

ADOPTED

FEB 18 1992

ORDINANCE NO. 31A-137

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

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

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

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

Chapter 20. Zoning

Article IX. Residential Cluster Development

Section 20-499. Statement of Intent.

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

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

Section 20-500. Residential Cluster Development Defined.

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

Section 20-501. Where Permitted.

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

Section 20-503. Permitted Uses.

Uses permitted in a residential cluster development shall be the same as those permitted in the zoning district in which the residential cluster development is located. ~~except that structures containing three or more dwelling units shall not be permitted in a residential cluster development.~~

~~Two family dwellings shall be permitted with a Special Use Permit in a residential cluster development in the R-2 district.~~ In the event that the individual units within a ~~two family~~ *attached* dwellings are proposed to be sold as separate living units, a ~~two family lot~~ *the attached dwelling* may be divided ~~along the common wall separating the units~~ to permit separate deed descriptions for conveyance purposes. *A limited amount of commercial development will be allowed within residential clusters as permitted in the zoning district in which the development is located. Commercial uses shall be shown on the Master Plan and be consistent with the Comprehensive Plan.*

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

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

Section 20-507. Yard Regulations.

The rear and side yards may be reduced to zero provided that easements or covenants establish the rights of two abutting properties where main buildings are to be constructed on or within five feet of a property line. Such easements or covenants shall establish the rights of each affected owner to gain access to each owner's building for purposes of essential maintenance and service. Reductions of rear or side yards made under this provision shall also be subject to the following conditions:

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

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

Section 20-508. Density.

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

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

Comprehensive Plan

Gross Density

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

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

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

GROSS ACREAGE

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

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

Section 20-509. Density Bonuses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 20-511. Amount of Open Space Required.

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

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

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

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

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

Section 20-512. Ownership of Open Space.

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

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

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

Section 20-513. Review and Approval Process

(a) Review Required.

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

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

2. The cluster development will not impair the character of the area ~~nor likely reduce the value of surrounding buildings or property~~ or create unacceptable adverse off-site infrastructure impacts; and
3. The proposed project is ~~substantially~~ in accordance with the Comprehensive Plan of James City County.

(b) *Master Plan of Development.*

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

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

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

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

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

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

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

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

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

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

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

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

(f) *Master Plan - Agreement.*

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

(g) *Sectional Plans - Action.*

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

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

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

~~(a) Review Required.~~

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

~~(b) Plan of Development.~~

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

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

4. ~~The boundaries of each section, topography, approximate location of proposed streets, proposed areas and uses of open space, proposed recreation areas, proposed lots and or buildings.~~
5. ~~Marginal data which shows the total area of the site, the net developable area, the proposed facilities qualifying for density bonuses, the total number of dwelling units and or lots, the number of bonus units and or lots, the minimum amount of open space required by Section 20-511(a), and the total amount of open space.~~
6. ~~Master water, sewer and drainage plans and schematic plans which shall indicate the phasing of development.~~

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

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

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

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

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

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

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

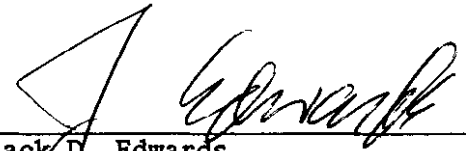
~~(f) Sectional Plans, Plan of Development Review Fees.~~

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

~~(g) Sectional Plans—Action.~~

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

Section 20-515 - Section 20-523. Reserved



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

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

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

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