

**ADOPTED**

SEP 11 2012

Board of Supervisors  
James City County, VA

ORDINANCE NO. 31A-276

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS, DIVISION 15, MIXED USE, MU, BY AMENDING SECTION 24-514, STATEMENT OF INTENT; SECTION 24-515, DOCUMENTS REQUIRED FOR SUBMISSION; BY DELETING SECTION 24-516, MASTER PLAN ADMINISTRATIVE REVIEW FEES; SECTION 24-517, PROCEDURES; BY AMENDING AND RENUMBERING SECTION 24-518, DEVELOPMENT PLANS WITH NEW NUMBER 24-516; BY DELETING SECTION 24-519, ADDITION OF LAND TO AN EXISTING MIXED USE DEVELOPMENT; BY AMENDING AND RENUMBERING SECTION 24-520, MINIMUM AREA OF DISTRICTS WITH NEW NUMBER 24-517; BY AMENDING, RENAMING AND RENUMBERING SECTION 24-521, PERMITTED USES WITH NEW NUMBER AND NAME, 24-518, USE LIST; BY DELETING SECTION 24-522, USES PERMITTED BY SPECIAL USE PERMIT ONLY; BY AMENDING AND RENUMBERING SECTION 24-523, DENSITY WITH NEW NUMBER 24-519; SECTION 24-524, OPEN SPACE WITH NEW NUMBER 24-520; BY RENUMBERING SECTION 24-525, HEIGHT OF STRUCTURES WITH NEW NUMBER 24-521; BY AMENDING AND RENUMBERING SECTION 24-526, REQUIREMENTS FOR IMPROVEMENTS AND DESIGN WITH NEW NUMBER 24-522; BY AMENDING, RENAMING AND RENUMBERING SECTION 24-527, SETBACK REQUIREMENTS WITH NEW NUMBER AND NAME 24-523, SETBACK AND BUFFER REQUIREMENTS; BY RENUMBERING SECTION 24-528, STREET IMPROVEMENTS WITH NEW NUMBER 24-524; AND BY RESERVING SECTION 24-525 THROUGH 24-534.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 24, Zoning, Article V, District 15, is hereby amended and reordained by amending Section 24-514, Statement of intent; Section 24-515, Documents required for submission; Section 24-516, Development plans; Section 24-517, Minimum area of districts; Section 24-518, Use list; Section 24-519, Density; Section 24-520, Open space; Section 24-521, Height of structures; Section 24-522, Requirements for improvements and design; Section 24-523, Setback and buffer requirements; Section 24-524, Street improvements; and by reserving Sections 24-525 through 24-534.

## Chapter 24

### ARTICLE V. DISTRICTS

#### DIVISION 15. MIXED USE, MU

##### Sec. 24-514. Statement of intent.

(a) The purpose of the mixed use district is to promote a broad spectrum of land uses in more intensive developments on lands designated mixed use by the Comprehensive Plan. The ~~mMixed uUse dDistrict~~ *MU*, is designed to:

- (1) Promote a multiuse master-planned community which may include residential, commercial, industrial (with a ~~predominant~~ focus on light industrial), office and other nonresidential uses;
- (2) Provide flexibility, unity and diversity in land planning and development resulting in convenient and harmonious groupings of uses, structures and common facilities; varied type, design and layout of residential, employment and social centers; and appropriate relationships of open spaces to intended uses and structures which include attractive and usable open space linked by pedestrian walkways and/or bicycle paths;
- (3) Reduce commuter ~~driver~~ *driving* demands on highways and roads by concentrating employment, housing and recreation opportunities in locations served by, or convenient to, public transportation; and
- (4) Permit densities and intensities of development in excess of those normally permitted in customary residential and commercial zoning districts.

(b) This shall be accomplished by providing for the development and/or redevelopment of a variety of land uses *and structures* within the ~~mMixed uUse dDistrict~~ *MU*, ~~and in structures within the Mixed Use District~~ in accordance with the uses generally described in the Comprehensive Plan for areas designated mixed use. The ~~mMixed uUse dDistrict~~ *MU*, is the preferred ~~Zzoning Ddistrict~~ for development within those areas designated ~~Mmixed Uuse~~ in the Comprehensive Plan.

##### Sec. 24-515. Documents required for submission.

(a) *Required documents.* The applicant shall submit ~~the following documents~~ *documents in accordance with section 24-23* to the planning director ~~for submission to the planning commission; prior to any rezoning or special use permit application consideration by the planning commission.~~

- (1) ~~Application for rezoning.~~
- (2) ~~Traffic impact study for any development containing a use or combination of uses which generates, or would be expected to generate, 150 or more additional trips per day to and from the site during peak hour of operation based on the application of the Institute of Transportation Engineers (ITE) traffic generation rates contained in the latest edition of their book entitled Trip Generation. The traffic impact study shall address projected traffic generation, internal and external traffic, turning movements and distribution at each access point, traffic distribution, capacity of surrounding roads, and roads and access improvements. The traffic impact study shall~~

~~conform to the standards of the Virginia Department of Transportation and be prepared by an individual or firm qualified to conduct traffic engineering studies in a manner and form acceptable to the planning director.~~

- ~~(3) Master plan, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review. Master plans shall not be required as part of an application for rezoning a parcel when the proposed use for the parcel is a structure or combination of structures whose total floor area is less than 20,000 square feet.~~

~~The planning director may waive the master plan submittal requirement for a proposed development consisting of a single use structure if the applicant can demonstrate that a master plan would not be beneficial to a review of the impacts associated with the proposed development.~~

- ~~(4) Community impact statement, for any Mixed Use development containing 50 or more acres or comprising 200 or more dwelling units, 30 copies, ten submitted with application for rezoning with balance of required copies submitted at the request of staff in preparation for planning commission review.~~

~~(b) Master plan. The master plan shall be prepared by a licensed surveyor, engineer, architect, landscape architect or planner. A scale may be used so that the entire parcel can be shown on one piece of paper no larger than 36 inches by 48 inches. The master plan shall include:~~

- ~~(1) An inset map at a scale of not less than one inch to one mile (1" = 1 mile), showing the property in relation to surrounding roads, subdivisions or major landmarks.~~
- ~~(2) A north arrow.~~
- ~~(3) The location of existing property lines, watercourses or lakes, wooded areas and existing roads which are within, adjoin or provide access to the property.~~
- ~~(4) The approximate boundaries of each section, land use or density, the approximate location of proposed streets and right of ways with an indication of whether public or private; the approximate location of recreation areas and common open space areas; and all areas proposed for dedication to public use within the project.~~

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

<u>Area</u>	<u>Type of Development</u>
A	Single family dwelling units
B	Attached structures containing two to four dwelling units
C	Attached structures less than three stories and containing more than four dwelling units
D	Attached structures of three or more stories and containing more than four dwelling units
E	Commercial uses
F	Wholesale and warehouse uses

<del>G</del>	<del>Office Uses</del>
<del>H</del>	<del>Industrial uses</del>
<del>I</del>	<del>Institutional or public uses</del>
<del>J</del>	<del>Areas of common open space, with recreation areas</del>
noted	
M*	Structures containing a mixture of uses
X	Other structures, facilities or amenities

~~\*Areas of a master plan designated M (structures containing a mixture of uses) shall indicate in parenthesis, following the M designation, the appropriate letter designations of the types of uses contained within the structure (e.g., M (CG)) in the order of their proportion in the mixed use structure.~~

- (51) Where applicable, the master plan shall contain a table which shows, for each section or area of different uses, the following:
- The use;
  - ~~Approximate development~~ *Construction* phasing;
  - Maximum number of dwelling units and density for residential areas;
  - Maximum square feet of floor space for commercial, office or industrial areas;
  - Maximum square feet of floor space and percentage mix of floor space of each use for those structures containing a mixture of uses; and
  - Maximum acreage of each use.

The master plan shall depict and bind the approximate boundaries and general location of all principal land uses, structure square footage, number of dwelling units and densities, roads, rights-of-ways, accesses, open spaces, public uses and other features located or to be located on the site. ~~The master plan shall be reviewed and~~ Upon approval by the board of supervisors, *the master plan* shall become binding. Thereafter, all amendments to the master plan shall be in accordance with section 24-13 of this chapter. Approved development plans, provided for in section 24-518, shall supersede the master plan and conceptual or schematic plans.

(2) *Construction phasing. A project build-out schedule shall be submitted for review by the planning director, the planning commission and board of supervisors, in accordance with construction phasing guidelines adopted by the board of supervisors. The purpose of such phasing plan shall be to provide assurance to the board of supervisors that infrastructure improvements will be constructed in order to support the development intensities proposed. The project build-out schedule shall also provide assurances that the development will include both the proposed non-residential and residential elements at certain project milestones and/or at build-out.*

~~(e) Community impact statement. The community impact statement shall describe the probable effects of the proposed development upon the community. At a minimum, it shall address the following topics:~~

- ~~(1) Adequacy of existing public facilities and services to serve the development. Analysis shall be made of sewer, water, schools, fire stations and other major locally financed facilities;~~
- ~~(2) Additional on site and off site public facilities or services which would be required as a result of the development;~~
- ~~(3) Impact of construction and permanent changes in land use upon surrounding property, such as aesthetics, vegetation, stormwater drainage, noise and air or water pollution; and~~
- ~~(4) Employment opportunities to be generated by the development.~~

**~~Sec. 24-516. Master plan Administrative review fees.~~**

~~Submittal of a master plan and subsequent revisions proposed by the applicant to the planning commission shall be accompanied by a fee as specified in section 24-7.~~

**~~Sec. 24-517. Procedures.~~**

~~(a) Report of the planning director. The planning director may refer copies of the master plan and community impact statement to other local public officials for their comments and the planning director shall prepare a report with recommendations regarding the application. A copy of the report shall be sent to the applicant. When all materials necessary for application are complete and the application is deemed ready for planning commission review, the application, master plan, community impact statement and report of the planning director shall be placed on the agenda of the planning commission at its next regularly scheduled meeting.~~

~~The report of the planning director shall include, but not necessarily be limited to, the following:~~

- ~~(1) Evaluation of the proposed density and uses at the site in relation to the county's Comprehensive Plan;~~
- ~~(2) Evaluation and recommended changes in the design of land use, circulation and densities shown on the master plan of the property;~~
- ~~(3) Impact of the proposal on surrounding property and the environment; and~~
- ~~(4) Evaluation of the traffic impact study and community impact statement.~~

~~(b) Consideration by the planning commission and board of supervisors. The procedures for public hearing and consideration by the planning commission and board of supervisors shall be as set forth in section 24-13.~~

~~(c) Guarantees. The director of building safety and permits shall not issue any certificate of occupancy until the applicant has guaranteed the completion of public improvements, including, but not limited to, public roads and public water and public sewer facilities, shown on the approved development plan by providing either a letter of credit, certified check, cash escrow, cash payment or other surety, approved by the county attorney.~~

**Sec. 24-518 516. Development plans.**

(a) Development plans shall be submitted and reviewed in accordance with article III of this chapter or with the county's subdivision ordinance, whichever is applicable. Development plans may be submitted for review after approval of a master plan by the board of supervisors. All development plans shall be consistent with the master plan. Development plans may deviate from the master plan if the ~~planning commission director~~ concludes, ~~after reviewing written comments from the planning director,~~ that the plan does not significantly alter the character of land uses or other features or conflict with any conditions placed on the approval of rezoning. A conceptual plan may be submitted to ~~the planning commission~~ for this purpose in a form sufficient to illustrate the proposed deviations. If the ~~planning commission director~~ determines that a proposed change would significantly deviate from the approved master plan, the applicant may submit alternative proposed development plans or proceed with amendment of a master plan in accordance with section 24-13.

*(b) Appeals. In the event the planning director disapproves the items specified in section 24-516 (a) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.*

~~(b-c)~~ Documentation satisfactory to the county attorney for the maintenance of common open space, recreation areas, sidewalks, parking, private streets and other privately owned but common facilities serving the project shall be submitted as part of any application for development plan review.

**~~Sec. 24-519. Addition of land to an existing mixed use development.~~**

~~Additional land area zoned for mixed use may be added to an existing mixed use district if it is adjacent to (except parcels separated by a public or private right of way) and forms a logical addition to the original parcel. Up to three additions of land zoned Mixed Use to an existing mixed use district shall be permitted on approval of the development review committee, provided that the acreage of a single addition or sum of additions equal an amount less than or equal to 25 percent of the original development. In no case shall an addition or sum of additions be greater than 25 acres. Applications for more than three additions or an addition greater than 25 acres shall be considered as new applications and comply with the requirements of section 24-13.~~

**Sec. 24-520 517. Minimum area of districts.**

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

**~~Sec. 24-521 518. Permitted uses Use list.~~**

In the mixed use districts, all structures to be erected or land to be used shall be for one or more of the following uses:

~~(1) Residential uses:~~

~~Accessory structures, as defined in section 24-2.~~

~~Apartments.~~

~~Multiple family dwellings.~~

~~Single family dwellings.~~

~~Timbering in accordance with section 24 43.~~

~~Townhouses.~~

~~Two family dwellings.~~

~~Dwelling units, regardless of structure type, should be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities consistent with the intent of article VI, division 1, Residential Cluster Development.~~

~~(2) Nonresidential uses:~~

~~Accessory structures, as defined in section 24 2.~~

~~Adult day care centers.~~

~~Antique shops.~~

~~Arts and crafts shops.~~

~~Automobile rental.~~

~~Automobile repair and service including tire, transmission, glass, body and fender, and other automotive products sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing.~~

~~Automobile service stations; if fuel is sold, then in accordance with section 24 38.~~

~~Banks and other similar financial institutions.~~

~~Barber and beauty shops.~~

~~Business, professional and governmental offices.~~

~~Child day care centers.~~

~~Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations.~~

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

~~Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property.~~

~~Convenience stores; if fuel is sold, then in accordance with section 24-38.~~

~~Data processing centers.~~

~~Drug stores.~~

~~Dry cleaners and laundries.~~

~~Employment services or agencies.~~

~~Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled or other developmentally disabled persons for more than five persons.~~

~~Farmer's markets.~~

~~Feed, seed and farm supply stores.~~

~~Fire stations.~~

~~Fish farming.~~

~~Food processing and storage, but not the slaughter of animals.~~

~~Funeral homes, cemeteries and memorial gardens.~~

~~Gift stores.~~

~~Greenhouses and nurseries.~~

~~Group quarters for agricultural workers.~~

~~Handicrafts stores.~~

~~Health clubs, exercise clubs and fitness centers.~~

~~Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property.~~

~~Home care facilities.~~

~~Home occupations as defined.~~

~~Hospitals.~~

~~Hotels, motels, tourist homes and convention centers.~~



~~Houses of worship and cemeteries accessory hereto.~~

~~Indoor sport facilities.~~

~~Indoor theaters.~~

~~Industrial and technical training schools.~~

~~Janitorial service establishments.~~

~~Libraries.~~

~~Limousine service.~~

~~Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Machinery sales and service with major repair under cover.~~

~~Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps.~~

~~Manufacture and bottling of soft drinks and wine.~~

~~Manufacture and processing of textiles and textile products in structures of not more than 2,000 square feet.~~

~~Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of not more than 2,000 square feet~~

~~Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products.~~

~~Manufacture of carpets and carpet yarns in structures of not more than 2,000 square feet.~~

~~Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity.~~

~~Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment.~~

~~Manufacture or assembly of electronic instruments, electronic devices or electronic components.~~

~~Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments.~~

~~Nonemergency medical transport.~~

~~Nursing homes.~~

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

~~Office supply stores, secretarial and duplicating services.~~

~~Parking lots and garages.~~

~~Photographer, picture, artist and sculptor stores and studios.~~

~~Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

~~Post offices.~~

~~Printing and publishing establishments,~~

~~Private streets within "qualifying industrial parks" in accordance with section 24-55.~~

~~Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect.~~

~~Property maintenance facilities, sheds or garages.~~

~~Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement.~~

~~Public meeting halls.~~

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

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

~~Rest homes.~~

~~Restaurants, tea rooms and taverns.~~

~~Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods.~~

~~Retail food stores, bakeries and fish markets.~~

~~Security service offices.~~

~~Schools.~~

~~Taxi service.~~

~~Telephone exchanges and telephone switching stations.~~

~~Timbering in accordance with section 24-43.~~

~~Veterinary hospitals.~~

~~Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property.~~

~~Water impoundments, new or expansion of.~~

~~Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property.~~

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

**~~Sec. 24-522. Uses permitted by special use permit only.~~**

~~In the mixed use districts, all structures to be erected or land to be used for one or more of the following uses shall be permitted only after the issuance of a special use permit by the board of supervisors:~~

~~Campgrounds.~~

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

~~Fast food restaurants.~~

~~Flea markets.~~

~~Golf courses.~~

~~Heliports, helistops and accessory uses.~~

~~Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of 2,000 square feet and greater.~~

~~Manufactured home or mobile home sales.~~

~~Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38.~~

~~Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution under cover or screened with landscaping and fencing from adjacent property.~~

~~Museums.~~

~~Petroleum storage.~~

~~Publicly owned solid waste container sites.~~

~~Radio stations, television stations, transmission relay stations and communication towers.~~

~~Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are  
accessory to existing or proposed development adjacent to existing railroad right of ways and  
track and safety improvements in existing railroad right of ways are permitted generally and shall  
not require a special use permit.~~

~~Rental of more than three rooms in a single family dwelling unit.~~

~~Resource recovery facilities.~~

~~Shooting ranges, indoor.~~

~~Solid waste transfer stations.~~

~~Theme Parks.~~

~~Tower mounted wireless communication facilities in accordance with division 6, Wireless  
Communications Facilities.~~

~~Transmission pipelines (public or private), including pumping stations and accessory storage, for  
natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids  
or solids. However, extensions for private connections to existing pipelines, which are intended  
to serve an individual residential or commercial customer and which are accessory to existing or  
proposed development, are permitted generally and shall not require a special use permit.~~

~~Truck stop; if fuel is sold, then in accordance with section 24 38.~~

~~Truck terminals; if fuel is sold, then in accordance with section 24 38.~~

~~Vehicle and trailer sales and service (with major repair limited to a fully enclosed building).~~

~~Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment  
plants, pumping stations, storage facilities and transmission mains, wells and associated  
equipment such as pumps to be owned and operated by political jurisdictions. However, the  
following are permitted generally and shall not require a special use permit:~~

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

~~(b) Distribution lines and local facilities within a development, including pump stations.~~

~~Water well drilling establishments.~~

~~Wineries.~~

<i>Use Category</i>	<i>Use List</i>	<i>Permitted Uses</i>	<i>Specially Permitted Uses</i>
<i>Residential Uses</i>	<i>Accessory structures, as defined in section 24-2</i>	<i>P</i>	
	<b><i>Accessory apartments</i></b>	<b><i>P</i></b>	
	<i>Apartments</i>	<i>P</i>	
	<del><i>Family care homes, foster homes or group homes serving physically handicapped, mentally ill, intellectually disabled or other developmentally disabled persons for more than five persons</i></del>	<del><i>P</i></del>	
	<b><i>Group homes or residential facilities, for eight or fewer adults</i></b>	<b><i>P</i></b>	
	<b><i>Group homes or residential facilities, for nine or more adults</i></b>		<b><i>SUP</i></b>
	<i>Group quarters for agricultural workers</i>	<i>P</i>	
	<i>Home care facilities</i>	<i>P</i>	
	<i>Home occupations, as defined</i>	<i>P</i>	
	<b><i>Independent living facilities</i></b>	<b><i>P</i></b>	
	<b><i>Multiple-family dwellings up to and including four dwelling units</i></b>	<b><i>P</i></b>	
	<b><i>Multi-family dwellings more than four dwelling units</i></b>	<b><i>P</i></b>	
	<i>Single-family dwellings</i>	<i>P</i>	
	<i>Townhouses</i>	<i>P</i>	
	<i>Two family dwellings</i>	<i>P</i>	
	<i>Commercial Uses</i>	<i>Accessory structures, as defined in section 24-2</i>	<i>P</i>
<i>Adult day care centers</i>		<i>P</i>	
<i>Antique shops</i>		<i>P</i>	
<i>Arts and crafts shops</i>		<i>P</i>	
<b><i>Assisted living facilities</i></b>		<b><i>P</i></b>	
<i>Automobile rental</i>		<i>P</i>	
<i>Automobile repair and service including tire, transmission, glass, body and fender, and other automotive products sales (new and/or rebuilt) and service with major repair under cover and storage of parts and vehicle storage screened from adjacent property by landscaping and fencing</i>		<i>P</i>	
<i>Automobile service stations; if fuel is sold, then in accordance with section 24-38</i>		<i>P</i>	
<i>Banks and other similar financial institutions</i>		<i>P</i>	
<i>Barber and beauty shops</i>		<i>P</i>	
<i>Business, professional and governmental offices</i>		<i>P</i>	
<i>Campgrounds</i>			<b><i>SUP</i></b>
<i>Child day care centers</i>		<i>P</i>	
<i>Community recreation facilities, public or private, including parks, playgrounds, clubhouses, boating facilities, swimming pools, ball fields, tennis courts and other similar recreation facilities</i>		<i>P</i>	

<b><i>Continuing care retirement facilities</i></b>	<b><i>P</i></b>	
<i>Contractor offices, equipment storage yards, shops and warehouses with storage under cover or screened with landscaping and fencing from adjacent property</i>	<i>P</i>	
<i>Convenience stores; if fuel is sold, then in accordance with section 24-38</i>	<i>P</i>	
<i>Data processing centers</i>	<i>P</i>	
<i>Drug stores</i>	<i>P</i>	
<i>Dry cleaners and laundries</i>	<i>P</i>	
<i>Employment services or agencies</i>	<i>P</i>	
<i>Farmer's markets</i>	<i>P</i>	
<i>Fast food restaurants</i>		<i>SUP</i>
<i>Feed, seed and farm supply stores</i>	<i>P</i>	
<i>Fish farming</i>	<i>P</i>	
<i>Flea markets</i>		<i>SUP</i>
<i>Funeral homes, cemeteries and memorial gardens</i>	<i>P</i>	
<i>Gift stores</i>	<i>P</i>	
<i>Golf courses</i>		<i>SUP</i>
<i>Greenhouses and nurseries</i>	<i>P</i>	
<i>Handicrafts stores</i>	<i>P</i>	
<i>Health clubs, exercise clubs and fitness centers</i>	<i>P</i>	
<i>Home occupations as defined</i>	<i>P</i>	
<i>Hotels, motels, tourist homes and convention centers</i>	<i>P</i>	
<i>Indoor sport facilities</i>	<i>P</i>	
<i>Indoor theaters</i>	<i>P</i>	
<i>Janitorial service establishments</i>	<i>P</i>	
<i>Limousine service</i>	<i>P</i>	
<i>Lumber and building supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property</i>	<i>P</i>	
<i>Manufactured home or mobile home sales</i>		<i>SUP</i>
<i>Marinas, docks, piers, yacht clubs, boat basins, boat storage and servicing, repair and sale facilities for the same; if fuel is sold, then in accordance with section 24-38</i>		<i>SUP</i>
<i>Marine or waterfront businesses to include the receipt, storage and transshipment of waterborne commerce, or seafood receiving, packing or distribution under cover or screened with landscaping and fencing from adjacent property</i>		<i>SUP</i>
<i>Museums</i>		<i>SUP</i>
<i>Nonemergency medical transport</i>	<i>P</i>	
<i>Nursing homes</i>	<i>P</i>	
<i>Off-street parking as required by section 24-53</i>	<i>P</i>	
<i>Office supply stores, secretarial and duplicating services</i>	<i>P</i>	
<i>Parking lots and garages</i>	<i>P</i>	
<i>Photographer, picture, artist and sculptor stores and studios</i>	<i>P</i>	

	<i>Plumbing and electrical supply with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property</i>	<i>P</i>	
	<i>Printing and publishing establishments</i>	<i>P</i>	
	<i>Property maintenance facilities, sheds or garages</i>	<i>P</i>	
	<i>Public billiard parlors, arcades, pool rooms, bowling alleys, dance halls and other indoor centers of amusement</i>	<i>P</i>	
	<i>Rental of more than three rooms in a single-family dwelling unit</i>		<i>SUP</i>
	<i>Rental of rooms to a maximum of three rooms</i>	<i>P</i>	
	<i>Rest homes</i>	<i>P</i>	
	<i>Restaurants, tea rooms and taverns</i>	<i>P</i>	
	<i>Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes, toys, travel bureau, upholstery, wearing apparel, and yard goods</i>	<i>P</i>	
	<i>Retail food stores, bakeries and fish markets</i>	<i>P</i>	
	<i>Security service offices</i>	<i>P</i>	
	<i>Shooting ranges, indoor</i>		<i>SUP</i>
	<i>Skilled nursing facilities (nursing homes)</i>	<i>P</i>	
	<i>Taxi services</i>	<i>P</i>	
	<i>Theme Parks</i>		<i>SUP</i>
	<i>Truck stops; if fuel is sold, then in accordance with section 24-38</i>		<i>SUP</i>
	<i>Truck terminals; if fuel is sold, then in accordance with section 24-38</i>		<i>SUP</i>
	<i>Vehicle and trailer sales and service (with major repair limited to a fully enclosed building)</i>	<i>P</i>	
	<i>Veterinary hospitals</i>	<i>P</i>	
<i>Agricultural Uses</i>	<i>Wineries</i>		<i>SUP</i>
<i>Civic Uses</i>	<i>Clubs, public or private, civic or service clubs, country clubs, lodges and fraternal organizations</i>	<i>P</i>	
	<i>Fire station</i>	<i>P</i>	
	<i>Houses of worship and cemeteries accessory hereto</i>	<i>P</i>	
	<i>Libraries</i>	<i>P</i>	
	<i>Places of public assembly, such as houses of worship, public meeting halls, lodges or fraternal organizations</i>	<i>P</i>	
	<i>Post offices</i>	<i>P</i>	
	<i>Public meeting halls</i>	<i>P</i>	
	<i>Schools</i>	<i>P</i>	
<i>Utility Uses</i>	<i>Camouflaged wireless communications facilities that comply with division 6, Wireless Communication</i>	<i>P</i>	

	<b>Facilities</b>		
	<i>Electrical generation facilities, public or private, electrical substations with a capacity of 5,000 kilovolt amperes or more and electrical transmission lines capable of transmitting 69 kilovolts or more</i>		SUP
	<i>Radio stations, television stations, transmission relay stations and communication towers</i>		SUP
	<i>Telephone exchanges and telephone switching stations</i>	P	
	<i>Tower mounted wireless communication facilities in accordance with division 6, Wireless Communications Facilities</i>		SUP
	<i>Transmission pipelines (public or private), including pumping stations and accessory storage, for natural gas, propane gas, petroleum products, chemicals, slurry coal and any other gases, liquids or solids. However, extensions for private connections to existing pipelines, which are intended to serve an individual residential or commercial customer and which are accessory to existing or proposed development, are permitted generally and shall not require a special use permit</i>		SUP
	<i>Water facilities (public or private), and sewer facilities (public), including, but not limited to, treatment plants, pumping stations, storage facilities and transmission mains, wells and associated equipment such as pumps to be owned and operated by political jurisdictions. However, the following are permitted generally and shall not require a special use permit:</i>  <i>(a) Private connections to existing mains that are intended to serve an individual customer and that are accessory to existing or proposed development, with no additional connections to be made to the line; and</i>  <i>(b) Distribution lines and local facilities within a development, including pump stations</i>		SUP
	<i>Water impoundments, new or expansion of</i>	P	
	<i>Wireless communications facilities that utilize alternative mounting structures, or are building mounted, or are camouflaged, and comply with division 6, Wireless Communications Facilities</i>	P	
<i>Open Uses</i>	<i>Timbering in accordance with section 24-43</i>	P	
<i>Industrial Uses</i>	<i>Food processing and storage, but not the slaughter of animals</i>	P	
	<i>Heavy equipment sales and service, with major repair under cover or screened with landscaping and fencing from adjacent property</i>	P	
	<i>Heliports, helistops and accessory uses</i>		SUP
	<i>Hospitals and mental health facilities</i>	P	
	<i>Industrial and technical training schools</i>	P	



<i>Machinery sales and service with major repair under cover</i>	<i>P</i>	
<i>Manufacture and assembly of musical instruments, toys, novelties and rubber and metal stamps</i>	<i>P</i>	
<i>Manufacture and bottling of soft drinks and wine</i>	<i>P</i>	
<i>Manufacture and processing of textiles and textile products in structures of not more than <del>2,000</del> 5,000 square feet</i>	<i>P</i>	
<i>Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of not more than <del>2,000</del> 5,000 square feet</i>	<i>P</i>	
<i>Manufacture, compounding, assembly or treatment of products made from previously prepared paper, plastic, metal, textiles, tobacco, wood, paint, fiber glass, glass, rubber, leather, cellophane, canvas, felt, fur, horn, wax, hair and yarn in structures of <del>2,000</del> 5,000 square feet and greater</i>		<i>SUP</i>
<i>Manufacture, compounding, processing or packaging of cosmetic, toiletry and pharmaceutical products</i>	<i>P</i>	
<i>Manufacture of carpets and carpet yarns in structures of not more than <del>2,000</del> 5,000 square feet</i>	<i>P</i>	
<i>Manufacture of pottery and ceramic products, using kilns fired only by gas or electricity</i>	<i>P</i>	
<i>Manufacture or assembly of appliances, tools, firearms, hardware products and heating, cooling or ventilating equipment</i>	<i>P</i>	
<i>Manufacture or assembly of electronic instruments, electronic devices or electronic components</i>	<i>P</i>	
<i>Manufacture or assembly of medical, drafting, metering, marine, photographic and mechanical instruments</i>	<i>P</i>	
<i>Petroleum storage</i>		<i>SUP</i>
<i>Private streets within "qualifying industrial parks" in accordance with section 24-55</i>	<i>P</i>	
<i>Processing, assembly and manufacture of light industrial products or components, with all storage, processing, assembly and manufacture conducted indoors and under cover, with no dust, noise, odor or other objectionable effect</i>	<i>P</i>	
<i>Publicly owned solid waste container sites</i>		<i>SUP</i>
<i>Railroad facilities including tracks, bridges and stations. However, spur lines which are to serve and are accessory to existing or proposed development adjacent to existing railroad <del>right-of-ways</del> <b>rights-of-way</b> and track and safety improvements in existing railroad <del>right-of-ways</del> <b>rights-of-way</b> are permitted generally and shall not require a special use permit</i>		<i>SUP</i>

	<i>Research, development and design facilities or laboratories</i>	<i>P</i>	
	<i>Resource recovery facilities</i>		<i>SUP</i>
	<i>Solid waste transfer stations</i>		<i>SUP</i>
	<i>Warehouse, storage and distribution centers with storage under cover or screened with landscaping and fencing from adjacent property</i>	<i>P</i>	
	<i>Water well drilling establishments</i>		<i>SUP</i>
	<i>Welding and machine shops with storage limited to a fully enclosed building or screened with landscaping and fencing from adjacent property</i>	<i>P</i>	

**Sec. 24-523 519. Density.**

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

<i>Area Designation</i>	<i>Dwelling Type</i>	<i>Maximum Base Gross Density (Dwelling Units Per Acre)</i>	<i>Maximum Gross Density with density bonus (see table under section 24-519 (c))</i>
A	Single-family structures	63	6
B	Attached structures Multi-family dwellings containing two up to four dwelling units, or townhouses	105	10
C	Attached structures less than three stories and Multi-family dwellings containing more than four dwelling units	126	12
D	Attached structures of three or more stories and containing more than four dwelling units Apartments	189	18

(b) For the purposes of calculating gross density, gross acreage shall equal the sum of the total developable area and up to 35 percent of the total area of the parcel as calculated below:

$$\frac{\text{Percentage of Nondevelopable Area}}{\text{Gross Acreage}} = \frac{\text{Gross Acreage}}{\text{Shall Equal}}$$

Less than 35%	Total Area of Parcel
More than 35%	Developable Land Plus Up To 35% of the Parcel's Land

(e) Developable area shall consist of the total land area of the site minus stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient.

(b) The density of a proposed development shall be calculated as the number of units divided by the gross acreage. For the purposes of this section, the gross acreage shall be calculated as follows:

Percent non-developable land	Percent of gross acreage added to the developable land
0-20 percent	Use total parcel acreage
21-40 percent	20
41-70 percent	15
71-100 percent	10

Illustration of Gross Acreage Calculation

(a) If a 50 acre parcel has seven acres of non-developable land, then the non-developable area of the site is 14 percent. Since 14 percent is less than 20 percent, the total area of the parcel is used to calculate allowed density.

(b) If the 50 acre parcel instead had 14 acres of non-developable land, then the non-developable area of the site is 28 percent. Since 28 percent is between 21 percent and 40 percent, the total developable area of the parcel (36 acres) and 20 percent of the total parcel acreage (ten acres) are added together to obtain the total acreage used to calculate allowed density (46 acres).

In this example, if an applicant sought a density of two dwelling units per acre, they would yield a maximum of 100 units in (a) and 92 units in (b).

(c) In addition to the base density standards from section 24-519 (a) a density bonus can be achieved with the provision of options as detailed below. In order to achieve the densities listed below, the developer shall make assurances in a master plan or otherwise for the density bonus items.

Bonus increase from base density	Required density bonus points from list below
Up to the base density	0
Greater than the base density, up to and including 33 percent above the base density	2
Greater than 33 percent above the base density, up to and including 66 percent above the base density	4
Greater than 66 percent above the base density, up to and including 100 percent above the base density	6

	<i>Bonus Item Options</i>	<i>Bonus Points</i>
A.	<i>For every 10 percent of the units committed to provision of workforce housing (starting above the threshold set in the county's workforce housing opportunities policy)</i>	<i>2, up to a max of 4</i>
B.	<i>Designing a stormwater management plan that meets Chesapeake Bay Preservation Ordinance standards and requirements through extensive use of better site design/low impact development techniques, as approved by the engineering and resource protection division</i>	<i>1.5</i>
C.	<i>Undertaking or funding a stream restoration project or stormwater management facility retrofit within the same sub-watershed, as identified by an approved watershed management plan or by the engineering and resource protection division.</i>	<i>1.5</i>
D.	<i>Achieving green building certification using EarthCraft, LEED or equivalent program for all units</i>	<i>1</i>
E.	<i>Dedicating to the county a public use site, the developable portion of which is suitable for a public facility, as determined by the county administrator or designee.</i>	<i>1</i>
F.	<i>Constructing a greenway trail and dedicating a public use easement in a location indicated by the approved Greenway Master Plan, the Virginia Outdoors Plan, or such other useful and logical location as approved by the parks and recreation director or designee.</i>	<i>1</i>
G.	<i>Preserving a single area of healthy, mature, mixed hardwood forestland at least two acres in size, within the developable portion of the site. The planning director may request that the developer provide confirmation, prepared by a certified horticulturalist, that these qualities are present.</i>	<i>1</i>
H.	<i>Preserving one of the following underlined environmentally-related conservation features. The underlined item must constitute at least 5 percent of the developable area of the site.</i> <ol style="list-style-type: none"> <li><i>1. <u>100 foot buffers around non-RPA wetland features (isolated wetlands), intermittent streams, or from floodplain zones A or AE (where not already part of the RPA), or from the edge of the RPA buffer</u></i></li> <li><i>2. <u>Soils in hydrologic groups A and B, as defined by the USDA, and as verified on-site by a licensed geotechnical engineer (retain at least 50 percent of these soils on site)</u></i></li> <li><i>3. <u>Conservation area as identified by an approved watershed management plan</u></i></li> <li><i>4. <u>Wildlife habitat corridors that:</u></i> <ul style="list-style-type: none"> <li><i>o <u>Protect a corridor at least 100 feet in width from one protected area (on or off the development property) to another protected area, and</u></i></li> <li><i>o <u>Consist of mature forestland</u></i></li> </ul> </li> </ol>	<i>1</i>
I.	<i>Providing pedestrian accommodations on one side of all internal roadways, where this would exceed the requirements in set forth in section 24-35 of this chapter.</i>	<i>1</i>
J.	<i>Developing binding design guidelines for the development that include superior architectural and design standards. Elements that the guidelines shall address include, but need not be limited to, provision of rear or side loading garages; use of universal design concepts; and attention to the quality of, and variation in, elements of the units such as facade materials and colors; windows, roof pitches, porches and entryways; and heights and setbacks from the right-of-way. Design guidelines shall be submitted concurrent with the master plan, and shall be reviewed and approved by the planning director.</i>	<i>0.5</i>
K.	<i>Providing a 100-foot buffer from the internal edge of a right-of-way buffer and/or perimeter buffer (must constitute at least five percent of the developable area of the</i>	<i>0.5</i>

L.	<i>Preserving and rehabilitating an on-site structure identified in the document entitled Historical Structures Survey, prepared by Virginia Department of Historic Resources, and dated May 2008. The structure may be re-used as a community clubhouse or private residence with appropriate deed restrictions. If the proposed cluster is within a community character area (CCA) designated by the comprehensive plan, this bonus would also be available for rehabilitation and legal preservation of a structure elsewhere within that CCA.</i>	0.5
----	---	-----

*(d) To achieve the intent of a mixed use development, no single use or use category shall exceed 80 percent of the developable land area within a mixed use area, as delineated on the master plan.*

**Sec. 24-524 520. Open space.**

Development within the mixed use districts shall provide usable open space area. The amount of open space shall be not less than ten percent of the developable area of the site. Nondevelopable area consisting of all stream beds, areas subject to flooding, wetlands and areas with slopes exceeding 25 percent gradient shall not be counted towards meeting the open space requirement. For the purposes of this article, open space does not include any landscape area in parking lots or adjacent to structures. The requirements of this section shall supplement the requirements of the county's Chesapeake Bay Ordinance, section 24-86 (Landscape and Tree Preservation Requirements) and other county requirements relating to open space. For the purposes of this article, open space may include, but is not limited to:

- (1) Perpetual easement(s) of no less than 50 feet in width dedicated to James City County or another group approved by the county adjoining any road designated as a ~~greenbelt road~~ *Community Character Corridor* on the Comprehensive Plan.
- (2) Buffer area(s) of no less than 50 feet around an RMA wetland as measured from the landward edge of the wetland.
- (3) Preservation of any archaeological site, any landmark registered in the Virginia Landmarks Register, the National Register of Historic Places or National Historic Site register.
- (4) Preservation of any developable area ~~demonstrated to be a habitat for any endangered, rare or threatened species of plant or wildlife so designated by the federal government, the State of Virginia (as referenced by the county's Natural Areas Inventory or listed in Virginia's Endangered Species, (Virginia Department of Game and Inland Fisheries, 1991)), onsite that is set aside to meet the county's natural resource policy~~ where preservation of such area is not required by *other* local, state or federal law.
- (5) Bikeways, bike paths, hiking trails, greenways or other similar amenity, excluding sidewalks.
- (6) Public or private picnic areas, parks, plazas or other gathering areas.
- (7) Public or private community facilities such as swimming pools, tennis courts, and recreation buildings. Golf courses may also be counted as open space for the purpose of meeting the open space requirement to a maximum of 60 percent of the required open space.

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

(Ord. No. 31A-141, 5-4-92)

**Sec. 24-~~525~~ 521. Height of structures.**

(a) Structures may be erected up to 60 feet in height from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank or other accessory functions which are part of the structure and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ in accordance with division 6, Wireless Communications Facilities. ~~Camouflaged wireless communications facilities may be erected to a total height of 120 feet from grade.~~

(b) A structure in excess of 60 feet in height but not in excess of 100 feet from grade to the top of the structure, including all church spires, belfries, cupolas, athletic field lighting, monuments, flagpoles, penthouse, electrical, plumbing, elevator, water tank, radio, television and microwave antennas, and towers or other accessory functions, and accessory and nonaccessory wireless communications facilities that utilize alternative mounting structures ~~or are building-mounted~~ in accordance with division 6, Wireless Communications Facilities in excess of 60 feet in height but not in excess of the maximum approved height of the structure to which it is mounted, may be erected only upon the granting of a height limitation waiver by the board of supervisors.

(c) Upon application for a height limitation waiver, the payment of appropriate fees, notification of adjacent property owners and following a public hearing, the board of supervisors may grant a height limitation waiver upon finding that:

- (1) Such structure is in accordance with the uses, densities, design and traffic analysis shown on the original master plan;
- (2) Such structure will not obstruct light from adjacent property;
- (3) Such structure will not impair the enjoyment of historic attractions and areas of significant historic interest and surrounding developments;
- (4) Such structure will not impair property values in the surrounding area;
- (5) Such structure is adequately designed and served from the standpoint of safety and the county fire chief finds that the fire safety equipment to be installed is adequately designed and that the structure is reasonably well located in relation to fire stations and equipment, ~~so as~~ to offer adequate protection to life and property; and
- (6) Such structure would not be contrary to the public health, safety or general welfare.

**Sec. 24-~~526~~ 522. Requirements for improvements and design.**

*(a) Complementary design. Mixed-use districts are intended to have an integrated character with strong unifying design elements and therefore shall meet the following standards:*

*(1) Unified building design. Building design should be coordinated with regard to color, materials, architectural form and detailing to achieve design harmony, continuity, and horizontal and vertical relief and interest.*

*Development shall focus on pedestrian-scaled design, mixing uses within buildings, and general design standards (such as landscaping, road design, etc.).*

*(2) Unified open space. Projects shall include a unifying internal system of pedestrian-oriented paths, open spaces and walkways that function to organize and connect buildings, and provide connections to common origins and destinations (such as transit stops, restaurants, child care facilities and convenience shopping centers). All buildings or building clusters within the development must be connected with linkages other than roads (i.e., sidewalks, bikeways or multi-use paths). The master plan shall utilize open space and natural features that serve as buffers and transitions to adjacent area(s). See section 24-520 for more details on open space.*

*(ab) Water and sewer. All structures and uses within a mixed use districts shall be served by publicly owned and operated water and sewer systems.*

*(bc) Recreation areas. Residential areas and mixed use structures and areas designated on the master plan shall be provided with a recreation area or areas adequate to meet the needs of the residents. The developer shall provide and install playground equipment, playfields, tennis courts or other recreation facilities in accordance with the guarantees established as part of master plan or final ~~Development Plan~~ *development plan* approval. The composition of the facilities to be installed shall be approved by the planning director. Such facilities shall be owned and maintained by the developer or a residents' association.*

*(ed) Parking. Off-street parking facilities shall be provided in accordance with the off-street parking requirements of section 24-53.*

*(de) ~~Streetlights~~ Outdoor lighting. ~~Streetlights~~ *Outdoor lighting* shall ~~generally be provided at each intersection and other public areas as required by article II, division 7 of this chapter and the county subdivision ordinance. The lighting shall be directed so as not to produce objectionable glare on adjacent property or into residences within or near the development.~~*

*(ef) Natural features and amenities. Existing features such as specimen trees, wildlife habitats, watercourses, historical sites and similar irreplaceable assets shall be ~~shown on the master plan and site plan~~ and preserved to the maximum extent possible.*

*(fg) Signs. All signs within a mixed use district shall comply with article II, division 3 of this chapter.*

*(gh) Traffic circulation. Vehicular access points and drives shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic. Buildings, parking areas and drives shall be arranged in a manner that encourages pedestrian access and minimizes traffic movement. All streets shall be constructed and designed in accordance with section 24-528 524.*

*(hi) Landscaping. All landscaping and tree preservation shall be undertaken in accordance with section 24-86 and Chapter 23 of the ~~County Code~~ *county code*, the Chesapeake Bay Preservation Ordinance.*

*(j) Dwelling units, regardless of structure type, shall be clustered or otherwise grouped to maximize the preservation of open space and other aesthetic amenities consistent with the intent of article VI, division 1, Residential Cluster Development.*

*(k) Pedestrian accommodation. Pedestrian accommodations shall be provided in accordance with Section 24-35.*

**Sec. 24-527 523. Setback and buffer requirements.**

(a) *Location of structures.* Structures shall be ~~located~~ *set back* 50 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right-of-way, is less than 50 feet in width, structures shall be ~~located~~ *set back* 75 feet or more from the centerline of the external existing or planned or internal arterial public road.

(b) *Required setback buffer from mixed use districts.* For commercial, industrial, office, residential and mixed uses a ~~setback~~ *buffer* of 50 feet shall be maintained from the perimeter of a mixed use district. The ~~setback~~ *buffer* shall be left in its natural undisturbed state and/or planted with additional or new landscape trees, shrubs and other vegetative cover such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.

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

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

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

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

(d) *Requests for modifications.* Requests for modifications pursuant to subsection (c) above shall be filed in writing with the planning director and shall identify the reasons for such requests together with



the proposed alternative. The planning director shall ~~make a recommendation to the planning commission to~~ approve, deny or conditionally approve the request and shall include a written statement certifying that one or more of the above criteria are met.

*(e) Appeals. In the event the planning director disapproves the items specified in section 24-523 (d) or recommends conditions or modifications that are unacceptable to the applicant, the applicant may appeal the decision of the planning director to the development review committee who shall forward a recommendation to the planning commission.*

*(ef) No minimum lot size or yard requirements. Except for required setbacks and/or buffer specified in (a) and (b) above, there shall be no minimum lot size nor minimum front, side or rear yard requirements for any lot within a Mixed Use Development District, MU, other than as specified in approved final plans.*

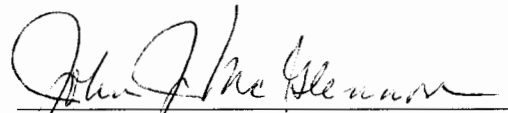
*(fg) Uses prohibited. Setbacks and/or buffers shall not be used for streets or for parking except for entrances and driveways which may penetrate the setback and/or buffer.*

**Sec. 24-528 524. Street improvements.**

(a) All dedicated public streets shown on the development plan shall meet the design and construction requirements of the Virginia Department of Transportation's standards or the county subdivision ordinance, whichever is greater. Such public streets shall be coordinated with the major transportation network shown in the county Comprehensive Plan.

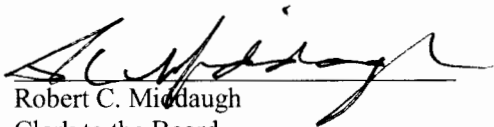
(b) Private streets may be permitted upon the approval of the board of supervisors in accordance with the provisions of section 24-62.  
(Ord. No. 31A-205, 5-8-01; Ord. No. 31A-255, 11-22-11)

**Secs. 24-529 525 - 24-534. Reserved.**



John J. McGlennon  
Chairman, Board of Supervisors

ATTEST:



Robert C. Middaugh  
Clerk to the Board

	VOTES		
	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
MCGLENNON	X	___	___
JONES	X	___	___
KENNEDY	___	Absent	___
ICENHOUR	X	___	___
KALE	X	___	___

Adopted by the Board of Supervisors of James City County, Virginia, this 11th day of September, 2012.