff recommended approval of the resolution.

Mr. Bradshaw asked whether the U.S. Army Corps of Engineers would cooperate if the County had to control problems with invasive nonnative plants.

Mr. Horne responded that staff had regular contact with the Corps of Engineers and received a good response.

Mr. Bradshaw suggested that all future conservation easements contain the language that the County should be able to protect the natural state of the land.

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

Mr. McGlennon made a motion to approve the resolution.

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

RESOLUTION

APPROVAL OF COVENANTS ON COUNTY PROPERTY

WHEREAS, James City County, the U. S. Army Corps of Engineers, and Mr. J. R. Chisman, have a mutual interest in protecting wetlands and open space on 15.76 acres of property in James City County; and

WHEREAS, this interest can be well-served by the adoption of Covenants, Conditions, and Restrictions on the aforementioned property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that Sanford B. Wanner, County Administrator, is authorized and directed to execute the Declaration of Covenants, Conditions, and Restrictions for Wetlands for 15.76 acres of property owned by James City County.

10. Ordinance Amendment, Chapter 12, Licenses, Article I, In General, Section 12-9, Penalties for Nonpayment of License Tax

Ms. M. Ann Davis, Treasurer, stated that the Business License Tax Ordinance amendment increased the interest rate from eight percent to ten percent on delinquent County taxes to make the rate consistent with the rate charged for delinquencies of other taxes.

Staff recommended approval of the ordinance amendment.

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

Mr. Bradshaw made a motion to approve the ordinance amendment.

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

11. Ordinance Amendment, Chapter 20, Taxation, Article III, Personal Property Tax, Section 20-13.2, Personal Property Tax on Motor Vehicles and Trailers, Proration Thereof

Mr. Davis stated that the Personal Property Tax Ordinance amendment corrected an inconsistency in Section 20.74, which authorizes ten percent interest rate, and Section 20-13.2, which has an interest rate of eight percent for delinquent taxes.

Staff recommended approval of the ordinance amendment.

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

Mr. McGlennon made a motion to approve the ordinance amendment.

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

E. BOARD CONSIDERATION

1. Case Nos. Z-1-99 and MP-1-99. Stonehouse - Fernandez Tract Rezoning and 1999 Master Plan Amendment

Mr. O. Marvin Sowers, Jr., Director, Planning, stated that staff and the applicant requested deferral of these cases until the July 27, 1999, Board of Supervisors meeting to resolve remaining issues.

Without Board objection, Mr. Edwards deferred the cases until the July 27, 1999, Board of Supervisors meeting.

F. PUBLIC COMMENT - None**G. REPORTS OF THE COUNTY ADMINISTRATOR**

Mr. Wanner stated that a closed session pursuant to appointment of individuals to County boards and/or commissions would be recommended at the July 27, 1999, Board of Supervisors meeting, and he recommended a recess until 7:00 p.m., Wednesday, July 21, 1999, for a joint meeting with the Parks and Recreation Advisory Board in Building C Board Room at the Government Center.

H. BOARD REQUESTS AND DIRECTIVES

1. Acquisition of Three Lots on Jamestown Road in the Vicinity of Settler's Mill Subdivision

Mr. Edwards brought forward the item for action and made a motion to approve the resolution.

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

RESOLUTION**ACQUISITION OF THREE LOTS ON JAMESTOWN ROAD****IN THE VICINITY OF SETTLER'S MILL SUBDIVISION**

WHEREAS, the Board of Supervisors has established within the Capital Improvement Program the Greenspace Account to finance the acquisition of property for permanent greenspace; and

WHEREAS, staff and the Board of Supervisors have identified three lots on Jamestown Road generally in front of the subdivision known as Settler's Mill.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of James City County, Virginia, that the County Administrator is authorized on behalf of the County, for the sum of \$100,000.00, to purchase those certain lots described as follows:

Lots 3, 4 and 5 as shown on a plat entitled, "PLAT OF FIVE LOTS ON
JAMESTOWN ROAD OWNED BY: VENTURE INVESTMENTS, INC.,
DRAWN BY RAINEY ENGINEERING, CHRISTIANBURG, VA."

dated May 15, 1991, and recorded in the Clerk's Office of the Circuit Court of Williamsburg-James City County, Virginia in Plat Book 55, Page 60.

BE IT FURTHER RESOLVED that the County Administrator is authorized to execute a Real Estate Sales Agreement and such other documents to complete the purchase of the three lots.


Mr. Edwards asked staff to reconsider the ordinance regarding prohibiting burning of natural debris.

Mr. McGlennon stated that approval of the resolution of acquisition for the Jamestown Road lots was the first use of green space funds for preservation of land.

Mr. Edwards made a motion to recess until 7:00 p.m., Wednesday, July 21, 1999, for a joint meeting with the Parks and Recreation Advisory Commission in the Board Room, Building C, Government Center.

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

The Board recessed at 9:38 p.m.


Sanford B. Wanner
Clerk to the Board

071399bs.min

990015760

FIRST AMENDED AND RESTATED PROFFERS

These FIRST AMENDED AND RESTATED PROFFERS are made this 27th day of May, 1999 by Leonard Epstein, together with his successors heirs and assigns (the "Owner").

RECITALS

A. Owner is the owner of certain real property (the "Property") located in James City County, Virginia containing approximately 6.62 acres, more or less, known as 8679 Pocahantas Trail and being more particularly described as Parcel Number (1-89) on Tax Map Number (52-3).

B. The Property is now zoned R-5, with proffers. The existing Proffers are dated December 27, 1990, were made by Cecil L. Lindsey, Jr., the then owner of the Property, and are recorded in James City Deed Book 507 at page 680 (the "Existing Proffers").

C. The Owner desires to amend and restate the Existing Proffers in their entirety.

NOW, THEREFORE, the Existing Proffers are hereby amended and restated as follows:

AMENDMENT AND RESTATEMENT

1. There shall be constructed on said Property a congregate housing facility of no more than forty-eight (48) units with accessory buildings designed specifically for the elderly, each apartment unit containing no more than one (1) bedroom. The project, prior to site plan approval, shall be submitted to the Planning Division for the review and approval of

JUL 27 6 02 87

the building exterior appearance and site design. Any desired changes in these design elements shall be submitted to County staff for approval, and if required by staff, shall be presented to the Planning Commission for final approval.

2. The occupancy of this facility shall be restricted to elderly and/or handicapped households. For purposes of this proffer, elderly is defined as household heads age 62 and above. Handicapped persons shall meet the definition of handicapped set forth by the Social Security Administration. Also as part of this proffer, no persons under the age of eighteen years shall be allowed to reside in the complex on a full time basis, and no more than two individuals shall occupy any unit.

3. There shall be no more than one entrance into the Property, that entrance being from Magruder Avenue.

4. The facility shall be designed and constructed in a manner which will comply with all standards and regulations of the U. S. Department of Housing and Urban Development relative to the construction of Housing for Older Persons.

5. The buildings which comprise the facility shall contain no more than one story and there shall be a central kitchen and dining facility provided for the use of the residents of the facility.

6. Any road or highway improvements required by the Virginia Department of Transportation as a result of the proposed development shall be paid for by the Owner.

JUL 21 1968

WITNESS the following signature.

Leonard Epstein
Leonard Epstein

STATE OF VIRGINIA
CITY/COUNTY OF Williamsburg

The foregoing instrument was acknowledged before me this
27th day of May, 1999, by Leonard Epstein.

Janice M. Thompson
NOTARY PUBLIC

My commission expires: February 28, 2003

VIRGINIA: City of Williamsburg and County of
James City, to Wit:

In the Clerk's Office of the Circuit Court of the
City of Williamsburg and County of James City the

27 day of July, 1999. This FIRST Amended
Prothon was presented with certificate annexed and
admitted to record at 9:30 o'clock

Teste: Helene S. Ward, Clerk

by Helene S. Ward
Deputy Clerk

JUL 27 1999 0289

COMMONWEALTH OF VIRGINIA



1A

1A

(1147-039 3189)

OFFICIAL RECEIPT
WILLIAMSBURG/JAMES CITY COUNTY CIRCUIT
DEED RECEIPT

DATE: 07/27/99 TIME: 14:48:00 ACCOUNT: 830CLR990015760 RECEIPT: 99000024228
CASHIER: CSF REG: WB04 TYPE: AMEND PAYMENT: FULL PAYMENT
INSTRUMENT : 990015760 BOOK: PAGE: RECORDED: 07/27/99 AT 14:48
GRANTOR: EPSTEIN, LEONARD EX: N LDC: CO
GRANTEE: EPSTEIN, LEONARD EX: N PCT: 100%
AND ADDRESS : N/A N/A
RECEIVED OF: JCC DATE OF DEED: 05/27/99
CHECK : \$16.00

DESCRIPTION 1: DB 507 PG 680

CONSIDERATION:	.00	ASSUME/VAL:	.00	MAP:	
CODE DESCRIPTION		PAID	CODE DESCRIPTION		PAID
301 DEEDS	12.00	145 VSLF			1.00
106 TECHNOLOGY FUND FEE	3.00				
		TENDERED :		16.00	
		AMOUNT PAID:		16.00	
		CHANGE AMT :		.00	

CLERK OF COURT: HELENE S. WARD

DC-18 (3/99)

7/27/99
Has given acknowledgment in the Clerk's Office
of the City of Williamsburg, and County of
James City, VA
039 St. Tax
213 County Tax
214 City Tax
Trans. Fee (City)
Trans. Fee (County)
Total 16.00

140

990015761

THIRD AMENDED AND RESTATED
GREENSPRINGS PROFFER AGREEMENT

This Second Amended and Restated Proffer Agreement is made as of this 2nd day of June, 1999, by Greensprings Plantation, Inc., a Virginia corporation ("Owner").

RECITALS

A. Greensprings Plantation, Inc. is the developer of the "Greensprings Plantation" planned community consisting of approximately 1402 acres, located in James City County, Virginia (the "Property") along Route 5 and being more particularly described in Exhibit A attached hereto.

B. In 1989 the Owner applied for and James City County (the "County") granted a rezoning of the Property from the Limited and General Agricultural Districts, A-2/A-1, to the Residential Planned Community District, R-4, with proffered conditions as set forth in a Greensprings Proffer Agreement dated February 6, 1989 and recorded in James City County Deed Book 427, page 466 (the "Original Proffers").

C. In 1992, Owner applied for an amendment to the approved Master Plan for the Property and, in connection therewith, amended and restated the Original Proffers by Amended and Restated Greensprings Proffer Agreement dated April 30, 1992 and recorded in James City County Deed Book 562 at page 794 (the "Restated Proffers").

D. In 1993, Owner applied for an amendment to the approved Master Plan for the Property and, in connection therewith, amended the Restated Proffers by First Amendment to Amended and

Restated Greensprings Proffer Agreement dated September 29, 1993 and recorded in James City County Deed Book 652 at page 765.

E. In 1997, Owner applied for an amendment to the approved Master Plan for the Property and, in connection therewith, amended the Restated Proffers by Second Amendment to Amended and Restated Greensprings Proffer Agreement dated September 23, 1997 and recorded in James City County Deed Book ____ at page ____.

F. In 1998, Owner applied for an amendment to the approved Master Plan for the Property and, in connection therewith, amended and restated the Restated Proffers, as amended, by Second Amended and Restated Greensprings Proffer Agreement dated July 6, 1998 and recorded in the James City County land records as Document No. 980013306.

G. Owner has now applied for an amendment to the approved Second Amended and Restated Greensprings Proffer Agreement pursuant to Sections 20-215 (b) and 20-15 of the County Zoning Ordinance and, in connection therewith, desires to amend and restate the Second Amended and Restated Greensprings Proffer Agreement.

NOW, THEREFORE, the Owner agrees that in addition to the regulations provided for in the Residential Planned Community District, R-4, it will meet and comply with all of the following conditions to the development of the Property. If the County fails to grant the requested amendment to the approved Second Amended and Restated Greensprings Proffer Agreement, this Third Amended and Restated Greensprings Proffer Agreement shall thereupon be void and the Second Amended and Restated

Greensprings Proffer Agreement shall remain in full force and effect.

1. Number of Dwelling Units. The number of residential units shall be limited in relation to the areas as designated on the Amended Master Plan submitted herewith last revised July 6, 1998 and made by Rickmond Engineering (the "Amended Master Plan") as follows:

<u>Project Land Bay</u>	<u>R-4 Master Plan Designation</u>	<u>Maximum Number of Dwelling Units</u>
S- 1	A	368
S- 2	eliminated	
S- 3	A	172
S-4	eliminated	
M- 5	D	218
M- 6	D	282
M- 7	eliminated	
M- 8	D	0
M- 9	D	165
M-10	B	100
M-10	C	56
M-10	D	144
M-10	Nursing Home	120 beds

2. Route 5 Greenbelt. The Owner shall designate 150-foot greenbelt buffers along the Property's Route 5 frontage measured from the existing Route 5 right-of-way. The greenbelt buffers shall be exclusive of any lots and, except as set forth below, shall be undisturbed. Utilities, drainage improvements, community entrance roads as shown generally on the Amended Master Plan (limited to one entrance for relocated Route 614, one entrance to Land Bay M-10, and one entrance to each of the public use sites shown on the Amended Master Plan), pedestrian/bicycle trails and signs as approved by the Development Review Committee. In the portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive, Owner may (i) engage in select hand clearing and trimming of trees and other

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plants with a caliper of three inches or less; (ii) may engage in select hand clearing or trimming of trees and plants with a caliper of more than three inches with the prior specific approval of the Director of Planning on a case by case basis on the condition such trees or plants with a caliper in excess of three inches so cleared are replaced with new trees or plants with a caliper in excess of three inches; (iii) may plant enhanced landscaping, including trees and shrubs; and (iv) install fencing, all in accordance with a landscape plan approved by the Development Review Committee and the Director of Planning. The goal of the preceding sentence is to allow Owner to create a more attractive buffer than currently exist that allows partial visibility (but not an unobstructed view) of the development in adjacent Landbays comparable to the visibility provided by the greenbelt buffer along the Route 5 frontage of the Governor's Land at Two Rivers development. Unless otherwise approved by the Director of Planning, buildings constructed after the date hereof adjacent to the portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive shall utilize materials (other than roofing materials) of brick and/or earth tone (from cream to tan) colors except doors, trim and shutters may be of any color from the City of Williamsburg approved color palette.

3. Golf Facilities. The areas on the Amended Master Plan designated as golf courses, clubhouse, and practice range shall be used only for those purposes or such areas shall be left as Major Open Space and subject to Condition 14 hereof. If golf facilities are constructed on the Property, all owners of lots in

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areas with a Master Plan Area designation "A" and owners of units in Land Bays M-5 through M-7 shall have the right to use the aforementioned golf facilities upon payment of any applicable fees and subject to the other rules and regulations governing use of such facilities as in effect from time to time. Development of golf courses on the Property shall be subject to the following conditions:

(a) All disturbed slopes steeper than 25% shall be sodded immediately after clearing and grubbing associated with cut and fill operations. The sod shall be staked into place, as necessary, and temporary fill diversions shall be constructed to minimize water flow over slopes, until sod has become fixed to the slope by establishment of root structure. Owner acknowledges that disturbance of slopes steeper than 25% requires an exception under the County's Chesapeake Bay Preservation Ordinance, Chapter 23 of the County Code.

(b) All disturbed slopes exceeding 10% shall be stabilized immediately upon reaching final grade with sod or excelsior blanket and seed, or other approved erosion control matting at vertical increments not exceeding 10 feet, or at the end of the work day, should a fill greater than 10 feet occur during that period.

(c) A construction phasing plan shall be provided as part of the site plan to be approved by the Environmental Director. That plan will divide the construction into four or five phases. Land disturbance beyond the first phase shall be permitted based upon the demonstrated adequacy of erosion and sedimentation control measures installed in prior phases.

(d) Grass depressions and catchment areas shall be used throughout the construction area as a means of runoff detention and Best Management Practices.

(e) An operation and maintenance plan, including an integrated pest management plan, shall be submitted as part of the site plan submittal for approval by the Environmental Director before final site plan approval. The integrated pest management plan shall require the recordation of the application of all fertilizers, herbicides, pesticides, insecticides and/or other chemicals applied to the golf courses. A copy of the application records shall be kept on site and shall be made available, upon request, for review by the Environmental Division of the Code Compliance Department. Additionally, a copy of the records shall be submitted to the Environmental Director annually from the date of approval of the golf course site plan, for review and approval. The Environmental Director may require the submittal of a new integrated pest management plan if the review of these records show the plan to be inadequate.

(f) The golf course and driving range will not be illuminated for use after dark.

(g) Water for irrigation of the golf courses shall be provided from surface water collection or withdrawn from Powhatan Creek.

4. Neighborhood Recreational Facilities.

(a) Single-Family Neighborhood Recreation Centers. The Single-Family Neighborhood Recreation Center ("SNRC") shown on the Amended Master Plan in Land Bay S-3 and labeled "SNRC" shall be located generally as shown on the Amended Master Plan. The SNRC

shall contain at least one 25 meter swimming pool and one wading pool with a total water surface area of at least 4,000 square feet, one community center/bath house of at least 2,000 square feet, two hard surface, regulation size tennis courts and one tot lot with playground equipment. In Land Bay S-1 there shall be a single-family neighborhood recreation center containing at least one 25 meter swimming pool and one wading pool with a total water surface area of at least 4,000 square feet, one community center/bath house of at least 2,000 square feet, two hard surface, regulation size tennis courts, one tot lot with playground equipment, an additional play area with playground equipment, and an open play area of a minimum of one-half acre, all in locations approved by the Development Review Committee. These facilities shall be completed or bonds in a form acceptable to the County Attorney for their completion posted with the County before the County is obligated to grant final subdivision approval for any lots in Land Bay S-1. Owner shall maintain the SNRC and the additional recreational areas and facilities preferred above until such time as it is conveyed to an owners association, at which time such association shall assume responsibility for its maintenance.

(b) Multi-Family Neighborhood Recreation Centers. (i)

Unless Owner elects to construct a single central multi-family neighborhood recreational center pursuant to subparagraph (ii) below, before the County shall be obligated to issue Certificates of Occupancy for more than 50 units in Land Bays M-5 through M-9 shown on the Amended Master Plan, residents of each of those Land Bays shall have access to at least one Multi-Family Neighborhood

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Recreation Center ("MNRC") serving (but not necessarily located in) that Land Bay. There shall be recreational facilities which comply with requirements of the Zoning Ordinance located within Land Bay M-10 with the type and location of such facilities to be determined by Owner following consultation with the residents of Land Bay M-10. The recreational facilities shall be shown on site plans of Land Bay M-10 and subject to the approval of the Development Review Committee. The MNRCs for all multi-family Land Bays in the aggregate shall be provided with swimming pools with a total minimum water surface area of 5,000 square feet with no single pool having a minimum water surface area of less than 750 square feet and a total of at least six regulation size, hard surface tennis courts. The MNRCs in Land Bay M-5, M-6, M-8, and M-9 shall have an open play area of at least one-fourth an acre and a tot lot with playground equipment. The pools and tennis courts shall be distributed as follows:

<u>Land Bay</u>	<u>Minimum Facilities</u>
M-5	2 pools, 2 tennis courts
M-6	to be determined by Owner
M-9	1 pool, 1 tennis court

Each MNRC shall be open for use by owners of units within the Land Bay(s) which it serves subject to the provisions of any applicable restrictive covenants and rules and regulations adopted thereunder.

(c) Trail System. Owner shall provide a central pedestrian/bicycle trail system along one side of realigned Route 614, and along one side of Monticello Avenue when and if such road is constructed. Owner shall provide a soft surface pedestrian trail along its Route 5 frontage. Such trail system

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shall be located in or adjacent to the road right-of-way of the roads listed above and shall be constructed when the adjacent road is constructed or, in the case of the trail adjacent to Route 5, prior to completion of development of the Land Bay adjoining the segment of the trail in question. The portions of the central pedestrian/bicycle trail system located outside the VDOT right-of-way shall be maintained by Owner until the area containing the trail is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance. Internal trails shall be provided in each Land Bay in accordance with the County's Sidewalk Policy or as shown on the Amended Master Plan. The internal trails shall be connected with the central trail system. Before the County is obligated to grant final approval of a site plan for Land Bay M-9, Owner shall submit to the County a feasibility study of providing pedestrian access from Land Bay M-9 to the Neighborhood Commercial Center.

5. Neighborhood Commercial Center. (a) The Neighborhood Commercial Center shall be located generally as shown on the Amended Master Plan and shall contain no more than 50,000 square feet of Gross Floor Area (as defined in the County Zoning Ordinance). Within the Neighborhood Commercial Center no more than one retail establishment shall have a Gross Floor Area of more than 8,500 square feet. The one retail establishment which may exceed 8,500 square feet shall have a Gross Floor Area of no more than 12,000 square feet. No building within the Neighborhood Commercial Center shall have a height in excess of 35 feet from grade unless otherwise approved by the Planning Commission.

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(b) Within the Neighborhood Commercial Center the following uses, otherwise permitted within the R-4 zoning district, shall not be permitted: any office use with outdoor equipment storage; and hotel/motel/tourist homes/convention centers.

6. Archaeological Sites. A Phase I Archaeological Study of the Property meeting the guidelines set forth in the Virginia Department of Historic Resource's Guidelines for Preparing Archaeological Resource Management Reports and conducted under the supervision of a qualified archaeologist who meets, at a minimum the qualifications set forth in the Secretary of the Interior's Professional Qualification Standards shall be prepared and submitted for approval to the Director of Planning. Owner shall undertake a Phase II and/or, subject to the following sentence, a Phase III study of archaeological sites identified in the Phase I study, if identified by the Phase I study heretofore submitted as warranting Phase II or Phase III study, and shall submit such studies to the County for review and approval prior to any land disturbing on or adjacent to such sites. Owner may at its option leave undisturbed an archaeological site planned for development in lieu of performing a Phase III study thereon. The recommendations of such studies shall be incorporated into the plan of development for the site and the clearing, grading or construction activities thereon. If as a result of a Phase II study of a site, the County determines the site is eligible for inclusion in the National Register of Historic Places based on the criteria established by the Department of the Interior , Owner shall develop and implement a plan for inclusion of the site on the National Register of Historic Places and for the

JUL 27 1999

mitigation of potential adverse impacts on the site. All sites to be left undisturbed or upon which a Phase III study is to be conducted shall be protected from development activities by temporary fencing until development activities adjacent to the site or the Phase III study, as the case may be, is complete.

If a previously unidentified archeological site is discovered during land disturbing activities, all construction work involving subsurface disturbance will be halted in the area of the site and in the surrounding area where further subsurface remains can reasonably be expected to occur and Owner will immediately notify the County of the discovery. The County, or an archeologist approved by it, will immediately inspect the work site and determine the area and the nature of the affected archeological site and its potential eligibility for inclusion on the National Register of Historical Places. Construction work may then continue in the project area outside the archeological site. Within 15 working days of the original notification of discovery, the County shall determine the National Register eligibility of the site. The County may extend this 15 working day period for determining the National Register eligibility one time by an additional 5 working days by written notice to Owner prior to the expiration date of said 15 working day period.

If the site is determined to meet the National Register Criteria (36 CFR Part 60.0), Owner shall prepare a plan for its avoidance, protection, recovery of information, or destruction without data recovery. The plan shall be approved by the County prior to implementation. Work in the affected area shall not proceed until either (a) the development and implementation of

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appropriate data recovery or other recommended mitigation procedures, or (b) the determination is made that the located remains are not eligible for inclusion on the National Register.

7. Nature/Conservation Park. At the request of the County Administrator, the Owner and/or the owners association shall grant, free of charge, an easement to the County or its assignee over the area designated on the Amended Master Plan as Nature/Conservation Park generally in the locations shown on the Amended Master Plan. The Nature/Conservation Park shall remain undisturbed and in its natural state except as set forth below, preserving indigenous vegetation to the maximum extent possible. With the prior approval of the County Engineer or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from the Nature/Conservation Park; (ii) select hand clearing and pruning of trees shall be permitted in the Nature/Conservation Park to permit sight lines or vistas and (iii) utilities (including the irrigation intake shown on the Amended Master Plan), stormwater best management practices, roads, pedestrian and golf cart paths, trails and bridges may intrude into or cross the Nature/Conservation Park. If vegetation is removed from the Nature/Conservation Park it shall be replaced by vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Utility crossings shall be generally perpendicular through the Nature/Conservation Park and Owner shall endeavor to design utility systems that do not intrude into the Nature/Conservation Park. The Nature/Conservation Park shall be maintained by Owner

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unless the County assumes responsibility therefor under its easement or the Park is conveyed to an owners association, at which time the association shall assume responsibility for its maintenance.

8. Historic Site Buffer. There shall be a 50-foot buffer (undisturbed and exclusive of any lots) along the eastern and western boundaries of the Greensprings National Historic Site subject only to appropriate stormwater management and utility improvements/easements as approved by the Development Review Committee.

9. Water Lines. In addition to any other conditions to subdivision or site plan approval, before the County is obligated to grant final approval of any subdivision plat or site plan for single family lots, multi-family units or the Neighborhood Commercial Center (but not for site plans for roads or the golf facilities), the Owner shall contract to complete the James City Service Authority water line system loop from the Ford's Colony area to Route 5, connecting to the existing JCSA water line adjacent to St. George's Hundred.

10. Monticello Avenue Right-of-Way. There shall be preserved a 120' road right-of-way for the construction of Monticello Avenue in the locations shown on the Amended Master Plan as "Monticello Avenue Right-of-Way". Owner shall convey the "Monticello Avenue Right-of-Way", free of charge, to the County for dedication to VDOT at the request of the County Administrator. Where construction limits may require additional right-of-way beyond 120' feet, such additional right-of-way shall also be dedicated, free of charge, to the County for dedication

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to VDOT upon the request of the County Administrator. The obligation to dedicate right-of-way pursuant to this Proffer shall not adversely affect Owner's right to reimbursement from the County or the Route 5 Transportation Improvement District for costs incurred by Owner based on any change in alignment of Monticello Avenue from that shown on the Master Plan approved most recently in 1997.

11. Realigned Route 614 and Future Right-of-Way Greenbelt.

The Owner shall designate a greenbelt buffer along realigned Route 614 and along the right-of-way shown on the Amended Master Plan as Monticello Avenue measured from a line 60 feet from the center line of realigned Route 614 and Monticello Avenue. Such line shall hereinafter be called the "Greenbelt Line". No structure except the road and related improvements in Land Bay S-3 shown on the Amended Master Plan and the existing maintenance facility located in Land Bay M-8, together with any expansions thereof so long as any such expansion is located no closer to the Greenbelt Line than the existing maintenance facility and any road or cart paths necessary for access from the facility to Legacy Drive and the timeshare buildings and development within the M Land Bays may be located within 150 feet of the Greenbelt Line. Where the road in Land Bay S-3 parallels realigned Route 614, the greenbelt buffer shall be no less than 115 feet from the Greenbelt Line of realigned Route 614. Where golf course fairways abut relocated Route 614 or Monticello Avenue, the greenbelt buffer shall have a minimum width of 75 feet. Where tee boxes or the putting surface of greens are located within 100 feet of the Greenbelt Line, enhanced landscaping approved by the

Development Review Committee in the golf course site plan review process shall be provided between the tee or green and the 75 foot greenbelt buffer. In all other areas, a minimum 150 foot buffer shall be maintained. Where golf course fairways abut realigned Route 614 or Monticello Avenue, selective hand thinning of trees (but no removal of stumps) shall be permitted as a part of a landscaping plan approved by the Development Review Committee. Within this greenbelt the land shall be exclusive of any lots and undisturbed except for approved utilities, stormwater management improvements, entrance roads to Land Bays as shown generally on the Amended Master Plan, pedestrian/bicycle trails, golf cart path crossings and tunnels and project signs as approved by the Development Review Committee. No signs other than project signs and those requested by VDOT and/or the County shall be allowed. In the portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive, Owner may (i) engage in select hand clearing and trimming of trees and other plants with a caliper of three inches or less; (ii) may engage in select hand clearing or trimming of trees and plants with a caliper of more than three inches with the prior specific approval of the Director of Planning on a case by case basis on the condition such trees or plants with a caliper in excess of three inches so cleared are replaced with new trees or plants with a caliper in excess of three inches; (iii) may plant enhanced landscaping, including trees and shrubs, and (iv) install fencing, all in accordance with a landscape plan approved by the Development Review Committee and the Director of Planning. The goal of the preceding sentence is to allow Owner to create a

JUL 27 6 03 04

more attractive buffer than currently exist that allows partial visibility (but not an unobstructed view) of the development in adjacent Landbays comparable to the visibility provided by the greenbelt buffer along the Route 5 frontage of the Governor's Land at Two Rivers development. Unless otherwise approved by the Director of Planning, buildings constructed after the date hereof adjacent to the portions of the greenbelt buffer located within 250 feet of the intersection of Route 5 and Legacy Drive shall utilize materials (other than roofing materials) of brick and/or earth tone (from cream to tan) colors except doors, trim and shutters may be of any color from the City of Williamsburg approved color palette.

12. Entrances. The number of entrances and driveways to the project off of Route 5, realigned Route 614 and, if constructed, Monticello Avenue shall be limited to those shown on the Amended Master Plan.

13. Owners Association. All property owners at Greensprings by virtue of ownership of their lot or unit shall become members of an incorporated owners association although there may be different associations for different Land Bays. Each owners association shall adopt an annual budget for maintenance of all common open space, recreation areas, sidewalks, parking, private streets, if any, and other privately owned but common facilities serving the portion of the Property in question and owned or maintained by the association in question.

14. Major Open Space. Areas shown on the Amended Master Plan as "Major Open Space" and areas within subdivisions or sites

shown on the subdivision plat or site plan as greenspace areas shall be exclusive of any lots and undisturbed, except as provided below. With the prior approval of the County Engineer or his designee on a case by case basis, (i) dead, diseased and dying trees or shrubbery and invasive or poisonous plants may be removed from such areas; (ii) select hand clearing and pruning of trees shall be permitted in such areas to permit sight lines or vistas; and (iii) utilities, stormwater best management practices, roads, pedestrian and golf cart paths, trails and bridges may intrude into or cross such areas. If vegetation is removed from such areas it shall be replaced by vegetation that is equally or more effective in retarding runoff, preventing erosion and filtering nonpoint source pollution. Utility crossings shall be generally perpendicular through the such areas and Owner shall endeavor to design utility systems that do not intrude into such areas. All such Major Open Space and greenspace areas and other common areas shall be maintained by Owner until conveyed by Owner to an owners association, at which time the association shall assume responsibility for such maintenance.

15. Road and Intersection Improvements. (a) The Owner shall provide roadway and intersection improvements in accordance with the schedule set forth below. Each of such improvements shall be commenced and bonds approved by the County Attorney for completion of the improvements shall be posted as provided in the schedule set forth below, including, in addition any other road improvements that may be necessary for these proffered improvements to function at a minimum level of service of "C".

Proffered ImprovementTiming

1. Commence construction of realigned Route 614 from existing Route 5 to northern boundary. A 120 right-of-way (or such wider right-of-way as may be necessary to accommodate required drainage structures) shall be dedicated to allow for future improvements. As part of this construction the following intersection improvements shall be made:
 - a. Realigned Route 614 shall be four lanes from existing Route 5 through the intersection with Land Bay M-9 and the Neighborhood Commercial Center. The remainder of realigned Route 614 shall be built as two lanes, offset within the right-of-way to allow for future widening. Realigned Route 614 shall be constructed in accordance with the standards set forth on Exhibit B hereto.
 - b. At Brick Bat Road: The intersection of Brick Bat Road and Route 614 shall be relocated and part of Brick Bat Road reconstructed so that Brick Bat intersects Route 614 at approximately 90 degrees. Relocated Brick Bat Road shall have a separate left turn lane. North and southbound left turn lanes and a southbound right turn lane shall be built on Route 614.
 - c. At Old Route 614 at North Boundary of Historical Site: A "T" intersection with a northbound right turn lane, a southbound left turn lane and westbound right and left turn lanes shall be constructed.
 - d. At Entrance to Land Bay M-5: A "T" intersection with a northbound left turn lane, an eastbound right turn lane and an eastbound

Before approval of
any subdivision
plat or site plan,
other than golf course

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left turn lane. The first 50 feet of the entrance to Land Bay M-5 shall be constructed with adequate width for southbound right and through lanes.

- e. At existing Route 5:
An eastbound left turn lane and a westbound right turn lane on existing Route 5. Southbound right and left turn lanes and one through lane shall be constructed as part of realigned Route 614.
- | | | |
|----|--|--|
| 2. | Construct northbound and southbound left turn lanes into Land Bay M-9 and Neighborhood Commercial Center. | Prior to issuance of Certificate of Occupancy in Area M-9 or the Neighborhood Commercial Center. |
| 3. | Construct northbound right turn lane, westbound left and right turn lanes and one west bound through lane at Neighborhood Commercial Center. | Prior to issuance of Certificate of Occupancy in Neighborhood Commercial Center. |
| 4. | Construct southbound right turn lane and eastbound left and right turn lanes, and one eastbound through lane at Land Bay M-9. | Prior to issuance of Certificate of Occupancy in Land Bay M-9. |
| 5. | Construct southbound left turn lane, northbound right turn lane, westbound combined left and through lanes, and westbound right turn lane at Land Bay M-8. | Prior to issuance of Certificate of Occupancy in Land Bay M-8. |
| 6. | Construct southbound right turn lane, eastbound combined left turn lane and through lane, and eastbound right turn lane at Land Bay M-7. | Prior to issuance of Certificate of Occupancy in Land Bay M-7. |
| 7. | Construct eastbound right turn lane, westbound left turn lane, and separate northbound left and right turn lanes at Land Bay M-6. | Prior to issuance of Certificate of Occupancy in Land Bay M-6. |

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8. Construct northbound and southbound left turn lanes, northbound right turn lane, westbound left turn lane, and right turn lane at clubhouse.

Prior to issuance of Certificate of Occupancy for Clubhouse.

9. Construct southbound right turn lane, eastbound and combined eastbound left and through lane and eastbound right turn lane at southern entrance to Land Bay S-1.

Prior to recordation of subdivision plat for Land Bay S-1 turn utilizing the southern entrance.

10. Construct northbound left turn, southbound right turn lane, eastbound right turn lane and combined eastbound through and left turn lanes at northern entrance to Land Bay S-1.

Prior to recordation of subdivision plat for Land Bay S-1 utilizing the northern entrance.

11. Construct northbound right turn lane into western portion of Land Bay S-3.

Prior to recordation of subdivision plat for western portion of Land Bay S-3.

12. Construct northbound right turn lane, westbound right turn lane and combined westbound left turn and through lane at Land Bay S-3.

Prior to recordation of subdivision plat for the eastern portion of Land Bay S-3.

13. Construction or payment for construction of a traffic signal at the intersection of Realigned Route 614 and existing Route 5.

When warranted by MUTCD and requested by VDOT

16. Restrictions on Time shares. Owner shall not create or operate a "time-share project" as defined in the Virginia Real Estate Time-Share Act, Va. Code, §§55-360 et. seq. in Land Bays S-1, S-3, M-9 or M-10.

17. Height Limitations. In land bays M-9 and M-10 any structure within 600 feet from the centerline of Route 5 (John Tyler Highway) shall not exceed 35 feet in height. In land bays M-9 and M-10 any structure located in that area in between 600

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feet from the centerline of Route 5 (John Tyler Highway) and 900 feet from the centerline of Route 5 (John Tyler Highway) shall not exceed a maximum height of 45 feet.

18. Severability. Each condition hereof, or portion thereof, is severable. The invalidity of any particular condition, or portion thereof, shall not affect the validity of the remaining conditions, or portion thereof.

19. Definitions. All terms used herein and defined in the County Zoning Ordinance shall have the meaning set forth therein unless otherwise specifically defined herein.

20. Turn Lanes into Land Bay M-10. Prior to the issuance of a certificate of occupancy for any structure on Land Bay M-10, a right turn lane from westbound Route 5 and a left turn lane from eastbound Route 5 into the entrance to Land Bay M-10 shall have been constructed or construction commenced and completion bonds or other surety acceptable to the County Attorney posted to assure completion of the turn lanes.

21. Commercial Uses in Land Bay M-10. Any accessory commercial uses located in Land Bay M-10, such as bank offices, beauty salons and barbershops, shall be located and designed to serve residents of Land Bay M-10. Commercial uses shall not be advertised from any public right-of-way.

22. Residency Agreement. Prior to the start of construction in Land Bay M-10, Owner shall submit to the County a copy of the agreements between Owner and the future residents of Land Bay M-10 which agreements shall provide that permanent residents under the age of 18 (or such higher age determined by Owner) shall not be permitted in Land Bay M-10.

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23. Maintenance Facility. The area shown on the Amended Master Plan as "Fire Station & Maintenance Facility" shall be used only as a golf course maintenance facility; project maintenance, storage and office facility; construction storage, maintenance and office facilities; recreational vehicle storage area and a County fire station and related uses as determined by the Fire Chief. Any outdoor storage areas within the Fire Station & Maintenance Facility shall be screened with a fence approved by the Development Review Committee.

24. Public Use Site. Within 60 days of the request of the County Administrator, the Owner shall convey to the County, free of charge a public use site of at least 10 acres in the location shown on the Amended Master Plan, accessible from a public road.

WITNESS the following signature and seal.

GREENSPRINGS PLANTATION, INC.

By: Marc B. Sharp
Title: PRESIDENT

STATE OF VIRGINIA
CITY OF WILLIAMSBURG to-wit:

The foregoing instrument was acknowledged before me this 2nd day of June, 1998, by Marc B. Sharp, President of Greensprings Plantation, Inc., on behalf of the corporation.

Vern M. Kelly III
Notary Public

My commission expires: 12/31/99

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EXHIBIT A

PARCEL I

All those certain tracts, pieces, or parcels of land situate, lying and being in James City County, Virginia, and shown as Parcel "B", containing 916.77 acres, and Parcel "D", containing 572.50 acres, all as shown on that certain plat entitled, "Plat Showing a Portion of Green Springs," dated July 24, 1965, made by S. U. Camp, III, & Associates, Certified Land Surveyor, Courtland, Virginia, a copy of which said plat is recorded in the Clerk's Office of the City of Williamsburg and County of James City in Plat Book 24, pages 28A and 28B.

LESS AND EXCEPT property conveyed by deed recorded June 3, 1986 in James City County Deed Book 304, Pages 31, to Jorge Luna and Laticia Luna, husband and wife;

LESS AND EXCEPT property conveyed by deed recorded June 3, 1986 in James City County Deed Book 304, Page 37, to Herman Zamora and Josefina Zamora, husband and wife;

LESS AND EXCEPT property subject to a certain Option On Real Estate recorded July 24, 1986 in James City County Deed Book 309, Page 646, to Jorge Luna and Laticia and Herman Zamora and Josefina Zamora, or their assigns;

LESS AND EXCEPT property conveyed by deed recorded April 14, 1986 in James City County Deed Book 299, Page 534, to the Commonwealth of Virginia;

LESS AND EXCEPT property conveyed by deed recorded January 11, 1978 in James City County Deed Book 181, Page 533, to the United State of America;

LESS AND EXCEPT certain property under contract to be conveyed to John M. Smith and Sonda J. Smith, husband and wife, which property is more particularly described as being "Parcel 4", 20.35 Ac.±, on a certain plat entitled, "A SUBDIVISION OF PART OF THE GREEN SPRINGS TRACT", James City County, Virginia," dated November, 1986, and made by Lynn D. Evans, Certified Land Surveyor, a copy of which plat is to be recorded in the Clerk's Office of the City of Williamsburg and County of James City;

LESS AND EXCEPT any and all property in the said "Parcel B" east of Powhatan Creek;

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Exhibit B

The two-lane roadway to be constructed in the right-of-way shown on the Amended Master Plan as Future Road "A" and realigned Route 614 shall be constructed in accordance with VDOT, Road and Bridge Standards, that are in effect at the time construction is to commence, standard GS-6, Geometric Design Standards for Urban Minor Arterial Street System. Under this standard, the design will be in accordance with "Streets With Shoulder Design", rolling terrain.

These standards are stated as follows:

Design Speed - M.P.H.	50
Maximum Degree of Curvature	6°
Maximum Percent of Grade	7%
Stopping Sight Distance	Des. 475'; Min. 400'
Width of Lane	12' - two lanes to be constructed
Width of Shoulder	Fill 13'(*); Cut 10'
Ditch Width	6' (ditch slopes to be 4:1)
Slopes	2:1 (grading for two lanes)
Right-of-Way Width	120'
Operating Speed	50 M.P.H.
Clear Zone Width	Fill: 25' Cut: 19'

(*) Shoulder width may be reduced by 3' when guardrail is not required and recoverable areas are not being provided.

Pavement thickness shall be designed in accordance with the table entitled "Thickness Equivalency Values for Material for Primary, Interstate and Arterial Roads" from "Recommended Design Method for Flexible Pavements in Virginia" by N. K. Vaswani, revised 1974.

VIRGINIA: City of Williamsburg and County of James City, to Wit:
 In the Clerk's Office of the Circuit Court of the City of Williamsburg and County of James City the day of July, 1973. This Third Amended Plat was presented with certificate annexed and admitted to record at 2:47 o'clock
 Teste: Helene S. Ward, Clerk
 by: Helene S. Ward
 Deputy Clerk

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ADOPTED

JUL 13 1999

ORDINANCE NO. 31A-200

BOARD OF SUPERVISORS
JAMES CITY COUNTY

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS, DIVISION 4, LANDSCAPING; BY AMENDING SECTION 24-86, LANDSCAPING AND TREE PRESERVATION REQUIREMENTS; BY ADDING SECTION 24-87, ADMINISTRATION; BY ADDING SECTION 24-88, MODIFICATION, SUBSTITUTION, TRANSFER; BY ADDING SECTION 24-89, TREE PROTECTION AND CRITERIA FOR TREE REMOVAL FOR ALL USES REQUIRING A LANDSCAPE PLAN; BY ADDING SECTION 24-90, SIZE REQUIREMENTS FOR NEW PLANTINGS; BY ADDING SECTION 24-91, SUMMARY OF DEFINITIONS FOR TREES AND SHRUBS; BY ADDING SECTION 24-92, PLANT MATERIAL STANDARDS; BY ADDING SECTION 24-93, TREE CREDITS; BY ADDING SECTION 24-94, GENERAL LANDSCAPE AREA STANDARDS; BY ADDING SECTION 24-95, LANDSCAPE AREA ADJACENT TO BUILDINGS; BY ADDING SECTION 24-96, LANDSCAPE AREA(S) ALONG RIGHT(S) OF WAY; BY ADDING SECTION 24-97, OFF-STREET PARKING LOT LANDSCAPING; BY ADDING SECTION 24-98, SCREENING; AND BY ADDING SECTION 24-99, LANDSCAPE REQUIREMENTS BY ZONING DISTRICT.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article II, Special Regulations, Division 4, Landscaping, Section 24-86, Landscaping and tree preservation requirements; by adding Section 24-87, Administration; Section 24-88, Modification, substitution, transfer; Section 24-89, Tree protection and criteria for tree removal for all uses requiring a landscape plan; Section 24-90, Size requirements for new plantings; Section 24-91, Summary of definitions for trees and shrubs; Section 24-92, Plant material standards; Section 24-93, Tree credits; Section 24-94, General landscape area standards; Section 24-95, Landscape areas adjacent to buildings; Section 24-96, Landscape area(s) along right(s)-of-way; Section 24-97, Off-street parking lot landscaping; Section 24-98, Screening; and Section 24-99, Landscape requirements by zoning district.

Chapter 24. Zoning

ARTICLE II. SPECIAL REGULATIONS

DIVISION 4. LANDSCAPING

Last Revised: 5/26/99

Sec. 24-86. Landscaping and tree preservation requirements.

(A) *Statement of intent.* The purpose of this section is to promote the public health, safety and welfare by providing for the preservation, installation and maintenance of trees and plant materials which will:

- (1) Ensure development which is consistent with the goals of the Comprehensive Plan related to natural resources, environmental and land use standards, greenbelt roads *Community Character Corridors*, and aesthetics;
- (2) Retain the historic and natural character of James City County by reducing the visual impact of signs, parking lots, buildings and structures and protecting, preserving and enhancing its natural physical wooded character with emphasis on preserving the existing tree canopy and other indigenous vegetation and providing such canopy and vegetation where it does not exist;
- (3) Minimize the environmental and land use impacts of developments associated with noise, glare, dust and movement; changes in appearance, character and value of neighboring properties; and effects on air and water quality, stormwater runoff, groundwater recharge and soil erosion by preserving existing tree canopies and indigenous vegetation and restoring such canopies and vegetation and providing other landscape features;
- (4) Promote traffic safety by controlling views and visually defining circulation patterns; and
- (5) Provide more comfortable exterior spaces and conserve energy by preserving and providing tree canopies and other landscape features which provide shade and windbreaks; and
- (6) *Ensure the location, type, and maintenance of plant materials creates and maintains a safe environment for users of the site.*

(B) *Sec. 24-87. Administration.*

(1)(a) *Landscape plan; when required.* A landscape plan is required for any site plan or residential plan for development subject to paragraph (C)(2)(d) 5 and 6 *sections 24-98 (f) and (g)* and shall be submitted at the time of application for plan approval. The landscape plan shall be prepared and approved in accordance with article III, *Site Plan*. The landscape plans shall also indicate the location of all existing and planned utilities.

(b) *Landscape plan; who prepares.* A Virginia registered landscape architect, a member of the Virginia Society of Landscape Designers, or a Certified Virginia Nurseryman with experience preparing planting plans and landscape construction drawings, shall prepare landscape plans for projects that propose a new

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building or group of new buildings whose building footprints exceeds 2,500 square feet, or propose site improvements which result in the disturbance of 5,000 or more square feet of land area.

(2) *(c) Plan requirements and determinations.* Where requirements of this section are based on zoning or planning designations, such designations shall be determined by the county zoning district map, Comprehensive Plan and Six-Year Secondary Road Plan and the official planning and zoning documents of the adjoining jurisdiction if applicable. Required landscape areas shall exclude any planned future right-of-way as designated on the Comprehensive Plan, Six-Year Primary or Secondary Road Plan, Peninsula Area Transportation Plan, *approved master plan*, or any road plan adopted by the board of supervisors.

(3) *(d) Installation of required landscaping, performance guarantee.* Where a landscape plan is required, landscaping shall be installed and existing trees shall be preserved in conformance with the approved landscape plan. A certificate of occupancy shall not be issued until all landscaping has been installed in accordance with the approved landscape plan unless the installation of any incompletd landscaping is guaranteed as provided in section 24-8.

(4) *(e) Maintenance of landscaping.* The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all landscaping materials, fences and barriers as may be required by the provisions of this section. All plant materials, including existing trees preserved to meet the requirements of this section, shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. Fences and walls shall be maintained in good repair. Replacement material shall conform to the original intent of the approved landscape plan and any replacement planting shall meet the minimum requirements of this section.

(5) *Sec. 24-88* **Modification, substitution, transfer.**

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

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

development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of this section.

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

- (a) **(1)** The proposed landscape plan, by substitution of technique, design or materials of comparable quality, but differing from those required by this section, will achieve results which clearly satisfy the overall purposes of this section in a manner clearly equal to or exceeding the desired effects of the requirements of this section;
- (b) **(2)** The proposed landscape plan substantially preserves, enhances, integrates and complements existing trees and topography;
- (c) **(3)** Where, because of unusual size, topography, shape or location of the property or other unusual conditions, excluding the proprietary interests of the developer, strict application of the requirements of this section would result in significant degradation of the site or adjacent properties;
- (d) **(4)** The proposed landscape design or materials involve a readily discernible theme, historic or otherwise, or complements an architectural style or design;
- (e) **(5)** Where it is necessary to allow the subdivision of property on which commercial or industrial units will be for sale, for sale in condominium or for lease, and such units are constructed as part of a multiunit structure in which the units share common walls or are part of a multiple-structure development, and the entire development has been planned and designed as a cohesive, coordinated unit under a single master plan; or
- (f) **(6)** Where transfers of required landscape areas to other areas on a site are necessary to satisfy other purposes of this section, including transfers to increase screening or preserve existing trees, provided such transfers do not reduce overall landscape requirements for a development.

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

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

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(C) General Requirements for All Uses Requiring a Landscape Plan:

Sec. 24-89. Tree protection and criteria for tree removal for all uses requiring a landscape plan.

(1) *(a) Standards for tree protection and impervious cover.* Existing mature trees shall be preserved except in impervious areas and impervious cover shall be limited to the extent permitted in the county's Chesapeake Bay Preservation Ordinance. Existing mature and specimen trees shall be integrated into the overall plan of development and shall be preserved so as to promote the intent of this section. The commission or planning director, depending upon the applicable review process, may require that certain mature trees or specimen trees be preserved upon determination that they contribute significantly to the character of the county and that preservation is necessary to satisfy the intent of this section. The purpose of this paragraph is to protect such trees and other amenities which could otherwise be lost due to careless site design or construction. All trees to be preserved shall be protected in accordance with the standards of this section.

(a) (b) Tree protection:

(1) All trees to be preserved shall be protected before, during and after the development process in accordance with specifications contained in the Virginia Erosion and Sediment Control Handbook. The applicant shall include a conservation checklist for review and approval by the environmental director of code compliance which shall ensure that the specified trees will be protected in accordance with these specifications.

(2) ~~Groups of trees shall be preserved rather than single trees.~~ Trees or groups of trees to be preserved shall be clearly marked in the field. All specimen trees shall be clearly marked. Groups of trees shall be preserved rather than single trees.

(3) ~~Trees and groups of trees to be preserved shall be enclosed by a substantial, temporary fence or barrier as specified by the environmental director. The location, type, and installation standards for protective tree fencing shall be clearly shown on the site plan. The fence or barrier shall be located and maintained outside the dripline before commencement of clearing or grading. The fencing or barrier shall remain throughout construction and any subsequent grading or excavation unless otherwise approved on a clearing and grading plan. In no case shall materials, debris, fill, vehicles or equipment be stored within this enclosure, nor shall the topsoil layer be disturbed except in accordance with tree protection standards approved as part of the conservation checklist.~~

(4) The developer shall be responsible for ensuring these areas are protected in accordance with this section. Where changes from the existing natural grade level are necessary, permanent protective structures, such as tree walls or wells, shall be properly installed in accordance with the Virginia Erosion and Sediment Control Handbook, ~~as required by the environmental director.~~

(b) (c) Tree removal:

Outside impervious areas, ~~trees may be removed in accordance with sections 24-96 (e) (2) and (3).~~ diseased trees or trees weakened by age, storm, fire or other injury may be removed, provided trees are replanted as required by the county's Chesapeake Bay Preservation Ordinance. Selective hand clearing and intermittent thinning may be permitted outside impervious areas by the director of code compliance for necessary visibility, maintenance and law management.

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Sec. 24-90. Size requirements for new plantings.

Planted trees and shrubs shall conform to the minimum size requirements outlined in the following table.

Size Requirements for New Plantings		
Category	Type	Minimum Size at Planting
Trees	Deciduous Shade Tree (D)	Minimum Caliper is= 1.5".
	Evergreen (E)	If multi-stemmed, minimum height shall be 8-feet. If single-stemmed, minimum caliper shall be 1.25" with minimum height of 8-feet.
Ornamental Tree	Single-Stemmed (D) or (E)	1.25" in caliper and 8-feet in height.
	Multi-Stemmed (D) or (E)	8-feet in height.
Shrub	Low Growing Woody Plant having several permanent stems.	18" if evergreen. 22" if deciduous.
Caliper - The diameter of a tree trunk measured 6" above-ground for nursery stock.		

Sec. 24-91. Summary of definitions for trees and shrubs

Outlined below is a quick reference of the definitions for trees and shrubs. Please refer to section 24-2 for complete definitions of these terms.

Type	Character	Minimum Size
Specimen Tree	Free of disease and significant damage or which is notable by virtue of its outstanding size and quality for its particular species.	Diameter at breast height (DBH) is 24" or greater.
Mature Tree	Free of disease and significant damage.	DBH is 8" or greater.
Understory or Ornamental Tree	Trees that typically do not exceed a height of 40-feet at maturity. Understory are those trees typically found within a native plant community. Common understory examples include: Wax Myrtle, American Holly, and Dogwood. Examples of ornamental trees include Japanese Maple and Crape Myrtle.	
Overstory Tree	Trees that typically exceed a height of 40-feet at maturity. Common examples include: Loblolly Pine, Oaks, Red Maple, and London Plane Tree.	
Diameter at breast height (DBH) - The diameter of a tree trunk measured 4.5 feet from the ground.		

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Sec. 24-92. Plant material standards.

(a) All required plantings shall conform with the most recent edition of American Standard for Nursery Stock, published by the American Association of Nurserymen, and shall be planted in accordance with the most recent edition of Guidelines for Planting Landscape Trees and Planting and Care of Trees and Shrubs, published by the Virginia Cooperative Extension Service.

(b) Required planting materials shall be of a species that promotes the intent of this division and that is compatible with the proposed planting environment.

(c) Transplanting for the purpose of achieving a larger size tree may be approved, provided it is done in accordance with accepted horticultural and silvicultural practices.

Sec. 24-93. Tree credits.

(a) Existing viable trees, preserved on the site in accordance with the tree protection standards outlined in section 24-89 (b), may provide tree credits which shall reduce the number of new trees required to be installed.

(b) The trees to be saved shall be clearly identified on the landscaping plan. The plan shall identify the general location, number, size, and type of trees proposed to be saved and the requested tree credits.

(c) The amount of tree credit is outlined in the following chart.

Tree Credits	
Trees to be saved:	Tree Credits:
1 viable ornamental tree meeting the minimum size at planting as described in Section 24-90.*	1 planted ornamental tree.
3 viable trees meeting the minimum size at planting as described in section 24-90.*	1 planted tree.
1 viable mature tree.	2 planted trees.
1 viable specimen tree.	3 planted trees.
No credit shall be given for any trees that are not protected in full compliance with the tree protection standards listed in section 24-89 (b).	
* The trees to be saved shall be "tagged" in the field and the planning director or his designee shall inspect the trees to determine which trees are eligible to receive credit. Only those trees which are healthy, of the minimum size noted above, and are of a suitable quality shall be deemed acceptable for receiving credit.	

(2) Site landscaping and tree protection requirements:

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(a) *Sec. 24-94. General landscape area standards.* Existing trees shall be retained to the maximum extent possible in all landscape areas. Such trees may be removed to accommodate necessary utilities or drainage structures or where necessary to abate demonstrable public health or safety hazards. All required landscape areas, other than landscape areas adjacent to buildings and within parking lots, as required below in paragraph (C)(2)(b) and (C)(2)(c), shall contain a number of trees equal to at least one tree and three shrubs per 400 square feet of total landscape area provided.

At least 35 percent of these trees shall have a minimum caliper of 2-1/2 inches. Fifteen to 25 percent of the required trees shall be ornamental trees. At least 25 percent of the total required trees and 25 percent of the required shrubs shall be evergreen. All required plantings shall conform with the most recent edition of *American Standard for Nursery Stock*, published by the American Association of Nurserymen, and shall be planted in accordance with the most recent edition of *Guidelines for Planting Landscape Trees and Planting and Care of Trees and Shrubs*, published by the Virginia Cooperative Extension Service. Required planting materials shall be of a species that promotes the intent of this section and that is compatible with the proposed planting environment. Transplanting for the purpose of achieving a larger size tree may be approved, provided it is done in accordance with accepted horticultural and silvicultural practices.

Each mature existing tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for two planted trees and one viable specimen tree substituting for three planted trees. However, no credit shall be given for any mature tree or specimen tree which is not protected in full compliance with the tree protection standards above in paragraph (C)(1). In such cases, planted trees shall be provided as required above. Planted trees and shrubs shall be reasonably distributed throughout the site singly or in groups, with an appropriate mix of planting types and species which achieves the purposes of this section. Required landscape areas shall be designed so as to not create vehicular and pedestrian hazards.

(a) *Tree preservation and the minimum number required.* Existing trees shall be retained to the maximum extent possible in all landscape areas. All required landscape areas, other than landscape areas adjacent to buildings and within parking lots as required in sections 24-95 and 24-97, shall contain at least a minimum number of trees and shrubs as specified in the following chart:

Quantity Requirements - General Landscape Area Standards		
AND		
Number of Trees	Number of Shrubs	Per
1	3	400 square feet of total landscape area provided.

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(b) Size and mixture requirements.

<i>Size and Mixture Requirements - General Landscape Areas</i>		
<i>Percentage</i>	<i>Of</i>	<i>Shall Be:</i>
<i>At least 35%</i>	<i>Trees</i>	<i>Minimum Caliper of 2.5" at planting</i>
<i>Minimum of 15% and Maximum of 25%</i>	<i>Trees</i>	<i>Ornamental trees</i>
<i>At least 35%</i>	<i>Trees</i>	<i>Evergreen Trees which will achieve a minimum height of 40 feet at maturity.</i>
<i>At least 40%</i>	<i>Trees</i>	<i>Deciduous Shade Trees which will achieve a minimum height of 50 feet at maturity.</i>
<i>At least 35%</i>	<i>Shrubs</i>	<i>Evergreen</i>

(c) Distribution, mixture and placement. Planted trees and shrubs shall be reasonably distributed throughout the site singly or in groups, with an appropriate mix of planting types and species which achieves the purposes of this section. Required landscape areas shall be designed so as to not create vehicular and pedestrian hazards.

(b) Sec. 24-95. Landscape areas adjacent to buildings.

A landscape area which is a minimum of ten feet wide shall be provided adjacent to buildings. Up to one-half of this area may be transferred elsewhere on the site. This area shall contain a number of trees and shrubs equal to at least one ornamented tree or five shrubs per 200 square feet of planting area provided the minimums specified in the following chart.

<i>Quantity Requirements - Adjacent to Buildings</i>		
<i>OR</i>		
<i>Number of Tree(s)</i>	<i>Number of Shrubs</i>	<i>Per</i>
<i>1 ornamental</i>	<i>5</i>	<i>200 square feet of planting area.</i>

(c) Sec. 24-96. Landscape area(s) along right(s)-of-way.

(a) Width requirements. A landscape area having an average width of 30 feet as specified in the following chart shall be provided adjacent to any existing or planned road right-of-way. Such landscape areas may be reduced to an average width of 20 feet or ten percent of the average lot depth, whichever is greater, on lots with less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990. Any required landscape area along a right-of-way shall have a minimum width of 15 feet. All landscape areas along a right-of-way shall contain a minimum amount of square footage which shall be determined by multiplying the applicable average width requirement above times the length of the right-of-way frontage. In no case shall any

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portion of any landscape area located more than 45 feet from the right-of-way be counted toward meeting the requirements of this paragraph. All landscape areas along right-of-ways shall be continuous along the road right-of-way frontage, except where driveway, utility or other breaks are necessary, and shall be designed in a manner that achieves the intent of this section. All existing viable trees or specimen trees shall be preserved within this landscape area and protected in accordance with the above tree protection standards in paragraph (C)(1). Such landscape area shall be supplemented where necessary with planted trees and shrubs to achieve the minimum number of trees and shrubs specified in paragraph (C)(2)(a) above.

Width Requirements for Landscape Areas along Right(s)-of-Way.			
(1) Community Character Corridors			
	Standard	Minimum width conditioned upon approval of planning director. Reference section 24-96 (d) for the criteria.	Reduction for lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990.
Average Width	50-feet	30-feet	20-feet or 10% of the average lot depth, whichever is greater.
Minimum Width	25-feet	20-feet	15-feet
(2) All Other Roads			
	Standard		Reduction for Lots less than 1.5 acres which were recorded or legally in existence prior to July 3, 1990.
Average Width	30-feet		20-feet or 10% of the average lot depth, whichever is greater.
Minimum Width	15-feet		15-feet
(3) Further Reductions for Master Planned Communities with approved Design Guidelines.			
The standards provided above can be further reduced for developments that are part of an approved master-planned community and have a governing set of design guidelines approved by the county. The design guidelines shall specify architectural standards, building placement and massing, parking location, sidewalks, street-lighting, streetscape standards, landscaping, signage, and other important community aesthetic features.			

(b) Square footage calculation for landscape areas. All landscape areas along a right-of-way shall contain a minimum amount of square footage which shall be equal to:

<i>Square Footage Calculation</i>
<i>Square Footage = [Applicable Average Width Requirement] * [Length of Right-of-Way Frontage]</i>

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In no case shall any portion of any landscape area located more than 65 feet from the right-of-way of a Community Character Corridor or 45 feet from the right-of-way along all other roads be counted toward meeting the requirements of this paragraph. All required square footage shall be contiguous and located in an area that is directly adjacent to the right-of-way except as provided for in section 24-96 (e)(1).

(c) "Construction zone" setback for structures.

(1) All structures shall be setback a minimum of 15-feet from the perimeter of the landscape area buffer required in section 24-96 (a). For example, if the required landscape area buffer measures 50-feet in width from the right-of-way, then the structure(s) shall be no closer than 65-feet from the right-of-way.

(2) The "construction zone" setback shall be clearly delineated on the site plan.

(3) This "construction zone" setback shall not apply to parking lots. Parking lots may be constructed up to the edge of the required landscape buffer provided no grading, tree removal, or land disturbance occurs within the required landscape buffer.

(d) Waiver criteria for landscape areas along Community Character Corridors. The average width requirement of the required landscape areas along Community Character Corridors may be reduced by the planning director if number (1) and/or (2) provided below is satisfied. In no case shall the total reduction exceed 20 feet. In deciding whether a reduction in the standard landscape area width is warranted, the planning director shall consider the impact of proposed road and/or utility improvements on existing trees and vegetation. Planned road and/or utility improvements that will remove existing trees and vegetation will reduce the likelihood of a reduction in landscape area required. In approving a reduction request, the planning director may require additional plantings beyond the minimum ordinance requirements, alter the mixture of plantings provided, and/or specify the types of plantings to be used.

(1) The applicant may achieve a maximum reduction of 10 feet by providing superior site design with a combination of elements such as:

- a. Parking located away from public view behind buildings or screened by other architectural features (i.e. decorative brick walls);
- b. Innovative use of grading and topography to minimize visual impacts of parking and other unsightly features (i.e. dumpsters, HVAC equipment, loading areas, etc.);
- c. Provision of pedestrian amenities beyond what the ordinance requires. Examples may include brick pavers to connect existing and planned pedestrian walkways, lighting, and benches; or
- d. The use of monument style signs that are of a scale and type that complement the positive features of the surrounding architecture and streetscape. The use of wood, brick, or other natural features is recommended.

(2) The applicant may achieve a maximum reduction of 15 feet by providing superior architecture and building materials that meet the following standards:

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a. The building architecture and materials complement the positive features of nearby existing or planned development and/or the character of Colonial Williamsburg and James City County;

b. Architecture and materials should be unique and not replicate standard and/or conventional prototypes; and

c. The proposed location of the building and parking areas shall not require the removal of specimen trees or large stands of viable mature trees.

(e) Right-of-way landscape area performance standards.

(1) Permitted breaks in landscape areas.

a. All landscape areas along right-of-ways shall be continuous along the road right-of-way frontage, except where driveway, utility or other breaks running perpendicular to the right-of-way are necessary, and shall be designed in a manner that achieves the intent of this division.

b. No new utilities, outside of those running parallel to permitted breaks in the required landscape areas, shall be located within the required landscape area(s) unless a waiver is granted by the planning director. The planning director shall grant a waiver only if the applicant can sufficiently demonstrate that there are unavoidable physical or regulatory constraints that warrant an intrusion into the landscape area.

(2) Tree preservation and criteria for tree removal.

a. All existing viable mature trees (eight inches or greater diameter at breast height (DBH)) and specimen trees (24 inches or greater DBH) shall be preserved within the required right-of-way landscape area. All understory trees of two inches or greater DBH shall be preserved.

b. The planning director or his designee may permit the removal of understory and overstory trees exceeding these size thresholds after an on-site inspection. The trees must be tagged to allow for easy identification. The planning director or his designee shall authorize removal of the tagged trees only if they are of poor quality, diseased, not consistent with the existing or planned plant species and density, poorly situated so as to interfere with the growth of other viable trees and/or shrubs, compromise safety, or interfere with other planned site improvements such as sidewalks and/or signs.

(3) Buffer grooming and enhancement.

a. Trees below the size thresholds stated above in paragraph (2) and underbrush may be hand-removed from the landscape area. No grading shall be permitted; however, hand grooming is permitted.

b. Overstory tree limbs may be removed/"limbed-up" to a maximum height of ten feet above the base of the tree. Understory tree limbs may be removed/"limbed-up" to a maximum height of six feet. These height limitations shall not restrict the removal of dead, diseased, or injured tree limbs above the height limits mentioned above.

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(4) *Tree protection required.* The required landscape area shall be fully protected by a substantial temporary fence or barrier with a minimum height of 40-inches. The location, type, and installation standards for this fence shall be clearly shown on the site plan. This fence shall be installed prior to the issuance of a land disturbance permit and shall remain standing until all construction activities on site have been completed.

(5) *Landscaping required.* Required landscape areas shall be supplemented where necessary with planted trees and shrubs to achieve the minimum number of trees and shrubs specified in paragraph section 24-94.

Sec. 24-97. Off-street parking lot landscaping.

Parking areas, accessory or otherwise, containing ten or more parking spaces shall contain landscaping and landscape areas in accordance with all of the following:

(a) *Preservation of trees.* Parking lots shall be designed and constructed so that existing viable trees are preserved in a manner which will meet the intent and satisfy the requirements in this section to the maximum extent possible. Where such existing trees do not fully satisfy these requirements, additional trees shall be planted in an amount which meets or exceeds the stated minimum requirements. The requirements in this paragraph shall be in addition to other requirements stated in this section.

(b) *Landscape area and planting requirements.* Total landscape area within the parking lot shall at least meet the minimum standards specified in the following chart.

(1) General Requirements for Parking Lot Landscaping	
Percentage of Landscape Area Required within the Parking Lot	Based On:
Minimum 10%	Surface Area of Parking, including drives & circulation areas, exclusive of any perimeter landscape areas or landscape areas around the building.
Lots less than 65,000 square feet recorded or legally in existence prior to July 3, 1990	
Minimum 7.5%	Surface Area of Parking, including drives & circulation areas, exclusive of any perimeter landscape areas or landscape areas around the building.

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(2) Quantity Requirements for Parking Lot Landscaping.		
AND		
Number of Trees	Number of Shrubs	Per
1	1	5 parking spaces in the parking lot.
Lots less than 65,000 square feet recorded or legally in existence prior to July 3, 1990		
1	1	10 parking spaces in the parking lot.
As provided above, each mature existing tree or specimen tree may be counted toward meeting the required minimum number of trees, with one (1) viable mature tree substituting for two (2) planted trees and one viable specimen tree substituting for three planted trees. No credit shall be given for any mature or specimen tree which is not protected in full compliance with the tree protection standards in section 24-69 (b) above.		

(3) Size and Mixture Requirements for Parking Lot Landscaping.		
Percentage	Of	Shall be:
At least 35%	Trees	Evergreen Trees which will achieve a minimum height of 40 feet at maturity.
At least 50%	Trees	Deciduous Shade Trees with a 2.5 inch caliper which will achieve a minimum height of 50 feet at maturity.
At least 50%	Shrubs	Evergreen

(4) Minimum Spacing Requirements for Required Trees in Parking Areas
The required trees shall be spaced no more than 75 feet apart throughout the parking lot. These trees shall be evenly and reasonably distributed throughout the parking lot in a manner that promotes the intent of this section.

(c) *Parking lot screening.* In addition to the above tree and shrub requirements, all parking lots shall be visually screened from public road rights-of-way by evergreen plantings or berms that create a screen a minimum of three feet in height. Such berms shall have a maximum side slope ratio of three horizontal feet to one vertical foot and a level crown with a minimum width of three feet for maintenance and planting purposes. Any berm shall be designed and constructed to ensure that proper erosion prevention and control practices have been utilized.

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(d) *Special requirements for bus parking lots. Bus parking areas shall contain landscape areas in accordance with the above requirements except that plantings shall be provided as follows:*

(1) Quantity Requirements for Bus Parking Lots		
AND		
Number of Trees	Number of Shrubs	Per
1	2	2 bus parking spaces.

(2) Size & Mixture Requirements for Bus Parking Lots		
Percentage	Of	Shall Be:
At least 35%	Trees	Evergreen Trees which will achieve a minimum height of 40 feet at maturity.
At least 50%	Trees	Deciduous Shade Trees with a 2.5 inch caliper which will achieve a minimum height of 50 feet at maturity.

(d) **Sec. 24-98. Screening.**

1. (a) **Transitional screening.** Transitional screening between conflicting land uses and districts shall be provided as required in this paragraph and in **section 24-99** paragraph (D). Such screening areas shall be left in their undisturbed natural state and supplemented where necessary in accordance with paragraph **section 24-94** (C)(2)(a) and with additional plantings to provide an effective visual screen. Such areas shall be continuous except where driveways, utilities and other breaks are necessary. All breaks shall cross transitional screening areas at right angles. Where such breaks are necessary, different design requirement may be imposed to achieve an equivalent screening effect. Transitional screening areas shall not contain accessory structures, storage, parking or loading.
2. (b) **Additional transitional screening requirements.** If the commission determines that noise, dust and debris, glare or other objectionable impacts created by a proposed development will have a detrimental effect on adjoining properties which will not be adequately addressed by transitional screening required by this, section, the commission may increase minimum transitional screening requirements or setbacks and may require landscaping or architectural barriers which provide a visual screen between a proposed development and adjoining properties.
3. (c) **Objectionable features.** Objectionable features shall be visually screened by landscaping or architectural barriers from or by adjacent residential districts, agricultural districts which are designated for residential use on the Comprehensive Plan and public streets. Objectional features may include, but are not limited to, the following: refuse areas, storage yards, and loading areas, and detention ponds.

(d) Stormwater management facilities, detention ponds, and best management practices (BMPs). Stormwater management facilities, detention ponds, and BMPs that are visible from roads, adjoining properties, or open to public view shall be designed such that:

(1) These facilities shall not be allowed within required landscape buffers along Community Character Corridors (CCCs) unless a waiver is granted by the planning director. In order for the planning director to consider a waiver request, the applicant shall request a waiver in writing and shall present plans and documentation supporting the waiver request. The planning director shall consult with the environmental director and shall make a determination to approve or deny the waiver request within 30 days of its receipt. The waiver request will not be approved unless the applicant can document topographical or unusual physical constraints on the property that require placement of the BMP within the right-of-way landscape area.

(2) The structural aspects (i.e., riser pipes, inlets, etc.) are hidden from public view and/or adjoining property owner's view, or adequately screened from these views by innovative structural design, berms, and/or landscaping;

(3) The facility shall be well landscaped with an emphasis on making the facility appear more natural than man-made, as determined by the planning director; and

(4) The facilities shall be designed and landscaped in such a manner that they are sensitive to the character of the site and surrounding properties. Unless it can be demonstrated by the applicant that an alternative design better meets the intent of this section, the facilities shall be designed with a curvilinear shape, shall be designed to complement the existing topography of the site, and/or shall be designed and landscaped in a manner that visually reduces their size, and supports growth of wetlands vegetation.

4. (e) Historic landmarks and buildings. The commission may require screening of any use, or portion thereof, upon a determination that the use would otherwise have a negative visual impact on property listed on the Virginia Historical Landmarks Register.

5. (f) Multiple frontage lots. Lots with multiple frontages shall have screening provided between the rear of the principal use or building and the public right-of-way.

6. (e) Residential developments not subject to article III, Site Plan. Major subdivisions of residential developments, as defined in Chapter 19, shall conform with screening requirements for multiple frontage lots. Such developments shall also provide transitional screening along any property line which is adjacent to or across a peripheral public street from any multifamily, commercial or industrial zoning district. The amount of transitional screening shall be based on the zoning district adjacent to or across a peripheral public street from the proposed residential development. Such residential developments shall provide transitional screening in accordance with the requirements for the multifamily, commercial or industrial district contained in section 24-99 paragraph (D).

(e) Off-Street Parking Lot Landscaping: Parking areas, accessory or otherwise, containing ten or more parking spaces shall contain landscaping and landscape areas in accordance with all of the following:

1. ~~Preservation of trees. Parking lots shall be designed and constructed so that existing viable trees are preserved in a manner which will meet the intent and satisfy the requirements in this section to the maximum extent possible. Where such existing trees do not fully satisfy these requirements, additional trees shall be planted in an amount which meets or exceeds the stated minimum requirements. The requirements in this paragraph shall be in addition to other requirements stated in this section.~~
2. ~~Landscape area. Total landscape area within the parking lot, exclusive of any perimeter landscape areas or any landscape areas around the building, shall not be less than ten percent of the surface area of the parking lot, including drives and circulation areas. On lots or parcels having less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990, total landscape area within the parking lot shall not be less than 7.5 percent of the surface area of the parking lot including drives and circulation areas~~
3. ~~Planting requirements. Landscape areas within a parking lot shall contain a minimum of one tree and two shrubs for each five parking spaces in the parking lot. On lots or parcels having less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990, landscape areas within the parking lot shall contain a minimum of one tree and two shrubs for each ten parking spaces in the parking lot. At least 50 percent of the required trees shall be deciduous shade trees with a 2-1/2-inch minimum caliper and at least 25 percent of the required shrubs shall be evergreen. As provided above, each mature existing tree or specimen tree may be counted toward meeting the required minimum number of trees, with one viable mature tree substituting for two planted trees and one viable specimen tree substituting for three planted trees. No credit shall be given for any mature or specimen tree which is not protected in full compliance with the tree protection standards in paragraph (C)(1) above. Required trees shall be reasonably distributed throughout the parking lot in a manner that promotes the intent of this section and shall be spaced no more than 75 feet apart throughout the parking lot. In addition to the above tree and shrub requirements, all parking lots shall be visually screened from public road right-of-ways by evergreen plantings or berms. Such berms shall have a maximum side slope ratio of three horizontal feet to one vertical foot and a level crown with a minimum width of three feet for maintenance and planting purposes. Any berm shall be designed and constructed to ensure that proper erosion prevention and control practices have been utilized.~~
4. ~~Special requirements for bus parking lots. Bus parking areas shall contain landscape areas in accordance with the above requirements except that plantings shall be provided as follows: one tree and two shrubs shall be provided for each two bus parking spaces, with at least 50 percent of the required trees consisting of deciduous shade trees with a 2-1/2-inch minimum caliper and, in addition to the foregoing tree and shrub requirements, bus parking areas shall be visually screened from all public road right-of-ways by evergreen landscaping or berms to the maximum extent possible. Any berms shall meet the requirements of paragraph 3 above.~~

—(D) **Sec. 24-99** *Landscape requirements by zoning district.*

All uses and developments requiring a site plan and landscape plan in accordance with article III, Site Plan, and this section shall comply with the above requirements and those which follow. Where no landscape requirements are provided for a specific zoning district, the landscape plan shall be prepared in accordance with the requirements for the district which is deemed by the planning director to be the most similar to the character of the proposed use, situation and surrounding conditions. In making this determination, the following shall be considered: the characteristics of the proposed use and surrounding area, existing zoning and Comprehensive

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Plan designations and use regulations of this chapter. At a minimum, required setbacks and yards shall be provided as landscape areas which meet the requirements of this section.

(1) *(a) R-5, Multifamily residential district:*

- (a) *(1)* **Setbacks:** Setbacks from existing or planned peripheral public street right-of-ways ~~roads, including peripheral roads shown on count approved development plans,~~ shall contain a landscape area having an average width of 30 ~~50~~ feet in accordance with paragraph (C)(2)(c) above ~~and meet requirements outlined in section 24-96 (b), (c), and (e).~~ The balance of the setback and setbacks from internal streets shall contain existing trees and plantings in conformance with paragraphs (C)(2)(a) above ~~section 24-94.~~ This requirement shall not apply to single-family dwellings.
- (b) *(2)* **Yards:** All required yards shall contain existing trees and plantings in conformance with paragraphs (C)(2)(a) above ~~section 24-94.~~ This requirement shall not apply to single family dwellings.
- (c) *(3)* **Transitional screening:** For developments with 200 or less units, a transitional screening area in accordance with paragraph (C)(2)(d) ~~section 24-98,~~ with a minimum width of 30 ~~15~~ feet, shall be provided within the first 30 ~~15~~ feet of yard area or setback from any property line when adjacent to or across a peripheral public street from any residential district other than R-5 or any agricultural district designated for low-density residential or rural lands on the Comprehensive Plan. For larger developments, such transitional screening area shall be a minimum of 35 ~~40~~ feet in width.

(2) *(b) Manufactured home subdivision and manufactured home park:*

- (a) **Perimeter Landscape Area:** A perimeter landscape area at least 30 feet in width shall be provided around the entire site in addition to all other yard requirements in manufactured home subdivisions and parks. ~~Such landscape area shall be provided in accordance with paragraphs (C)(2)(a) and (C)(2)(c) above. If the park fronts on a public right-of-way, then a landscape area shall be provided that meets the minimum requirements of section 24-174. In all other areas a perimeter landscape area shall be provided in accordance with section 24-174 around the entire site in addition to all other yard requirements in manufactured home subdivisions and parks.~~

(3) *(c) LB, Limited Business District; B-1, General Business District; M-1, Limited Business/Industrial District; M-2, General Industrial District; M-3, Limited Industrial RT, Research and Technology District.*

- (a) *(1)* **Side and rear landscape area:** A landscape area adjoining all side and rear property lines shall be provided which is at least 15 feet in width. Along the rear property lines, such landscape area may be reduced to a minimum of ten feet in width or five percent of the average lot depth, whichever is greater, on lots with less than 65,000 square feet which were recorded or legally in existence prior to July 3, 1990. Such landscape area shall be landscaped in accordance with paragraph (C)(2)(a) above ~~section 24-94.~~ Such area may be broken by necessary driveways or utilities perpendicular to the property line.
- (b) *(2)* **Special requirements for industrial uses:** Landscape standards in paragraphs (C)(2)(a) ~~section 24-94~~ and (C)(2)(b) ~~section 24-95~~ for certain landscape areas shall be reduced for all uses in

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M-2 or M-3 ~~RT~~ districts, or for industrial uses in M-1 districts, when the following requirements of this paragraph are met. For purposes of this section, industrial uses shall include any permitted use or use permitted by special use permit in an M-2 or M-3 ~~RT~~ district except automobile service stations, offices, employment agency, or school.

1. ~~a~~ Landscape areas along rights-of-way and side and rear property lines: Where such a landscape area is not adjacent to a public street, and the landscape area is adjacent to one of the industrial districts listed above, ~~then the requirements provided in the following chart shall apply:~~

Quantity Requirements		
Number of Trees	Number of Shrubs	Per
1	0	600 square feet of total landscape area

no shrubs shall be required within such landscape area and the required trees may be provided at a ratio of one tree per 600 square feet of landscape area. For such landscape areas, none of the deciduous trees shall be required to be of a 2-½ inch minimum caliper. All required trees shall meet the other minimum standards of this section; or

2. ~~b~~ Landscape areas adjacent to buildings: A landscape area which is a minimum of ten feet wide shall be provided adjacent to one-half of the perimeter of the building. Up to one-half of this landscape area may be eliminated where such landscape area would be along a portion of a building's perimeter that is not visible from a public street, and that same side of the building is not visible from any district other than one of the industrial districts listed above. Such landscape area shall be landscaped in accordance with paragraph (C)(2)(b) ~~section 24-95~~ unless a modification is granted under paragraph (B)(5) ~~section 24-58~~.
- (3) Transitional screening: Landscape areas along property lines of properties zoned LB, B-1, M-1, M-2, and M-3 ~~RT~~ shall be increased to the following widths when adjacent to or across a public street from a residential district or agricultural district if designated residential on the Comprehensive Plan:

Transitional Screening	
LB District	30 feet
B-1 District	35 feet
M-1 District	35 feet
M-2 District	50 feet
M-3 RT District	35 feet

Such landscape areas shall be exclusive of any planned future right-of-way and shall be left in an undisturbed natural state and supplemented with additional plantings to create a visual screen in accordance with paragraph (C)(2)(d) above ~~section 24-98~~.

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- (4) Landscape open space and impervious cover: As required in Chapter 23, Chesapeake Bay Preservation Ordinance, impervious cover shall not exceed 60 percent of the lot area except where an exception is approved in accordance with Chapter 23. Provided, however, in no case shall minimum landscape open space be less than that required below for the respective district:

Required Landscape Open Space	
District	Percent of Total Lot Area
LB District	35
B-1 District	30
M-1 District	30
M-2 District	25
M-3 RT District	30

- (4) (d) PUD, planned unit development district, MU, mixed use district:

- (a) (1) Landscape setbacks:

(a) Landscape setbacks in PUD, planned unit development district. Setbacks from existing or planned peripheral public street right-of-ways roads shall contain a landscape area having an average width of 30 feet in accordance with section 24-498, except for industrial and commercial uses which shall have an average width of 30 feet in accordance with section 24-96 (b), (c), and (e) paragraph (C)(2)c above. The balance of that setback and setbacks from internal streets shall contain existing trees and plantings in conformance with paragraph (C)(2)(a) above section 24-94. Landscape requirements along internal streets shall not apply to single-family dwellings. Requirements of this paragraph shall not apply to active recreation playing areas designated on the master plan and approved in accordance with article V, division 14.

(b) Landscape setbacks in mixed use, mixed use district. Setbacks from existing or planned peripheral roads, including peripheral roads shown on county approved development plans, shall contain a landscape area having a minimum width in accordance with section 24-96. The balance of that setback and setbacks from internal streets shall contain existing trees and plantings in conformance with section 24-94. Landscape requirements along internal streets shall not apply to single-family dwellings. Requirements of this paragraph shall not apply to active recreation playing areas designated on the master plan and approved in accordance with article V, division 14.

- (b) (2) Yards: All yards shall contain existing trees and plantings in conformance with section 24-94 paragraph (C)(2)(a) above. This requirement shall not apply to single-family dwellings or active recreation playing areas designated on the master plan and approved in accordance with article V, division 14 of this chapter.

- (c) (3) Special requirements for industrial uses: Landscape standards in paragraphs (C)(2)(a) and (C)(2)(b) section 24-94 and section 24-95 for certain landscape areas shall be reduced for industrial uses

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in PUD and MU districts, when the following requirements of this paragraph are met. For purposes of this section, industrial uses shall include any permitted use or use permitted by special use permit in an M-2 or M-3 RT district except automobile service stations, offices, employment agency, or school.


1. ~~a~~ Landscape areas in setbacks and yards. Where such a landscape area is not adjacent to a public street, and the landscape area is adjacent to one of the districts or land bays listed above, no shrubs shall be required within such landscape area, and the required trees may be provided at a ratio of one tree per 600 square feet of landscape area. For such landscape areas, none of the deciduous trees shall be required to be of a 2-½ inch minimum caliper. All required trees shall meet the other minimum standards of this section; or
2. Landscape areas adjacent to buildings. A landscape area which is a minimum of ten feet wide shall be provided adjacent to one-half of the perimeter of the building. Up to one-half of this landscape area may be eliminated where such landscape areas would be along a portion of a building's perimeter that is not visible from a public street, and that same side of building is not visible from any district other than one of the districts listed above. Such area shall be landscaped in accordance with ~~paragraph (C)(2)(b) section 24-95~~ unless a modification is granted under ~~paragraph (B)(5) section 24-68~~.

(d) ~~(4)~~ Transitional screening.

1. ~~a~~ Residential. Where a multifamily or townhouse structure in a PUD district is located adjacent to or across a peripheral public street from an R-1, R-2, or R-6 residential district or agricultural district if designated low-density residential or rural lands on the Comprehensive Plan, a 35-foot wide transitional screening area in accordance with ~~section 24-98~~ paragraph (C)(2)(d) above shall be provided within the first 35 feet of yard area or setback from any property line adjoining such district.
2. ~~b~~ Commercial, industrial, public or institutional uses. Where a commercial, industrial, public or institutional use in a PUD district is located adjacent to or across a peripheral public street from any residential district or agricultural district if designated for residential use on the Comprehensive Plan, transitional screening shall be provided in accordance with requirements for LB, B-1, M-1, M-2, or M-3 RT districts as required in ~~paragraph (D)(3)(b) above section 24-99 (c) (3)~~. The applicable transitional screening requirements shall be determined by the planning director in accordance with ~~paragraph (D) above section 24-99~~.

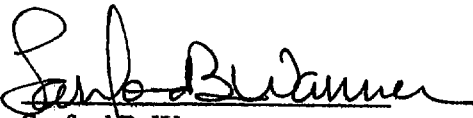
Secs. 24-87~~100~~ - 24-106. Reserved.

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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 13th day of July, 1999.

newland.ord

JUL 13 1999

ORDINANCE NO. 31A-199

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 II, SPECIAL REGULATIONS, DIVISION 2, HIGHWAYS, STREETS, PARKING AND LOADING; BY AMENDING AND RENUMBERING SECTION 24-52, WIDENING OF HIGHWAYS AND STREETS WITH NEW NUMBER 24-53; BY ADDING NEW SECTION 24-52, STATEMENT OF INTENT; BY RENUMBERING SECTION 24-53, MINIMUM OFF-STREET PARKING WITH NEW NUMBER 24-54; BY ADDING SECTION 24-55, GENERAL PROVISIONS; BY ADDING SECTION 24-56, HANDICAP PARKING; BY ADDING SECTION 24-57, PARKING LOT DESIGN; BY ADDING SECTION 24-58, SPECIAL PROVISIONS FOR BUS PARKING; BY ADDING SECTION 24-59, MINIMUM OFF-STREET PARKING REQUIREMENTS; BY ADDING SECTION 24-60, BICYCLE PARKING FACILITIES; BY RENUMBERING SECTION 24-54, OFF-STREET LOADING REQUIREMENTS WITH NEW NUMBER 24-61; BY RENUMBERING SECTION 24-55, PROVISIONS FOR PRIVATE STREETS IN QUALIFYING INDUSTRIAL PARKS WITH NEW NUMBER 24-62.

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 II, Special Regulations, Division 2, Highways, Streets, Parking and Loading, Section 24-52, Statement of Intent; Section 24-53, Widening of highways and streets; Section 24-54, Minimum off-street parking; Section 24-55, General provisions; Section 24-56, Handicap Parking; Section 24-57, Parking lot design; Section 24-58, Special provisions for bus parking; Section 24-59, Minimum off-street parking requirements; Section 24-60, Bicycle parking facilities; Section 24-61, Off-street loading requirements; and Section 24-62, Provisions for private streets in qualifying industrial parks.

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ARTICLE II. SPECIAL REGULATIONS

DIVISION 2. HIGHWAYS, STREETS, PARKING AND LOADING

Sec. 24-52. ~~Widening of highways and streets.~~ *Statement of intent*

This division seeks to effectively manage traffic flow and to provide for an adequate number of parking spaces for vehicles while creating and maintaining vehicle areas which are safe, attractive, and functional for pedestrians and motorists. The ordinance establishes minimum standards for parking and is intended to be flexible in order to reduce impervious surfaces, monetary costs, and improve the function and appearance of parking areas.

curbs or bumpers, or other improvements which do not affect the number of spaces or the areas of the site dedicated to landscaped open space.

(b) *Location of off-street parking.*

(1) Required off-street parking spaces shall be located on the same lot as the structure or use to which they are accessory or on a lot adjacent thereto which has the same zoning classification or a zoning classification that would allow the use that the parking will serve. The rights of use of any such adjacent property shall be secured by ownership, easement or similar recorded covenant or agreement approved as to form and content by the county attorney, in order to assure the permanent availability of such parking.

1. (2) Off-site parking spaces shall be permitted by the Development Review Committee (DRC) which are not located on the same property or use they serve, a special use permit on lots that are noncontiguous with the property or use they serve, provided they meet the criteria specified in this section. All such parking located on noncontiguous lots shall be easily and safely accessible to pedestrians. The rights of use of any such noncontiguous lots property and pedestrian walkways shall be provided for by ownership, easement or similar recorded covenant or agreement, approved as to form and content by the county attorney, in order to assure the permanent availability of such parking.

(c) *Types of vehicles permitted in parking spaces.* Off-street parking spaces shall be used solely for the parking of vehicles in operating condition by patrons, occupants or employees of the use to which such parking is accessory. Permanent storage of vehicles shall not be allowed. Storage of vehicles for sale shall not be allowed.

d. *Sec. 24-56. Handicap parking.* Parking spaces for the handicapped and any necessary curb cuts, ramps and accessible routes to the proposed use shall be provided in and from parking areas in conformance with the regulations issued by the U.S. Department of Justice pursuant to the Americans with Disabilities Act (ADA) (See 28 CFR Part 36, Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities).

(a) *Dimensions.* The required dimensions for parking spaces and aisles shall be in conformance with those provided in the following table.

<i>Dimensions for Handicap Parking</i>			
<i>Type of Handicap Space</i>	<i>Required Space Dimensions</i>	<i>Required Width of Adjacent Aisle</i> (Aisle shall be clearly marked)	<i>Minimum Number of Spaces Required</i>
<i>Standard</i>	<i>9' x 18'</i>	<i>5 feet</i>	<i>Refer to Sec. 24-56 (d)</i>
<i>Van Accessible</i>	<i>9' x 18'</i>	<i>8 feet</i>	<i>1 in every 8 required handicap accessible spaces shall be van-accessible, but not less than one (1).</i>

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No more than two spaces may share an aisle. Each aisle shall be headed by a curb cut or ramp, with a detectable warning, to allow unimpeded access to the use.

1. Except as required for van-accessible spaces, each handicapped space shall be nine feet wide with a clearly marked five-foot wide aisle next to it. Van-accessible spaces shall be nine feet wide with a clearly marked eight-foot wide aisle next to it. One in every eight handicapped accessible spaces, but not less than one, shall be designated van accessible.

No more than two spaces may share an aisle. Each aisle shall be headed by a curb cut or ramp, with a detectable warning, to allow unimpeded access to the use.

(b) Signage

- (1) Each space shall be headed with a sign clearly marking the space as handicapped (with the international symbol of accessibility). Such signs shall not exceed 1.5 square feet in area and shall be positioned so that the bottom edge of the sign is no less than four feet above grade and no more than seven feet above grade.

- (2) *All signs shall include the following language: "Penalty, \$100-\$500 Fine, TOW-AWAY ZONE." Such language may be placed on a separate sign and attached below existing above grade disabled parking signs, provided that the bottom edge of the attached sign is no lower than four feet above the parking surface.*

2. (c) **Location.** Location of handicapped spots shall be determined as follows. Such spaces shall generally be closest to the entrance to the building or use for which they are provided. The spaces shall be connected to the use by a paved walk with a grade not to exceed 1:20, no less than five feet wide, with curb cuts, ramps and detectable warnings where necessary, which shall allow unimpeded access to the use. When a ramp is required to provide an accessible route, it shall be constructed in conformance with ADA regulations.

3. (d) **Number of handicap spaces required.** The number of handicapped parking spaces shall be determined by the following chart:

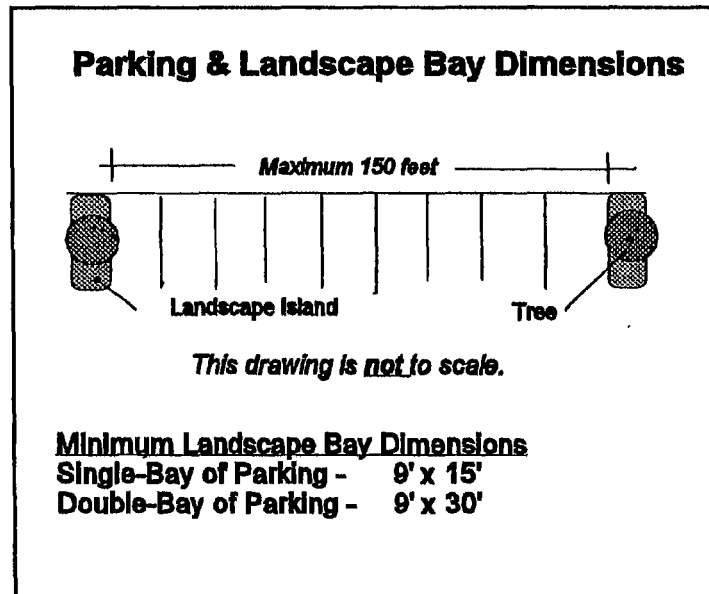
Total Off-Street Parking Required	Handicap Spaces Required
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8

401 to 500	9
501 to 1,000	2 percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

Sec. 24-57. Parking lot design.

Parking areas shall be arranged for functional efficiency and convenience and safety for both vehicles and pedestrians and shall be designed to be amenable to surrounding property. Parking areas, accessory or otherwise, shall comply with the following:

(a) **Dimensions of parking bays and required islands.** The parking lot shall be constructed so that spaces are grouped into bays. At the end of each bay, a landscape island of at least nine feet in width and 15 feet in length shall be built to separate the bays from each other or from traffic lanes. When the parking bays are in double rows of parking spaces, the landscape island shall be increased to nine feet in width and 30 feet in length. A parking bay may not be constructed to a length of more than 150 feet without constructing a landscape island. The director of planning director may approve islands which vary from nine-foot by 15-foot to nine-foot by 30-foot rectangles in order to provide desirable geometric design features such as rounded corners and angles to facilitate maneuvering of automobile traffic. However, in no case shall the total area of the island be decreased as a result of such design change.



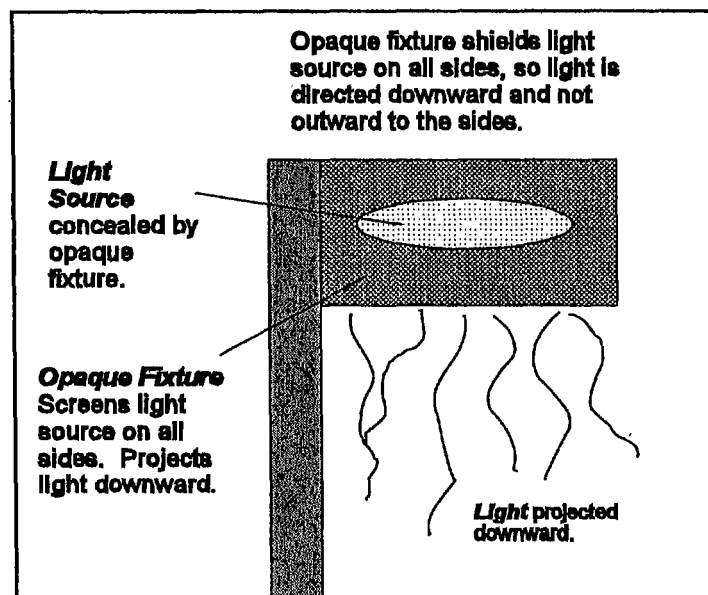
Protection of landscape areas and location of parking areas and drive aisles. All landscape areas adjacent to parking bays shall be protected from intrusion by vehicles by curbs or bumpers. Parking areas shall not be located within five feet of any building. Driveways shall not be located within five feet of any building except where vehicular access is necessary. The above-mentioned five-foot setback for parking areas

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and drives shall not be required for vehicle parking areas and drives (including those serving the parking area) located underneath a building or within a parking garage.

(3) *(c) Required lighting.*

- (1) Adequate lighting shall be provided if the uses which are served by the parking lot will be in operation at night.
- (2) The lighting in parking lots shall be directed so as not to produce glare on any adjacent property or public right-of-way and no lighting fixture shall exceed a height of 30 feet. Height of the light fixture shall be the distance from ground or finished grade level to the highest point of a luminary.
- (3) *The lighting in parking lots shall be directed so as not to produce glare on any adjacent property or public right-of-way.* Luminaries shall be mounted on light poles horizontally and shall be recessed fixtures with no bulb, lens or globe extending below the casing. *The casing shall be opaque and shall completely surround the entire light fixture and light source in such a manner that all light will be directed downward and the light source is not visible from the side (refer to the following graphic).* Plans detailing the illumination patterns (Iso-footcandle diagrams) and specific design of all lighting fixtures shall be submitted for review along with the site plan.



- a. (4) Upon application to the director of planning *director*, the applicant may request a waiver to allow for the height of the luminaries to be raised to a height in excess of 30 feet up to the height of the main structure on the property or a maximum of 60 feet above grade which ever is less. Such a waiver shall only be granted if the following conditions are met:
 1. a. The horizontal distance of the luminary from any public right-of-way or adjacent residential or agricultural property shall be at least four times the height of the luminary.

- 2-b The applicant shall demonstrate to the planning director that no glare will be shed upon adjacent properties and roadways by the placement of higher poles.

(4) (d) **Geometric standards.**

- (1) The design of the parking lot shall meet the minimum geometric standards presented in the following table:

Minimum Off-Street Parking Area Dimensions			
Angle of Parking (Degrees)	Direction of Traffic	Dimension of Stall (in feet)	Width of Aisle (in feet)
Parallel	One-Way	8 x 22	12
30	One-Way	9 x 18	14
45	One-Way	9 x 18	14
60	One-Way	9 x 18	18
90	Two-Way	9 x 18	24

- (2) Other parking angle and aisle dimensions other than those listed in the chart contained in (d) (1) above may be permitted by the planning director or his designee upon finding that they conform to commonly accepted engineer design standards and do not compromise the safety, appearance, or function of the parking area. In no case shall the stall dimensions for angle parking be less than nine feet by 18 feet.

- (3) The minimum aisle dimension of any parking lot designed to accommodate at least 500 vehicles and intended for long-term parking may be reduced by four feet, provided the lot is designed and marked for one-way traffic, the parking spaces form an angle of 80 degrees to 90 degrees with the aisle, each vehicle is individually guided to a parking space by an attendant, and the safety and effective operation of the lot has been clearly demonstrated.

For the purpose of this section, the phrase "long-term parking" shall mean parking the duration of which is on the average six hours or more.

- (5) (e) **Surface and drainage of parking areas.** Parking areas, driveways and entrances shall be surfaced with gravel, stone, asphalt or concrete and shall be maintained in good repair. Adequate drainage shall be provided in all parking areas for the removal of stormwater and a drainage plan shall be submitted with the site plan and approved by the director of code compliance ~~environmental director~~.

The use of grass pavers may be permitted in low-traffic areas (i.e. overflow parking for churches, special events, etc.) upon approval from the planning director, where it can be demonstrated that the vegetation will survive the amount of expected traffic.

- (6) (f) **Entrances to parking areas from public or private roads.** The location, size, and number of entrances from parking areas onto public or private roads shall be shown on the site plan. Upon finding that on-site traffic circulation, offsite traffic flow or public safety would be ~~impaired~~ or improved, the

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planning commission may require the location, number, and/or size of *proposed* entrances to be *modified*, limited, or increased.

(d) *Sec. 24-58. Special provisions for bus parking.*

If provided, bus parking areas shall be arranged for functional efficiency and convenience and shall be designed to be amenable to surrounding property. Bus parking areas, accessory or otherwise, are exempted from the requirements of *section 24-57* paragraph (c) above, but shall comply with the requirements of paragraph (b)(1) *section 24-55 (a)* and with the following:

(1) (a) *Site plan required.* Site plans, in accordance with article III of this chapter, shall be submitted for all new off-street parking areas for buses or for any additions to existing off-street parking areas for buses.

(2) (b) *Signs for bus parking only.* Parking areas to be used for bus parking shall be used for bus parking only. Signs shall be erected within the parking lot indicating those areas designated for bus parking only.

(3) (c) *Location.* No parking area for buses shall be located closer than 20 ~~30~~ feet to adjacent residential uses, hotels, motels, hospitals or institutes of human care and occupancy. *Upon finding that due to enhanced landscaping, the use of berms, or other site characteristics and/or improvements the bus parking area is sufficiently screened from the uses listed above, the planning director may reduce this buffer/setback requirement to a minimum of 20 feet.*

(4) — For perpendicular or angled parking, the minimum size of a bus parking space shall be 12 feet wide and 40 feet long. For parallel bus parking spaces, the minimum size shall be 12 feet wide by 50 feet long.

(d) *Dimensions.* The design of the bus parking lot shall meet the minimum geometric standards presented in the following table.

Minimum Off-Street Bus Parking Dimensions		
Type	Dimension of Stall (in feet)	Minimum Width of Aisle(s) (in feet)
Perpendicular or Angled Parking	12 x 40	24
Parallel Parking	12 x 50	24

The width of aisles within bus parking lots shall be determined by the turning radii necessary to safely maneuver into and out of the parking spaces, however, shall in no case be less than 24 feet wide.

(5) (a) *Entrances to parking areas.* The location, size and number of entrances from parking areas onto public or private roads shall be shown on the site plan. Upon finding that on-site traffic circulation, offsite traffic flow or public safety would be *impaired* or improved, the planning commission may require the location, number, and/or size of *proposed* entrances to be *modified*, limited, or increased.

(6) (f) *Surface and drainage of parking areas.* Bus parking areas shall be surfaced with gravel, stone, asphalt or concrete and shall be maintained in good repair. Adequate drainage shall be provided for

the removal of stormwater and a drainage plan shall be submitted with the site plan and approved by the county engineer ~~environmental director~~.

(7) (g) Adequate lighting shall be provided ~~in accordance with section 24-57(c)~~ if the uses which are served by the bus parking area will be in operation at night. The lighting shall be directed so as not to produce glare on any adjacent property or public right-of-way and no lighting fixture shall exceed a height of 30 feet. Luminaries shall be mounted on light poles horizontally and shall be recessed fixtures with no bulb, lens or globe extending below the casing. Plans detailing the illumination patterns (iso-footcandle diagrams) and specific design of all lighting fixtures shall be submitted for review along with the site plan.

a. Upon application to the director of planning, the applicant may request a waiver to allow for the height of the luminaries to be raised to a height in excess of 30 feet up to the height of the main structure on the property or a maximum of 60 feet above grade whichever is less. Such a waiver shall only be granted if the following conditions are met:

1. The horizontal distance of the luminary from any public right-of-way or adjacent residential or agricultural property shall be at least four times the height of the luminary.
2. The applicant shall demonstrate to the planning director that no glare will be shed upon adjacent properties and roadways by the placement of higher poles.

(c) ~~Sec. 24-59~~ Minimum off-street parking requirements:

(1) (a) Residential uses.

(1) Minimum number of resident parking spaces. The minimum number of off-street parking spaces ~~required for residential uses is provided in the following table~~ shall be two spaces per single-family residential unit, three spaces per single-family dwelling with an accessory apartment, two spaces per townhouse dwelling unit and two spaces per manufactured home. Other residential uses shall provide 1½ spaces per residential unit. Spaces in accessory garages conforming to the size and area requirements for parking spaces and having suitable ingress and egress shall be counted towards the required minimum number of parking spaces for each dwelling.

Type of Residential Unit	Minimum Number of Spaces Required
Single-Family Unit	2
Single-Family Unit with an accessory apartment	3
Townhouse Unit	2.5
1-Bedroom Apartment	1.5
2 or more Bedroom Apartment	2.2
Manufactured Home	2
Other Residential Units	1.5

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Spaces in garages shall be counted towards the required minimum number of parking spaces for each dwelling. The parking space within the garage shall be large enough to provide an adequate parking space for a full size automobile and necessary space for ingress and egress out of the vehicle as determined by the zoning administrator. Building plans shall be submitted that demonstrate the adequacy of the garage(s) for accommodating parking, adequate ingress and egress out of the vehicle, and interior access to the residential unit.

(2) (b) *Commercial uses.* Commercial and institutional uses shall be divided into various categories according to the parking demand which they generate, as follows:

Category A - High demand. High parking demand generators shall provide one parking space per 200 square feet of retail and/or office floor area, to include:

- All other commercial uses not specified in Category B or C below.
- Arcades.
- Dance Halls/Clubs.
- Drug stores.
- Laundries and dry cleaners.
- Libraries.
- Lodges, civic clubs, fraternal organizations, service clubs, and private clubs.
- Post offices.
- Public billiard parlors and pool rooms.
- Retail stores, general.
- Retail food stores, bakeries and fish markets.
- Retail and service stores, including: antiques, arts and crafts, books, candy, coin, dressmaking, duplicating services, florist, florier, garden supply, gift shops, greeting card, handicrafts, hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, novelty, office supply, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.

Category B - Moderate demand. Moderate parking demand generators shall provide one parking space per 250 square feet of retail and/or office floor area, to include:

- Banks and financial institutions.
- Corporate, business, and professional offices.
- Lumber and building supply.
- Machinery sales and service.
- Photography studios and sales and artist and sculptor studios.
- Plumbing and electrical supply.
- Tire, transmission, glass, body and fender, and other automotive product sales and service.

Category C - Uses with unique requirements.

- (1) *Bowling alleys.* Three spaces per alley plus one space for every 200 square feet of accessory business use.

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- (2) Barber shops and beauty shops. At least three spaces plus two spaces for every barber or beautician chair.
- (3) Furniture and carpet stores and/or show rooms. One space for every 400 square feet of retail floor area.
- (4) Hospitals. Two parking spaces for every bed.
- (5) Indoor vehicular sales show rooms. One space for every 400 square feet of retail floor area.
- (6) Medical office/clinic (reference (18) below for Veterinary Hospitals). Seven spaces per practitioner, or one space per 250 square feet, whichever is greater.
- (7) Mini-storage warehouses. One space per 100 units, plus two spaces per on-site caretaker residence.
- (8) Mortuaries and funeral homes. The applicant shall provide a rationale justifying the number of parking spaces provided. The rationale should cite commonly accepted industry standards, provide information on peak parking demands, shared parking opportunities, hours of operation, and other variables which would influence the number of parking spaces provided on-site. The planning director shall review and approve the number of parking spaces provided prior to final site plan approval.
- (9) Motels, hotels, and tourist homes. One space per rental unit plus four parking spaces for every 50 rental units plus one space per five persons to the maximum capacity of each public meeting and/or banquet room. Accessory uses (restaurants, bars, etc.) shall provide the number of parking spaces required for those uses individually.
- (10) Nursing homes or convalescent homes. One space for every four residents, plus one parking space for each employee on the largest shift.
- (11) Outdoor retail sales/display areas. At least one space per 500 square feet of area.
- (12) Outlet malls. Five spaces per 1,000 square feet.
- (13) Planned shopping centers, excluding outlet malls, with four or more stores using a common parking lot, shall provide parking spaces according to the following schedule:

Total Retail Floor Area per 1,000 square feet	Number of Spaces per 1,000 square feet
1 to 300,000	4
Over 300,000	4.5

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Where a theater is proposed in conjunction with any shopping center which contains at least 60,000-square feet of retail floor area, the number of parking spaces required for the theater may be reduced by 25 percent of what would have been required under subsection (17) below.

(14) *Recreation facilities.* For recreation facilities not listed herein, the applicant shall provide a rationale justifying the number of parking spaces provided. The rationale should cite commonly accepted national park and recreation standards, provide information on peak parking demands, shared parking opportunities, hours of operation, and other variables which would influence the number of parking spaces provided on-site. The planning director shall review and approve the number of parking spaces provided prior to final site plan approval.

(15) *Rental of rooms.* Rental of rooms to a maximum of three rooms shall provide off-street parking totaling one more parking space than the total number of rooms to be rented.

(16) *Restaurants.* One space for every four seats based upon the maximum seating capacity allowed.

(17) *Theaters, auditoriums, and places of public assembly.* One parking space per five seats based upon the planned seating capacity. For uses with bench seating, each 24 inches of bench shall be counted as one seat. In calculating the number of seats, all resulting fractions shall be rounded up to the nearest whole number.

(18) *Veterinary hospital.* Three spaces per examination or treatment room, plus one space per employee on the largest shift.

Category A. High parking demand generators shall provide one parking space per 200 square feet of retail and/or office floor area, to include:

Antique, novelty, arts and crafts, and gift shops.

Drug stores.

General retail stores.

Laundries and dry cleaners.

Libraries and post offices.

Lodges, civic clubs, fraternal organizations, service clubs, public billiard parlors, arcades, pool rooms, dance halls and private clubs.

Plants and garden supply, hardware and paint, and home appliance sales and service.

Retail food stores, bakeries and fish markets.

Wearing apparel, shoes, yard goods, toys, music and records, tailors, dressmakers, candy, ice cream, florists, furriers, locksmiths, pets, picture framing, stamp and coin, travel bureaus, tobacco and pipes, jewelry sales and service, books, greeting cards and sporting goods stores.

All other commercial uses not specified in Category B or C below.

Category B. Moderate parking demand generators shall provide one parking space per 250 square feet of retail and/or office floor area, to include:

Banks and financial institutions.

Corporate, business and professional offices:
Lumber and building supply:
Machinery sales and service:
Photography studios and sales and artist and sculptor studios:
Plumbing and electrical supply:
Tire, transmission, glass, body and fender, and other automotive product sales and service:

Category C. Uses with unique requirements:

- a. ~~Motels, hotels and tourist homes shall have one parking space per rental unit plus four parking spaces for every 50 rental units plus one parking space per five persons to the maximum capacity of each public meeting and/or banquet room. Accessory uses (restaurants, bars, etc.) shall provide the number of parking spaces required for those uses individually.~~
- b. ~~Theaters, auditoriums and places of public assembly shall have one parking space per five seats based upon the planned seating capacity. For uses with bench seating, each 24 inches of bench shall be counted as one seat. In calculating the number of seats, all resulting fractions shall be rounded up to the nearest whole number.~~
- c. ~~Hospitals shall provide at least two parking spaces for every bed. Nursing homes or convalescent facilities shall provide one parking space for every three beds, plus one parking space for each employee on the largest shift.~~
- d. ~~Outdoor retail sales/display areas shall provide at least one parking space per .500 square feet of area.~~
- e. ~~Bowling alleys shall have three parking spaces per alley plus one space for every 200 square feet of accessory business use.~~
- f. ~~Barber shops and beauty shops shall have at least three spaces plus two spaces for every barber or beautician chair.~~
- g. ~~Planned shopping centers, with four or more stores using a common parking lot, shall provide parking spaces according to the following schedule:~~

Total Retail Floor Area per 1,000 Square Feet	Number of Spaces per 1,000 Square Feet
1-100,000	4
100,001-300,000	5
Over 300,000	5.5

~~Where a theater is proposed in conjunction with any shopping center which contains at least 60,000 square feet of retail floor area, the number of parking spaces required for the theater may be reduced by 25 percent of what would have been required under subsection b. above.~~

- h. ~~Medical and dental clinics shall provide at least three parking spaces for each doctor or dentist having offices in such clinic.~~
- i. ~~Mortuaries and funeral homes shall provide at least 30 parking spaces.~~
- j. ~~Furniture stores, carpet show rooms and indoor vehicular sales show rooms shall have one parking space for every 400 square feet of retail floor area.~~
- k. ~~Restaurants shall have one parking space for every four seats based upon the maximum seating capacity allowed.~~

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1. ~~Rental of rooms to a maximum of three rooms shall provide off-street parking totaling one more parking space than the total number of rooms to be rented.~~

(3) ~~(c)~~ *Industrial uses.* Industries, warehouses and wholesale establishments not selling directly to the public shall provide a minimum of one parking space per two employees on the largest shift.

(4) ~~(d)~~ *All other uses - Planning director determination.* Where the required number of parking spaces is not set forth for a particular use in the preceding subsections, where the applicant is uncertain as to final use or size of the structure or where there is no similar general type of use listed, the director of planning ~~director~~ shall determine the number of spaces to be provided.

~~(e) Shared parking. Shared use of required parking spaces may be permitted where two or more uses on the same or separate sites are able to share the same parking spaces because their parking demands occur at different times. The location of such shared parking area(s) shall also be in compliance with section 24-55 (b). Shared use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the planning director as part of the site plan review.~~

~~(1) The names and addresses of the uses and of the owners or tenants that are sharing the parking;~~

~~(2) The location and number of parking spaces that are being shared;~~

~~(3) An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses; and~~

~~(4) A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses and perpetual maintenance of the shared parking facilities. The rights of use of any such lots and pedestrian walkways shall be provided for by ownership, easement or similar recorded covenant or agreement, approved as to form and content by the county attorney, in order to assure the permanent availability of such parking.~~

~~(f) Mass or alternate transportation plans.~~

~~(1) The minimum number of required parking spaces may be reduced upon the approval of a mass transportation or alternate transportation plan, which details arrangements for the mass or alternate transit of potential visitors to the site, including residents, employees, and customers. The plan shall also demonstrate that facilities exist or will be provided to accommodate the safe loading and unloading of mass transit passengers. A facility which provides a safe and comfortable waiting area for passengers shall also be provided.~~

~~Such plans shall be subject to the review and approval of the planning director and transit manager prior to the reduction of the number of required parking spaces.~~

~~(2) Each lot for which the minimum number of parking spaces has been reduced shall show a reserve area sufficient in size to accommodate the number of parking spaces which were not required to be constructed.~~

(3) Every approved mass transportation or alternate transportation plan shall be reviewed by the planning director and transit manager every two years. The purpose of the review is to ascertain whether the plan has the effect of significantly reducing the automobile traffic to and from the site, and whether the reduced number of parking spaces is sufficient to accommodate the automobile traffic to the site. The planning director and the transit manager shall make a determination to this effect.

(4) In the event that the planning director and transit manager determine that an approved mass transportation plan or alternate transportation plan has not had the effect of significantly reducing automobile traffic to a site, and that the reduced number of parking spaces is not sufficient to accommodate the automobile traffic to a site, the owner shall construct the number of parking spaces necessary to meet the minimum required under this ordinance.

(5) (g) Appeals and waivers:

- a. (1) Appeals. A property owner may appeal for a change of a commercial use from Category A to Category B or a less restrictive requirement within Category C; however, the burden of proof shall be upon the applicant to show that the particular activity will not reasonably generate parking demand sufficient to justify the parking requirement of its present classification. Appeals for changes to different parking classifications shall be made to the planning commission.
- b. (2) Waivers. A property owner may be granted a waiver by the planning commission from the minimum off-street parking requirements if it can be shown that due to unique circumstances a particular activity would not reasonably be expected to generate parking demand sufficient to justify the parking requirement. Any waiver granted by the planning commission shall apply only to the number of spaces required and shall not allow a greater building area than would have been possible had the original parking requirement been enforced. The planning commission may place conditions upon the granting of a waiver and may require that the parking area not required upon the granting of the waiver be landscaped in addition to the minimum landscaping requirements.

Sec. 24-60. Bicycle parking facilities.

Bicycle parking facilities shall be provided for all retail and office development 20,000 square feet in floor area and above. The facilities shall be permanently affixed to the ground and shall be provided in accordance with the following schedule:

Required Bicycle Parking	
Building Square Footage	Number of Facilities and Parking Spaces
20,000 to 50,000	1 facility with a minimum of five (5) parking spaces.
50,001 to 200,000	2 facilities with a minimum of five (5) parking spaces per facility.
200,001 or more	3 facilities with a minimum of five (5) parking spaces per facility.

Ordinance to Amend and Reordain
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Sec. 24-546. Off-street loading requirements.

On the same premises with every building, structure or part thereof erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for standing, turning, loading and unloading services. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirement, nor shall the space for loading and unloading of vehicles be so located that a vehicle using such loading space projects into any public or private street or alley or driving aisle required for circulation within a parking lot.

Such loading and unloading space shall:

- (1) Be an area ten feet by 50 feet, with 15-foot height clearance; and
- (2) Be provided according to the following schedule:

<i>Off-Street Loading - Minimum Space Requirements</i>	
Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in terms of square feet of gross floor area (GFA)
5,001 to 30,000	1 space
30,001 to 150,000	1 space plus 1 space for each 30,000 square feet
150,001 to 750,000	5 spaces plus 1 space for each 60,000 square feet in excess of 150,000 square feet
Over 750,000	15 spaces plus 1 space for each 120,000 square feet

For the above uses, with gross floor areas of 2,000 to 5,000 square feet, one loading and unloading space measuring ten feet by 30 feet, with 15-foot height clearance, shall be provided.

Sec. 24-556. Provisions for private streets in qualifying industrial parks.

(a) Private streets may be permitted within qualifying industrial parks upon approval of the board of supervisors. Such approval shall be requested in writing through the planning division. The request shall include a traffic impact study and square footage estimates for the proposed industrial park. The traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director. The traffic impact study shall address projected traffic generation; internal road needs including, but not limited to, circulation and capacity; external traffic; turning movements and distribution at each access point; traffic distribution; capacity of surrounding roads; and road and access improvements. Private streets shall be coordinated with existing or planned streets on the approved master plan of development and the county comprehensive plan. Private streets shown on the final plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.

The construction of streets, whether public or private, shall be guaranteed prior to construction by appropriate surety, letter of credit, cash escrow, or other form of guarantee approved by the county attorney.

(a) ~~(b)~~ A "qualifying industrial park" shall be defined as an industrial and/or business park that has an actual or planned size of at least 1,000,000 square feet. The "Qualifying Industrial Park Square Footage Adjustments" shall be applied, to determine the qualifying industrial park square footage in order to determine whether the qualifying threshold can or would be reached. Qualifying square footage is computed by multiplying the existing or planned total square footage by the square footage credit listed below: *in the following chart:*

QUALIFYING INDUSTRIAL PARK SQUARE FOOTAGE
ADJUSTMENTS

Use	Square Footage Credit
Existing industrial/office/warehouse development	1
Other Permitted Development	0.75
Planned industrial/office/warehouse development	0.75
Other Permitted Development	0.5

The planned development adjustments listed above shall be applied to undeveloped property zoned Mixed-Use, MU; Limited Business/Industrial District, M-1; General Industrial District, M-2; Limited Industrial District, M-3 ~~Research and Technology District, RT~~; and Planned Unit Development and allows nonindustrial/office and/or nonwarehouse activity to occur based on master plan projections which have been approved by the board of supervisors. For undeveloped property not subject to a binding master plan the square footage shall be determined by multiplying 0.75 by 25 percent of the net-developable area of the project.

If an industrial/office/warehouse development is proffered exclusively, the existing development adjustments listed above may be applied upon examination of the proffers.

~~(b) Private streets may be permitted within qualifying industrial parks upon approval of the board of supervisors. Such approval shall be requested in writing through the planning division. The request shall include a traffic impact study and square footage estimates for the proposed industrial park. The traffic impact study shall be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director. The traffic impact study shall address projected traffic generation; internal road needs including, but not limited to, circulation and capacity; external traffic; turning movements and distribution at each access point; traffic distribution; capacity of surrounding roads; and road and access improvements. Private streets shall be coordinated with existing or planned streets on the approved master plan of development and the county Comprehensive Plan. Private streets shown on the final plan shall meet the requirements of the Virginia Department of Transportation, except as specified in paragraph (d) below.~~

~~The construction of streets, whether public or private, shall be guaranteed prior to construction by appropriate surety, letter of credit, cash escrow or other form of guarantee approved by the county attorney.~~

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(c) To the extent streets are private rather than public, the applicant shall also submit assurances satisfactory to the planing commission ~~count attorney~~ that a property owner's community association or similar organization has been legally established under which the lots within the area of the final plan shall be assessed the cost of maintaining the private streets, and that if assessments are not paid, it shall constitute a pro rata lien upon the individual lots shown on the final plan.

(d) The uniqueness of each proposal for a qualifying industrial park requires that the specifications for the width, surfacing, construction and geometric design of streets, alleys, ways for public utilities and the specifications for curbs, entrances, gutters, sidewalks, street lights and stormwater drainage be subject to modification from the specifications established in chapter 19. The planning commission may, therefore, within the limits hereinafter specified, waive or modify the specifications otherwise applicable for a particular facility when the planning commission finds that such specifications are not required in the best interests of the occupants, workers or customers of the businesses located within a qualifying industrial park and that the modifications of such specifications are not inconsistent with the interests of the county.


It shall be the responsibility of the applicant to demonstrate to the satisfaction of the planning commission with respect to any requested waiver or modification that:


- (1) The waiver or modification shall result in design and construction that is in accordance with accepted engineering standards;
- (2) The waiver or modification is reasonable because of the uniqueness of the qualifying industrial park or because of the large area of the qualifying industrial park within which the design and construction will be coordinated, preplanned and controlled;
- (3) Any waiver or modification pertaining to streets is reasonable with respect to the generation of vehicular traffic that is estimated to occur within the area of the qualifying industrial park;
- (4) Any waiver or modification pertaining to sidewalks is justified on the basis of anticipated pedestrian traffic or because other provisions are made for pedestrian traffic; and
- (5) Traffic lanes of streets are sufficiently wide to carry the anticipated volume and speed of traffic and in no case shall two lane roadways be less than 20 feet wide.

~~Secs. 24-5661~~ - 24-64. Reserved.

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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 13th day of July, 1999.

revpark.wpd

ADOPTED

JUL 13 1999

ORDINANCE NO. 16A-22

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 12, LICENSES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 12-9, PENALTIES FOR NONPAYMENT OF LICENSE TAX.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 12, Licenses, is hereby amended and reordained by amending Article I, In General, Section 12-9, Penalties for nonpayment of license tax.

Chapter 12. Licenses

Article I. In General

Sec. 12-9. Penalties for nonpayment of license tax.

(a) Any person conducting any business, occupation or profession, or doing other things for which a license tax is required under this chapter, without applying for and obtaining such license as set forth in section 12-5, or who shall fail to obtain any tag, certificate or sign required under this chapter, shall be subject to a fine of not less than \$25.00 nor more than \$300.00, and each day of default shall constitute a separate offense. Such conviction shall not relieve any such person from the payment of any license tax imposed by this chapter.

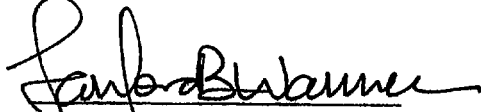
(b) In addition to the above fine, if any license tax imposed by this chapter is not paid within the time prescribed in section 12-5, there shall be added to such license tax a penalty of ten percent or \$10.00 whichever shall be the greater; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition thereto,

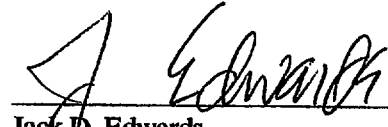
Ordinance to Amend and Reordain
Chapter 12. Licenses
Page 2

interest in the amount of eight ~~ten~~ percent per annum shall commence 30 days following the date on which such tax is due ~~the first day of the month following the month in which such tax is due.~~

(c) In the case of a false or fraudulent application where willful intent exists, a penalty of 50 percent of the amount of the proper tax shall be assessed.

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
MCLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 13th day of July, 1999.

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ADOPTED²⁰⁷

JUL 18 1999

ORDINANCE NO. 107A-30

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE III, PERSONAL PROPERTY TAX, SECTION 20-13.2, PERSONAL PROPERTY TAX ON MOTOR VEHICLES AND TRAILERS; PRORATION THEREOF.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation is hereby amended and reordained by amending Section 20-13.2, Personal property tax on motor vehicles and trailers; proration thereof.

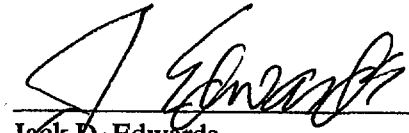
Chapter 20. Taxation

Article III. Personal Property Tax

Sec. 20-13.2. Personal property tax on motor vehicles and trailers; proration thereof.


(c) Any person who fails to pay personal property taxes on or before the date due shall incur a penalty of ten percent of the tax due, or \$10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. Said sum shall become part of the taxes due. Interest at the rate of eight ~~ten~~ percent per annum from the first day following the day such taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

Ordinance to Amend and Reordain
Chapter 20. Taxation
Page 2



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 13th day of July,
1999.

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