

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Agenda

Regular Meeting
November 16, 2011

Board Room
York Hall
6:00 p.m.

Call to Order.

Invocation.

Rabbi Scott Gurdin, Temple Sinai

Pledge of Allegiance to the Flag of the United States of America.

Roll Call.

PRESENTATIONS.

- A Introduction of New Members to York County Boards and Commissions. Introduce and welcome Mr. Denis Morhiser as a newly appointed member to the York County Stormwater Advisory Committee.
- B Employee Recognition Program. Presentation of 20-year service pin and certificate to Katherine E. Mounts, Commonwealth's Attorney's Office.
- C Commendation of Former Board of Building Code Appeals Member. Presentation of commendation resolution to Wayne D. Harbin for his service on the York County Board of Building Code Appeals.
- D Annual Audit Report. Receive presentation from John Montoro, Cherry, Bekaert, and Holland, LLP, on results of the Fiscal Year 2011 audit.
- E Historic Triangle Collaborative. Receive presentation from Clyde Haulman on the Historic Triangle Vision Study.
- F Colonial Historic National Park. Receive presentation from Park Superintendent Dan Smith with an update on the Colonial Historic National Park.

CITIZENS' COMMENT PERIOD.

*CAPITAL LETTERS INDICATE NO WRITTEN MATERIAL.

COUNTY ATTORNEY REPORTS AND REQUESTS.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS.

MATTERS PRESENTED BY THE BOARD.

6:55 p.m. **RECESS**

7:00 p.m. **PUBLIC HEARINGS.**

- 1 Application No. ST-18-11 and Application No. ZT-133-11, York County Board of Supervisors. Consider adoption of proposed Ordinance No. 11-13 to amend various sections of the York County Subdivision Ordinance (Chapter 20.5, York County Code) and proposed Ordinance No. 14 and Ordinance No. 15 to amend various sections of the York County Zoning Ordinance (Chapter 24.1, York County Code).
 - a. Memorandum from County Administrator.
 - b. Excerpts from Planning Commission minutes dated 10/12/11.
 - c. Excerpts from Planning Commission minutes dated 11/9/11.
 - d. Proposed Ordinance No. 11-13.
 - e. Proposed Ordinance No. 11-14.
 - f. Proposed Ordinance No. 11-15.

- 2 Application No. UP-797-11, Water Country USA. Consider adoption of proposed Resolution R11-132 to request for a major amendment to a previously approved Special Use Permit (UP-506-96), pursuant to Section 24.1-115(d)(3) of the Zoning Ordinance to authorize expansion of an existing theme park on property located at 176 Water Country Parkway (private road).
 - a. Memorandum from County Administrator.
 - b. Excerpts from Planning Commission minutes dated 10/12/11.
 - c. Zoning map.
 - d. Approved Resolution R96-201.
 - e. Applicant's narrative statement.
 - f. Applicant's overall master plan.
 - g. Expansion area plan.
 - h. Park map.
 - i. Proposed Resolution R11-132.

- 3 Cabin Creek – No Wake Zone (Continued from September 20). Consider adoption of proposed Resolution R11-102 to endorse the request of a group of property owners that a “no wake” designation be established for Cabin Creek and to forward the application to the Vir-

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ginia Department of Game and Inland Fisheries requesting the approval of a “no wake” designation for Cabin Creek.

- a. Memorandum from County Administrator dated November 16, 2011.
- b. Material from September 20, 2011, Board of Supervisors meeting.
- c. Proposed Resolution R11-102.

UNFINISHED BUSINESS. None.

CONSENT CALENDAR.

4 Approval of Minutes. Consider approval of the minutes of the following meetings of the York County Board of Supervisors:

- a. Unapproved minutes of the October 4, 2011, Regular Meeting.
- b. Unapproved minutes of the October 18, 2011, Regular Meeting.

5 Drug Enforcement Administration Grant. Consider adoption of proposed Resolution R11-125 to accept and appropriate \$47,779 in United State Department of Justice, Drug Enforcement Administration (DEA) funds to be used for overtime payments and one administrative assistant for the Norfolk Resident Office Task Force.

- a. Memorandum from County Administrator.
- b. Proposed Resolution R11-125.

6 Virginia Power Easement – Darby Road Sewer Pump Station. Consider adoption of proposed Resolution R11-129 to authorize the execution of a deed conveying an electric utility easement to Dominion Virginia Power at the site of a pump station located at 521-Z Darby Road.

- a. Memorandum from County Administrator.
- b. Plat entitled Plat to Accompany Right-of-Way agreement.
- c. Proposed Resolution R11-129.

7 Purchase Authorization. Consider adoption of proposed Resolution R11-130 to authorize the County Administrator to contract for Oaktree/Rochambeau Drive water and sewer extension, maintenance/inspection of the Riverwalk floating piers (renewal) and replace video cameras.

- a. Memorandum from County Administrator.
- b. Proposed Resolution R11-130.

NEW BUSINESS.

8 Carr’s Hill Water Agreement. Consider adoption of proposed Resolution R11-122 to execute a water agreement with the City of Newport News and the Colonial Williamsburg Founda-

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tion to extend a water supply line from Hubbards Lane to the Colonial Williamsburg Foundation property near Carrs Hill Road.

- a. Memorandum from County Administrator.
- b. Draft agreement.
- c. Exhibit A.
- d. Proposed Resolution R11-122.

- 9 Application No. UP-799-11, Pat Block. Consider adoption of proposed Resolution R11-126 to approve a minor amendment to a previously approved special use permit by extending the four-year term of authorization for a non-resident employee in connection with an existing home occupation with on-premises customer/client contact located at 102 Kay Circle.

- a. Memorandum from County Administrator.
- b. Zoning map.
- c. Letter from applicant.
- d. Letters from adjacent property owners.
- e. Resolution R07-157.
- f. Proposed Resolution R11-126.

FUTURE BUSINESS.

Adjournment.

Regular Meetings and Work Sessions of the Board of Supervisors air live on Cable Channel WYCG-TV.

The next Regular Meeting of the York County Board of Supervisors will be held at 6:00 p.m., Tuesday, December 6, 2011, in the East Room, York Hall.

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COUNTY OF YORK

MEMORANDUM

DATE: November 10, 2011 (11/16/11 BOS Mtg.)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Application Nos. ST-18-11 and ZT-133-11, York County Board of Supervisors: Proposed Subdivision Ordinance (Chapter 20.5) and Zoning Ordinance (Chapter 24.1) Amendments

These applications have been sponsored by the Board of Supervisors to allow consideration of a series of proposed amendments intended to address:

- changes necessary to comply with land use and development-related legislation that became effective July 1st as a result of 2011 General Assembly actions;
- issues raised in discussions of the Board;
- questions or concerns that have arisen in the context of day-to-day administration of the ordinances; and
- correspondence or communications received from citizens or interest groups.

Sponsorship has provided an opportunity for the draft amendments to be formally discussed in public forums conducted by the Planning Commission and now by the Board. Sponsorship does not commit the Board to the actual approval of any of the text changes.

The proposed amendments are shown in the standard strike-through/underline format on the attachments to this memorandum, which include:

- **Proposed Ordinance No. 11-13** – Subdivision Ordinance amendments as recommended by the Planning Commission and staff.
- **Proposed Ordinance No. 11-14** – Zoning Ordinance amendments as recommended by the Planning Commission.
- **Proposed Ordinance No. 11-15** - Zoning Ordinance amendments as recommended by staff.

The following paragraphs summarize the proposed amendments and indicate the Planning Commission's and my recommendations concerning each.

Chapter 20.5 – SUBDIVISIONS

Section 20.5-34. Special provisions for family subdivisions

Section 15.2-2244 of the Code of Virginia was amended in 2011 to add a new subsection (2244.2) authorizing (but not requiring) localities to extend “family subdivision” opportunities to situations involving the proposed division and transfer of property held in a trust to immediate family member beneficiaries of the trust. The authorizing language adopted by the General Assembly includes a requirement that property subdivided in this manner be encumbered by a restrictive covenant preventing transfer to a non-family member for a period of 15 years, or such lesser time period as the governing body may establish. The proposed draft language would incorporate this optional provision into the family subdivision section of the York County Subdivision Ordinance. For consistency with the existing family subdivision provisions, the time period during which transfer of a lot created and titled in this manner must be held by the family member has been shown in the draft as three (3) years.

It should be noted that adding this provision to authorize “family” subdivision of Trust-held property is not mandatory; however, with the prevalence of Trusts as an estate planning tool, it would be helpful to provide specific guidance as to how this form of family ownership should be handled in the event a “family” subdivision is proposed. The proposed language is taken almost directly from the Code of Virginia statute, but with some clarifying language recommended by the County Attorney. Staff would note, in particular, the language requiring that a restrictive covenant be established to reinforce the 3-year holding period for lots created in this manner. The draft amendments propose that establishment of a covenant be required for all family subdivision situations, so as to reinforce the Ordinance requirements and memorialize the commitment evidenced by the affidavit that all family subdividers are required to execute.

Also in Section 20.5-34, a minor change in terminology (“survey monuments”) is proposed for consistency with other sections.

Planning Commission Recommendation: Approve the Trust-related provisions, the covenant requirement for all family subdivisions, and the minor change to refer to “survey monuments.”

County Administrator Recommendation: Same

Section 20.5-57. Submittal Requirements

Section 20.5-57 is proposed to be amended to include language regarding certain notations on subdivision plats that the Virginia Department of Conservation and Recreation has determined to be necessary for York County’s ordinance requirements to be deemed consistent with the Chesapeake Bay Preservation Area provisions. These amendments do not create new development restrictions.

Planning Commission Recommendation: Approve, but with clarifying language referring to the allowable disturbances in the RPA to create sight-lines, etc..

County Administrator Recommendation: Same

Adoption of proposed Ordinance No. 11-13 to approve these Subdivision Ordinance amendments is recommended.

Chapter 24.1 - ZONING

General Amendments

Over the course of several rounds of “housekeeping” amendment cycles most of the references to former Title 15.1 of the Code of Virginia have been updated to properly reference the amended and re-enacted Title 15.2. However, several Title 15.1 references remain in Chapter 24.1 and need to be changed to the appropriate and corresponding Title 15.2 citation. These references appear in the following Sections: 24.1, Definitions; 24.1-114, Conditional Zoning; and 24.1-115, Special Use Permits. Since the changes are self-explanatory, revised text excerpts have not been shown in the attachment.

Planning Commission Recommendation: Approve

County Administrator Recommendation: Same

Section 24.1-104. Definitions.

A series of changes are proposed in definitions relating to *agriculture* and *aquaculture* as well as animal-keeping, whether as *livestock* or as *household pets* or recreational animals. The suggested changes are intended to address the commercial orientation of agriculture operations, to simplify the description of *livestock* (substituting common names for species names), to track the language used in State Code definitions of *aquaculture* and *aquaculture facility*, and to provide greater detail and specificity as to what does and does not (e.g., game and wild species, research animals, poisonous snakes) qualify as a *household pet*. Also proposed is a definition for the terms *Convent/Monastery*, which relates to one of the Table of Land Uses changes suggested for consideration.

Planning Commission Recommendation: Approve Definition changes as drafted.

County Administrator Recommendation: Same

Section 24.1-108. Filing fees

Unexpectedly, the Daily Press has recently discontinued publication and distribution of the special weekly supplement to subscribers in the upper County/Williamsburg area. It is in this supplement – and the York-Poquoson supplement, which covers the lower County – that the legal advertisements pertaining to Planning Commission and Board of Supervisors public hearings have been published for reasons of visibility (display-sized ads) and cost containment (less expensive rates than in the standard legal ad section or as a display ad in other sections). The draft amendments set forth a number of recommendations for increasing fees to a level that would provide a greater probability of making

applicants responsible for the majority of the cost of required advertisements pertaining to their applications (including rezonings, special use permits, and variance/appeals).

For comparison purposes, application fees charged by the six Peninsula localities are listed in the following table. In general, York County’s current fees are significantly lower than those of these neighboring jurisdictions.

<u>Jurisdiction</u>	<u>Application Fees</u>	
	<u>Rezonings</u>	<u>Special Use Permits</u>
Hampton	\$750 + \$100/acre	\$650
James City County	\$1,200 + \$75/acre	\$1,000 + \$30/acre
Newport News	\$650 + \$150/acre	\$800
Poquoson	\$500	\$500
Williamsburg	\$800 + \$50/acre	\$800 + \$50/acre
York County	\$600 + \$10/acre over 5	\$450
<i>Note: For rezoning applications, Newport News charges an additional fee of \$150 for every acre or portion thereof, effectively making the minimum application fee \$800.</i>		

The Code of Virginia requires that public hearings be held by both the Planning Commission and Board of Supervisors for rezoning applications and that the public hearings be advertised (two times, each) in a newspaper of general circulation in the locality. Based on York County’s geography, there is only one publication – the *Daily Press* – that is considered to meet the general circulation requirement on a countywide basis.

For the regular edition of the *Daily Press*, the minimum display ad cost is \$768 (for two ads) for 1/16 of a page (3.22” by 4”), which would be large enough to describe 1-2 applications. The next largest size is 1/12 of a page (3.22” by 5.25”), which would in most cases be sufficient for up to 3 applications and would cost \$1,154 for two ads. For 1/8 of a page (4.915” by 5.25”), which would likely be sufficient for 4 applications, the fee is \$1,730.

At these rates, the total cost to the County to advertise a meeting with one application, including both Planning Commission and Board of Supervisors public hearings, would be \$1,536 – meaning that the application fees paid would fail to cover either \$936 or \$1,086 of the total advertising costs, depending on whether it was a rezoning or a use permit application. For a larger ad describing three or four applications, the total advertising cost would likely be \$2,308 to \$3,460 – \$769 to \$865 per application. (Note: these estimates assume no supplemental acreage fee.) Of course, as the Board is aware, the number of applications coming forward on each agenda has been relatively small so staff has not considered it prudent for budgeting purposes to assume that the cost of each advertisement will consistently be spread among three or four applicants.

The historical guiding principle with respect to application fees has been that the fee should cover a significant part of the advertising costs – the premise being that it is the responsibility of the applicant seeking the rezoning, use permit, or variance to cover at least that portion of the total cost of processing their application. The fee structure has traditionally made no attempt to cover the other aspects of processing (e.g., postage, staff time, Planning Commission stipends, etc.).

There is a fairly strong linkage of “beneficiary” status to the applicant in the case of rezoning and variance/appeal requests. However, during its deliberations on sponsorship of the proposed fee increases for special use permits the Board discussed the viewpoint that the principal beneficiaries of the process are the adjoining property owners and surrounding area who have the opportunity to review and comment on the proposed land use which, for various reasons, has been determined to be inappropriate as a use permitted as a matter-of-right. As such, the Board surmised that most applicants would argue that since it is the general citizenry that also benefits from the SUP process, the general citizenry should bear a large part of the cost of processing an application, including advertising fees.

Planning Commission Recommendation: *Do not change the fee schedule.*

County Administrator Recommendation: *While I understand the aversion to raising fees under current economic conditions, the consequence of not doing so is that the increased advertising costs must be covered with general tax revenues – in other words, all taxpayers, rather than the direct beneficiary (applicant) will pay more. Even with the proposed increases, the fee will still not cover the full costs of the required advertising. I recommend approval of the increases as proposed.*

Section 24.1-109. Administration, enforcement, and penalties.

Any formal notice of a zoning violation is required to include a statement advising the addressee of his or her right to appeal the violation to the Board of Zoning Appeals within 30 days. Certain types of violations, as identified in Section 24.1-109(c)(3), are subject to civil (rather than criminal) penalties. A new subsection (c)(3)d. is proposed to be added to track State Code language specifying that civil penalties will not accrue during the mandatory 30-day appeal period associated with zoning violation notices.

Planning Commission Recommendation: *Approve as drafted.*

County Administrator Recommendation: *Approve as drafted.*

Section 24.1-110. Interpretations.

Section 15.2-2204 of the Code of Virginia was amended in 2011 to include provisions ensuring that a property owner is provided written notice of zoning decisions or determinations concerning their property that are issued in response to inquiries or requests made by a party other than the owner. Language tracking the wording of the State Code is proposed to be added to this section. This would apply, for example, in the case of a prospective purchaser requesting a written determination as to a proposed use of a property and would ensure that the property owner is provided a copy of the determination.

Planning Commission Recommendation: *Approve as drafted.*

County Administrator Recommendation: *Approve as drafted.*

Section 24.1-114. Conditional zoning.

Language tracking State Code provisions concerning notice to the property owner is proposed. This is standard practice in the County's administration of the Zoning Ordinance but is proposed to be added to better track the Code of Virginia provisions.

Planning Commission Recommendation: Approve as drafted.

County Administrator Recommendation: Approve as drafted.

Section 24.1-261(b). Emergency services (driveway standards)

In response to comments submitted by the Peninsula Housing and Builders Association, County staff, including representatives of the Department of Fire and Life Safety, have proposed several adjustments to the emergency access provisions (long driveway standards) that were adopted last year. The proposed changes would make several aspects of the requirements less restrictive while still ensuring the adequacy and safety of access in emergency responses. Specific changes include:

- deleting the phrase “*having any part of the structure*” from the statement that triggers the “long driveway” requirements; this change would simplify administration and understanding of the applicability (i.e., simply a straight-line measurement between the edge of pavement and the nearest part of the single-family residence rather than having to measure around the perimeter of the house).
- reducing the long driveway width requirement to 12 feet (from 14’) and clarifying the requirements for the 2-foot shoulders; 12 feet is the minimum width deemed reasonable by Fire and Life Safety to accommodate a travel lane for apparatus.
- modifying the description of the driveway construction to specify concrete, asphalt, gravel, or other approved material as being acceptable while eliminating the requirement for engineer-certification of 80,000 pounds weight-carrying capacity; plans and cross-section information concerning the driveway construction would still be required to be submitted and approved prior to building permit issuance.
- modifying the requirements for apparatus parking/operations pads to apply only when floor area exceeds 4,500 square feet or ridgeline height exceeds 35 feet and to require the pad to be located so that it is within 150 feet of the entire perimeter of the structure.
- modifying the apparatus turnaround requirement to apply when the driveway length exceeds 200 feet.
- clarifying the requirements for turnouts at fire hydrant locations along the driveway.

- establishing a minimum 33-foot turning radius standard for driveway/street intersections in order to accommodate large apparatus.

Planning Commission Recommendation: Approve as drafted.

County Administrator Recommendation: Approve as drafted.

Section 24.1-271. Accessory uses in conjunction with residential uses

Several changes are proposed in the residential accessory uses section, as follows:

- Listing *accessory apartment* as one of the permissible accessory uses; this does not represent a change in policy but is merely to provide proper cross-referencing between different sections of the ordinance.
- Adjusting the language concerning *barns and customary accessory agricultural structures* to recognize that legally existing agricultural uses may be present in districts other than just the RC and RR.
- Providing a listing for commonly accepted practices such as *home gardens, orchards, and riparian shellfish gardening where the purpose is household use / consumption as opposed to a commercial venture*. The reference to the Virginia Administrative Code provision dealing with Noncommercial Riparian Shellfish Growing would limit any structures used in conjunction with the activity (e.g., oyster cages, floats, etc.) to a total cumulative area not to exceed 160 square feet.
- Adjusting the language dealing with *household pets* to make it less restrictive with respect to the keeping of pets within the principal structure and to better define the applicability of the special requirements for private kennels.
- Listing accessory *horsekeeping* as an accessory use; as with accessory apartments, this is proposed for proper cross-referencing and does not represent a change in policy.
- Establishing a proposed listing for *backyard chicken-keeping* in response to requests made by a group of York County residents who already have chickens on their residential properties and who wish to ensure that the practice is allowed to continue, subject to appropriate restrictions.
- Listing *home occupations* as an accessory use, again for consistency and proper cross-referencing purposes.

Planning Commission Recommendation: The Planning Commission recommends approval of the additions relating to: Accessory Apartments; horsekeeping; backyard chicken-keeping; and, home occupations.

County Administrator Recommendation: *Staff recommends approval of all of the above listed changes.*

Section 24.1-272. Accessory uses in conjunction with commercial and industrial uses

A new section is proposed in the event there is a desire to address the growing presence of large commercial vehicles and trailers being parked for advertising purposes in highly visible locations along commercial corridors. While the Route 17 Corridor Overlay District provisions address newly established uses with vehicles licensed as “trucks”, there are several examples of the use of large trucks and cargo trailers as de-facto billboards and in several instances it does not seem plausible that a trailer is essential to the business operations (e.g., a jewelry store, an income tax preparation business, a karate studio). The language in the sponsored version of the amendments proposed to prohibit parking or storage of such vehicles forward of the principal building and to establish performance standards for parking elsewhere on the site.

Planning Commission Recommendation: *The Planning Commission considered the proposal to prohibit large truck and cargo trailer parking forward of the principal building to be too restrictive. Instead, the Commission favors allowing such parking as long as the vehicle can fit in a standard-size parking space and that it does not consume parking space that is otherwise needed for customers. The proposed language has been modified accordingly.*

County Administrator Recommendation: *Staff recommends approval of the wording proposed by the Planning Commission.*

Section 24.1-273. Location, height, and size requirements.

With respect to cargo and utility trailer and recreational vehicle parking on residential properties, language is suggested in subparagraph (f) to expand the parking prohibition from the current *not within 20-feet of the public right-of-way* requirement to a prohibition of any parking *in any required front yard* but with an exception to allow parking on a driveway. This provision is suggested in response to citizen comments and concerns about the aesthetic impact of cargo and recreational vehicle parking in front yard areas.

At the urging of several residents in the Piney Point area, the issue of the allowable “footprint” of accessory structures was presented for consideration. Several years ago, recognizing the lack of specific guidance in the Ordinance, the Board adopted subparagraph (h) to require the “footprint” of an accessory structure to be less than the principal building to which it is accessory. The majority of accessory structures constructed in York County represent relatively small footprints in comparison to the principal structure. However, there have been instances – a property in Piney Point being one of them – where the footprint of the principal structure is only slightly smaller (*3,501-square foot principal structure vs. 3,476-square foot accessory structure*). In this situation, the “incidental and subordinate” nature of the accessory structure is not perceptible to the casual observer. As a starting point for discussions and consideration, the language sponsored

for consideration would have set the maximum footprint limit for accessory structures at 50% of the size of the principal building footprint (vs. the current 99.9%). For comparison, Williamsburg limits the footprint of accessory buildings to not more than 50% of the principal building and not more than 30% of the rear yard area in residential districts while Hampton sets the maximum rear yard coverage limit at 20%.

Planning Commission Recommendation: The Commission recommends approval of the provision concerning cargo trailer parking on residential properties. The Commission does not consider the accessory building footprint issue to be a pervasive or significant problem and, therefore, recommends that the current requirements not be amended.

County Administrator Recommendation: Same

Section 24.1-283. Home occupations permitted by special use permit.

Subsection (d), which provides permitting requirements and performance standards for commercial watermen's operations (docking workboats/off-loading seafood) as a home occupation, is proposed to be deleted in its entirety. This action is proposed as a consequence of the potential legislation (S.B. 1190) under discussion by the General Assembly, the effect of which might be to prohibit the use of the Special Use Permit process for any agricultural/aquaculture operation and mandate its allowance as a matter-of-right, if allowed at all in a district. It is important to note that any existing and legally permitted waterman operation (i.e., those that pre-dated the 1957 Zoning Ordinance or those that were authorized by Special Use Permit in the 1990s pursuant to this section) will be "grandfathered" and allowed to continue in operation even if this section is deleted. The premise of this proposed amendment is that it would be preferable to preclude altogether the establishment of new uses of this type in residential areas if they cannot be evaluated and regulated through the site specific Special Use Permit process.

Planning Commission Recommendation: Do not delete these provisions. The Planning Commission expressed the view that any legislation adopted by the General Assembly would have an effective date of July 1, 2012, unless it is adopted as "emergency legislation" by a 4/5 majority of both houses, in which case it could become law when signed by the Governor. The Commission felt that the Board would have ample opportunity to react to any adopted legislation, given that these draft ordinance amendments will already have been the subject of the required public hearings, such that the process for ordinance amendments would not have to be begun anew.

County Administrator Recommendation: The Special Use Permit process allows review of residential property-based commercial aquaculture operations and provides a valuable opportunity for adjacent property owners and others to provide input. However, there is some risk that York County would be precluded from requiring such a review process if certain legislation is approved. Accordingly, as a cautious approach, I recommend deletion of this section.

Section 24.1-302. Uses not listed.

Minor wording changes have been recommended by the County attorney to clarify the interpretation and applicability of this section.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-306. Table of land uses

Proposed changes to the Table of Land Uses include:

- Suggesting, in response to a request by a representative of a prospective developer, that opportunities be provided for establishment of *Independent Living Senior Housing (units with individual external entrances)* as an adaptive re-use of an existing structure formerly used as a hotel or motel. Opportunities (by Special Use Permit) for such a project are already available in the LB and GB districts, if the individual units have internal corridor entrances. The Table of Land Uses changes that are suggested would provide opportunities for Special Use Permit approval for such adaptive re-use projects (including buildings with external unit entrances) in the LB, GB and EO zoning districts while proposed new Section 24.1-411.(o) would establish an additional performance standard to provide site design flexibility for such adaptive re-use development proposals;

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

- Removing *Aquaculture* as a permitted use in the RC District (as used in this context, the term would cover commercial aquaculture operations conducted as the principal use of a property). Opportunities for commercial aquaculture would continue to be available in the WCI (Water-oriented Commercial/Industrial) district, which is specifically intended for activities oriented toward and requiring access to the water, as well as the County's two industrial districts.

Planning Commission Recommendation: Do not delete.

County Administrator Recommendation: Delete *Aquaculture* as a P – Permitted use

- Changing the term *Crop / Livestock Farming* to *Agriculture* (see revised definition also) and removing *Agriculture* as a permitted use in the RC and RR Districts, thus recognizing the predominant residential character of these two districts. It should be noted that even with this change, any existing and legally established agricultural operations in the RC or RR districts would be considered nonconforming uses and would be allowed to continue to exist subject to the nonconforming use vesting provisions; however, as nonconforming uses they could only be expanded

or enlarged by up to 50% and only upon approval of a Special Exception by the Board of Supervisors;

Planning Commission Recommendation: Approve the change in terminology but retain Agriculture as a P-Permitted use in both the RC and RR Districts.

County Administrator Recommendation: Approve the change in terminology and delete Agriculture as a P – Permitted use in both the RC and RR districts.

- Clarifying the listing for *Private Kennel* to reflect its nature as a residential accessory use and listing it as a P-Permitted (accessory) use in the RC District and eliminating such uses as a Special Use Permit opportunity in the IL District (i.e., since residences are not permitted in IL);

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

- Establishing a listing for *Accessory Backyard Chicken-Keeping* and listing the districts in which such an activity could be conducted – either as a matter of right or by Special Use Permit. This listing has been requested / proposed by a group of County residents interested in having chicken-keeping opportunities expanded into districts other than the RC and RR.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

- Adding a listing for a *Convent / Monastery* to provide opportunities for a religiously-based communal residential facility to be located in the RR and RMF Districts and several of the commercial districts. The proposal that has prompted this addition involves a property located in a LB-Limited Business District.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

- Reinstating an opportunity for single-story mini-storage establishments to be located in the GB-General Business District. The listing for mini-storage warehouses was amended in 2006 to differentiate between single-story and multi-story facilities and to provide opportunities in the GB District only for multi-story establishments having at least 80% of their first floor area devoted to retail or office uses not associated with the warehousing operation (i.e., thus eliminating the opportunity, even by Special Use Permit, for consideration of a single-story facility in a GB District). The premise behind the Board's decision to eliminate all opportunities for single-story facilities in the GB District was that the fiscal benefits of

mini-warehousing are not strong enough to justify their location on any of the County's limited supply of highly visible GB-zoned parcels.

The premise of the current proposal is that there are various properties in the County that are zoned GB but which do not have the highway corridor frontage and visibility necessary to support viable retail development and that such parcels may be suitable for alternative uses – such as mini-warehouses. Importantly, the Special Use Permit process would preserve the Board's ability to take property location and development potential into account in the course of the application review.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-321 and 322. RC – Resource Conservation District and RR – Rural Residential District

The Statements of Intent for both the RC and RR Districts are proposed to be amended to better reflect their character as *residential* districts. In essence, these proposed changes recognize that the character of the so-called rural lands/districts of York County have evolved over the past 54 years since zoning was first enacted – changing from the formerly vast acreage devoted to forestry, farming, and open space, and sparsely populated by residential uses, to the current predominance of single-family residential uses (many of which are in relatively small-lot, suburban subdivision settings) interspersed with a few vegetable or crop farms. Commercially viable farms are few or non-existent and these changes would establish a policy conclusion that new start-up agricultural activities in the RC or RR Districts are not appropriate because they would be inconsistent with the predominant residential character of the districts.

Planning Commission Recommendation: Approve the change for the RR District but not the RC District..

County Administrator Recommendation: Approve the proposed changes for both Districts

Section 24.1-373. FMA-Floodplain management area overlay district

The Department of Environmental and Development Services, which administers the flood hazard regulations contained in the Zoning Ordinance and Building Code, and which also has coordinated the County's participation in the CRS – Community Rating System program (thereby making County Flood Insurance policyholders eligible for premium savings), has recommended changes to the flood hazard regulations that would convert the “freeboard” provisions from *recommendations* to *requirements*. The freeboard (extra elevation of first floors and certain electrical and mechanical system components) would provide an additional margin of protection against flood losses which insurance companies would recognize in the form of reduced premiums for flood insurance

coverage on those structures. Additionally, having this as a *requirement* (rather than a recommendation) would make the County eligible for additional CRS rating points which, if combined with other initiatives, could result in all flood insurance policy holders in the County receiving additional premium savings. The premise of this recommendation is that it is much less expensive to add several additional courses of foundation blocks at the time of initial construction than it is to increase the elevation of an existing structure (and/or provide compensation for flood damage) in the future.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-402(c)(6). Open space (cluster) development

Minor changes are proposed in two subsections to provide improved cross-referencing to other applicable sections of the Ordinance. These changes do not represent any change in policy or applicability of Ordinance requirements.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-411. Standards for Senior Housing (Housing for Older Persons)

A new subsection (o) is proposed to recognize, and provide a procedure to address, the probability that an adaptive re-use proposal to convert a hotel / motel to a senior housing facility would require some flexibility in terms of the normally applicable setback, perimeter buffer, and similar provisions.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-413. Standards for agriculture

Several Performance Standards are proposed to be applicable to any new *agricultural* uses including a proposed minimum usable land area of 5 acres and standards pertaining to setbacks for animal confinement pens. It is important to note that any existing agricultural operations would be considered “grandfathered” and could continue in existence subject to the nonconforming use provisions of the Zoning Ordinance.

Planning Commission Recommendation: Do not approve the proposed standards.

County Administrator Recommendation: Approve

Section 24.1-414. Standards for horsekeeping and commercial stables

New language is proposed in subsection (a) to provide an opportunity to exclude from the “usable” area any portions of the property that are so heavily wooded or vegetated as to be unsuitable for pasturing horses.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-414.1. Standards for chicken-keeping as an accessory activity on residential property

Various performance standards are proposed for consideration with the objective of ensuring compatibility between any accessory backyard chicken-keeping activity and neighboring residential properties. These provisions are based on suggestions made by the individuals requesting consideration of this opportunity (PeCK – Peninsula Chicken Keepers Association) as well as the considerable discussion of a Planning Commission subcommittee. A number of revisions were incorporated into the proposed performance standards as a result of that discussion. Also, the Committee, and subsequently the Planning Commission, decided to recommend that chicken-keeping be allowed as a matter of right (subject to performance standards) in the R20 district.

Planning Commission Recommendation: Approve as revised. It is important to note that chicken keeping in RC and RR would remain a permitted use (not subject to performance standards) under the Commission’s recommendation to retain Agriculture as a Permitted use in those districts.

County Administrator Recommendation: Admittedly, staff took a conservative approach in drafting the originally sponsored proposals and it was assumed that some would likely be viewed as more restrictive than desired –by either PeCK, the Commission, or the Board. I believe the provisions recommended by the planning Commission are workable and will provide appropriate opportunities for expansion of this type of activity into districts other than the RC and RR. Approval is recommended.

Section Nos. 24.1-423, 427, 431, 434. Standards for Community, Educational, Institutional, and Public/Semi Public Uses

Each of these sections is proposed to be amended in an identical manner to accomplish two objectives:

- To ensure that all paved areas (including fire lanes and driveways accessing parking areas) on the site are set back 25 feet (as parking lots must be) from any abutting residential property; and
- To ensure that site and building design are considered and accomplished in a manner that will minimize the impact and audibility of any noise emanating from the mechanical systems associated with such uses.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-432. Standards for Convents / Monasteries

Several performance standards are proposed for consideration, including a minimum parcel size and a provision relating to compatibility with the surrounding area.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Section 24.1-712. Standards for increases in sign area and height.

Concerns have been expressed in the past about the County's sign regulations as they pertain to retail complexes, such as the Williamsburg Marketcenter, which have relatively long street frontages, multiple entrances, and visibility challenges caused by topography and roadway geometrics, yet are limited to only one freestanding sign along that frontage. In the event there is a desire to expand signage opportunities for properties such as this, staff suggests that it be done in the form of a Special Use Permit opportunity in the same manner as currently provided for increases in height or sign area. Proposed subsection (b) would provide an opportunity for additional freestanding signage for retail complexes having in excess of 100,000 square feet of floor area and in excess of 1,000 feet of road frontage.

Planning Commission Recommendation: Approve.

County Administrator Recommendation: Approve

Summary

The Planning Commission considered these applications at public hearings conducted on October 12th and November 9th with numerous speakers at each. In addition, the Commission created study committees to review and discuss the two issues of greatest public interest – the proposals involving backyard chicken-keeping and those involving agriculture/aquaculture and commercial watermen activity as a home occupation. Complete information concerning the deliberations of these committees is available on the Planning Commission's web site.

The proposed Zoning Ordinance amendments pertaining to agriculture, aquaculture, and commercial watermen activities as a home occupation have generated extensive discussion and have erroneously called into question the County's commitment to a healthy Chesapeake Bay and have resulted in numerous false concerns about potential impacts on existing legally established uses. In fact, the proposals to eliminate the listings for agriculture, aquaculture and commercial home-based watermen activities are a reaction to

potential state legislation that could adversely impact the Board's ability to make decisions concerning the establishment of commercial aquaculture operations in residential areas. The Planning Commission has recommended a wait-and-see approach with respect to the potential legislation. I, on the other hand, recommend a cautious and conservative approach in light of the potential legislation and believe that the proposed amendments should be adopted, recognizing that the Board would always have the opportunity to re-instate such uses and procedures as it deems appropriate in the future. Accordingly, I recommend approval of Proposed Ordinance Nos. 11-13 and 11-15.

Carter/3337:jmc

Attachments

- Planning Commission Minutes – October 12, 2011
- Planning Commission Minutes _ November 9, 2011 (to be delivered)
- Proposed Ordinance No. 11-13 (Subdivision Ordinance amendments)
- Proposed Ordinance No. 11-14 (Zoning Ordinance – PC recommendation)
- Proposed Ordinance No. 11-15 (Zoning Ordinance – County Administrator recommendation)

MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
October 12, 2011

MEMBERS
Christopher A. Abel
Mario C. Buffa
M. Sean Fisher
Alexander T. Hamilton
Melissa S. Magowan
Richard M. Myer, Jr.
Mark B. Suiter

CALL TO ORDER

Chair M. Sean Fisher called the meeting to order at 7:00 PM.

REMARKS

Chair Fisher stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Chair Fisher led the Pledge of Allegiance.

ROLL CALL

The roll was called and all members were present with the exception of Christopher A. Abel. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Amy Parker, and Earl W. Anderson.

APPROVAL OF MINUTES

Mr. Hamilton moved to adopt the minutes of the regular meeting of September 14, 2011, and the motion was approved (6:0).

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. UP-797-11, Water Country USA: Request for a major amendment to a previously approved Special Use Permit (UP-506-96), pursuant to Section 24.1-115(d)(3) of the Zoning Ordinance to authorize expansion of an existing theme park on property located at 176 Water Country Parkway (private road). The property, containing 220.8 acres of land, is

located on the south side of Marquis Center Parkway (Route 199) at its intersection with Water Country Parkway. The property is further identified as Assessor's Parcel No. 11-4-2 (GPIN 113a-0846-4200). The property is zoned EO (Economic Opportunity) and is designated Economic Opportunity in the *Comprehensive Plan*.

Amy M. Parker, Senior Planner, summarized the staff report to the Commission dated October 5, 2011, in which staff recommended that the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions shown in proposed Resolution No. PC11-10.

Mr. Hamilton asked if there had been any discussions with business owners at the Marquis regarding the possibility that visitors could park there and walk to Water Country. Ms. Parker said there was no area for pedestrians to walk safely and indicated that a sidewalk between the two developments would be a good safety improvement. She added that the Marquis property owners received notice of the Special Use Permit request and no comments were received from them.

Mr. Fisher asked if any comments were received from other adjacent property owners. **Ms. Parker** said that none were received.

Chair Fisher opened the public hearing.

Suzy Cheely, 1 Busch Gardens Blvd., Director of Design and Engineering for Busch Gardens/Water Country USA, thanked Ms. Parker for the thorough presentation of the staff report and offered to answer questions.

Mr. Hamilton asked again about the possibility of overflow parking at the Marquis if the parking lots within Water Country filled to capacity. He inquired specifically about how visitors would get to the park's property from the Marquis parking lot. **Ms. Cheely** said she would prefer that guests park on Water Country property as there are plenty of parking spaces; however there have been instances where they will avoid paying to park on site and park in front of Target at the Marquis. She said those visitors would walk through the employee entrance to reach the park. Ms. Cheely said she could speak to the Marquis property owners about it.

Mr. Fisher asked Ms. Cheely if they were in agreement with the conditions proposed by staff. **Ms. Cheely** said they were.

There being no one else who wished to speak, **Chair Fisher** closed the public hearing.

Mr. Hamilton said he supported the application.

Ms. Magowan said the park has worked well with the County and provided a good master plan for the development. She was inclined to support the proposal.

Mr. Hamilton moved adoption of Resolution No. PC11-10.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR A MAJOR AMENDMENT TO A PREVIOUSLY APPROVED SPECIAL USE PERMIT TO AUTHORIZE THE EXPANSION OF A THEME PARK (WATER COUNTRY USA) LOCATED AT 176 WATER COUNTRY PARKWAY

WHEREAS, Sea World Parks & Entertainment Inc. (Water Country USA) is operating the theme park (Water Country USA) located at 176 Water Country Parkway (private road), further identified as

Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200), in accordance with Board of Supervisors Resolution No. R96-201; and

WHEREAS, Sea World Parks & Entertainment Inc. (Water Country USA) has submitted Application No. UP-797-11 requesting approval of a major amendment to a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, to authorize the expansion of the theme park located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of October, 2011 that Application No. UP-797-11 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval of a major amendment of a previously approved Special Use Permit to authorize the expansion of the theme park (Water Country USA) located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200), subject to the following conditions:

1. This Special Use Permit shall authorize the expansion of the theme park (Water Country USA) located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200).
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of any expansion of the subject theme park. Said site plan shall be in substantial conformance with the plans titled "Master Plan of Water Country USA, Sea World Parks & Entertainment, Inc., York County, Virginia, and Master Plan of Water Country USA, Sea World Parks & Entertainment, Inc., York County, Virginia, Expansion Plan, both dated September 1, 2011, and received by the Planning Division on September 1, 2011, except as modified herein.
3. A one hundred foot (100') undisturbed vegetated buffer shall be preserved around the perimeter of the park as shown on the above-referenced Master Plan and shall be supplemented by additional evergreen plantings, if necessary, to achieve plantings equal to a Type 50 Transitional Buffer.
4. A one hundred foot (100') vegetated buffer shall be maintained around the lake to provide qualitative stormwater management. The Zoning Administrator may modify or reduce the buffer as follows:
 - a. The buffer may be eliminated as noted on the Master Plan referenced in condition #2 above where a future attraction requires a visual or physical connection to the lake as an integral part of that attraction; or
 - b. In all other situations, the buffer may be reduced by not more than 50% upon a demonstration that the same water quality objectives are being met through the use of other acceptable methods.

5. The minimum setback for all arenas, rides, slides, or buildings containing visitor attractions shall be one hundred fifty feet (150') from any external property boundary. All other elements of the theme park shall maintain a one hundred foot (100') setback from all external property boundaries.
6. Any attraction, structure, or facility proposed to be within one thousand feet (1000') of a property used for transient occupancy purposes shall have an individual noise analysis study prepared and submitted to the Plan Review Agent prior to site plan approval. Should such analysis determine that an average noise level exceeding forty-five decibels (45 db) is likely to be imposed on property used or approved for transient occupancy, the Zoning Administrator shall require that noise attenuation be provided to reduce the average noise level at or below forty-five decibels (45 db).
7. Development of the property shall be in compliance with the provisions of York County Code Chapter 23.1, Wetlands, Chapter 23.2, Chesapeake Bay Preservation Areas, and Chapter 23.3, Stormwater Management.
8. Development of the property shall be in compliance with the provisions of Section 24.1- 374 of the York County Zoning Ordinance, Historic Resources Management overlay district.
9. Development of the property shall be in compliance with Section 24.1-373 of the York County Zoning Ordinance – Floodplain Management Area overlay district.
10. At times when parking lots are filled to capacity and it is necessary to preclude additional guest entry to the park attractions, entering guest vehicles shall be directed to the main entry drive off of Route 199 in order to facilitate vehicle u-turns completely within the applicant's property. Persons directing traffic on behalf of the applicant shall not direct u-turns within the Route 199 right-of-way. Should such an operational plan require installation of a median break along the on-site entrance drive, construction of such break shall occur in conjunction with construction of any new attractions at the park.
11. Prior to site plan approval for Phase 3 of the development as shown on the master plan referenced in condition #2 above, the applicant shall submit a detailed traffic and parking study to the Plan Review Agent verifying adequacy of existing parking and vehicular access facilities. Additional parking and/or revised traffic design shall be implemented as deemed necessary in accordance with said study.
12. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of this Resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court and a court-certified copy of the document shall be submitted to the County prior to further development activity under existing approved site plans or at the time of future site plan approval application, whichever occurs first.

BE IT FURTHER RESOLVED that the above conditions are not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

Yea: (6) Suiter, Hamilton, Buffa, Myer Magowan, Fisher

Nay: (0)

Application Nos. ST-18-11 and ZT-133-11, York County Board of Supervisors: Consider amendments to the following sections of the York County Subdivision Ordinance (Chapter 20.5) and Zoning Ordinance (Chapter 24.1):
Subdivisions – Chapter 20.5

- 34 – Family subdivisions – add language pertaining to family subdivision of land held in a trust; add language requiring a restrictive covenant to prohibit voluntary transfer of any family subdivision lot for three years.
- 57 – Submittal requirements – add State-mandated language pertaining to Chesapeake Bay Preservation Area notes on plats.

Zoning – Chapter 24.1

- General – correct outdated references to Code of Virginia Title 15.1; now Title 15.2.
- 104, Definitions – revise definitions for: Agriculture, Aquaculture, Household pet, and Livestock; add definitions for: Aquaculture facility, Convent/Monastery; delete definition of Companion animal.
- 108, Filing fees – increase: rezoning, planned development, special use permit, and special exception fees to \$800; the maximum rezoning and planned development fee to \$3000; the fee for readvertisement of applications to \$800 and \$500, depending on circumstance; and, the fee for variances to \$350.
- 109, Administration – add state-mandated language to defer accrual of civil penalties for violations during 30-day appeal period.
- 110, Interpretations – add state-mandated language requiring a property owner to be provided written notice of any zoning determination or finding pertaining to their property but requested by another party.
- 114, Conditional zoning – add state-mandated language regarding notice to property owner.
- 261, Public service facility standards – modify driveway width, horizontal clearance, turnout, and turning radius requirements for driveways providing emergency access to single-family detached residences.
- 271, Residential accessory uses - add Accessory Apartments, noncommercial Home Gardens, noncommercial Horsekeeping, noncommercial Backyard Chicken-Keeping, and Home Occupations to the list of accessory uses; modify and clarify the listings for Barns and Household Pets.
- 272, Commercial accessory uses – add language to establish allowable locations for parking business vehicles and cargo or utility trailers.
- 273, Accessory use location, height, and size requirements – add a requirement that cargo trailers and recreational vehicles must be parked on a driveway if in the front yard of a residence; establish a maximum footprint for accessory structures of not more than 50% of that of the principal building.
- 283, Home occupations permitted by special use permit – delete subsection (d) Docking workboats and off-loading seafood in RR and RC districts.
- 302, Uses not listed – clarify language related to uses not listed.
- 306, Table of land uses – add listing for Hotel/motel conversion to senior housing; delete Aquaculture in as a permitted use in the RC District; delete Agriculture as a permitted use in the RC and RR Districts and convert to a Special Use Permit (SUP) use in the IL and IG Districts; convert Private Kennel to a permitted use in RC and delete for IL; add Backyard Chicken-Keeping as permitted in RC and RR and SUP in R20, R13, and WCI; add Convent/Monastery as SUP in RR, RMF, LB, and EO; add Single-story Mini-Warehouse as SUP in GB.
- 321 and 322, RC and RR Districts – clarify that they are residential districts.
- 373, FMA-Floodplain management area overlay district – convert “freeboard” (elevation above 100-year flood level) recommendations to requirements.
- 402, Open space development standards – insert cross-referencing to transitional buffer and flag lot standards.
- 411, Senior housing – insert reference to adaptive re-use of former hotel or motel.

- 413, Standards for agriculture – add performance standards for agriculture concerning minimum area and minimum setback.
- 414, Standards for horsekeeping – modify usable acreage standards to exclude heavily wooded areas.
- 414.1, Standards for backyard chicken-keeping – add performance standards pertaining to backyard chicken-keeping as a residential accessory use.
- 423, 427, 431, and 434 Community, Educational, Institutional, and Public uses – add setback requirement for circulation drives and paved fire lanes, and standards to require HVAC noise to be considered in site design.
- 432, Standards for convents / monasteries – add performance standards.
- 712, Increases in sign area and height – add provisions to allow an additional freestanding sign for retail development in excess of 100,000 square feet with more than 100 feet of frontage.

J. Mark Carter, Assistant County Administrator, summarized the staff report to the Commission dated October 5, 2011. He said adoption of proposed Resolution Nos. PC11-11 (Subdivision Ordinance) and PC11-12 (Zoning Ordinance) would endorse the changes and forward them to the Board of Supervisors with recommendations for approval. Mr. Carter added that staff recommends deferral of action on the Backyard Chicken-Keeping provisions pending further study and discussion by a subcommittee of the Commission.

Chair Fisher opened the public hearing and added that the Planning Commission's role in reviewing the Zoning Ordinance text amendments was to look at them in how they relate to land use.

Robert Duckett, 302 Sommerville Way, Director of Public Affairs for the Peninsula Housing & Builders Association, commended the County for responding to many concerns regarding the amendments to the Subdivision Ordinance. Mr. Duckett's responses to the proposed changes were that he would like private driveways to be subject to the same standards as driveways under the family subdivision provisions. He asked if the standards would apply in situations in which the residence is located more than 150 feet from a public right-of-way but the access is provided by a private right-of-way or easement through properties owned by others. Mr. Duckett said the minimum turning radius of 33 feet at the intersection of the driveway and the public street seemed excessive for the intersection of a private driveway with a public street. He added that unlike the County's proposed language, the statewide Chesapeake Bay regulations (VAC 10-20-130.5) say that existing vegetation may be removed from the Resource Protection Area to provide reasonable sight lines, access paths, general woodlot management, and even best management practices; and that trees may be pruned or removed as necessary to provide for sight lines and vistas. He suggested that the notation on plats read that the "required buffers....are to be only disturbed in accordance with Section 10-20-130.5 of the state's Chesapeake Bay Act regulations"

Carol Bartram, 102 Pageland Drive, said for three years she has had a small flock of hens on her Rural Residential property that provide fresh eggs, bug control, compost, and companionship for her family. She indicated that she has formed a local networking and educational group called the Peninsula Chicken Keepers (PeCK), which has over 90 members, most of them residing in York County. She said the group does not encourage citizens to obtain chickens illegally but feels that the regulations should be amended to better match the changing needs of food economics and food health. Ms. Bartram said she had met with County staff in March to advocate zoning regulations allowing citizens to keep chickens in all residential districts with restrictions based on lot size, similar to some other jurisdictions. She added that the focus of the PeCK organization is to raise non-commercial food and/or pets for families, which she opined was more analogous to home gardening than to commercial agriculture. Ms. Bartram said the current draft amendments place unnecessary restrictions on residential areas and do not meet the desires of many York County citizens. She asked that member(s) of PeCK be allowed to serve on the committee and asked that

there be reasonable time for the committee to come back to the Planning Commission with recommendations.

Scott Bartram, 102 Pageland Drive, noted that some of the more restrictive regulations in the draft ordinance were modeled on the City of Harrisonburg Zoning Ordinance, which, he opined, are not applicable to York County. He asked that staff look at other less restrictive jurisdictions such as Poquoson, Williamsburg, Charlottesville, and Roanoke, some of which, he stated, require only that foul not be allowed to roam free. He quoted staff members from other jurisdictions who stated that there have been no problems or complaints about backyard chicken keeping on residential property. He also noted that many large cities have relaxed their ordinances relating to chicken keeping. He indicated that while he has six hens on his property, some adjacent property owners did not even know they had them for the last three years. He said that backyard chicken keeping is a good thing for York County and consistent with the *Comprehensive Plan*.

Clare West, 507 Lotz Drive, said she would like to see loosening of the restrictive language in the draft ordinance to include eliminating minimum lot sizes and increasing the maximum number of hens allowed per household. She added that a rooster should be allowed on properties that have larger lot sizes as they are less of a nuisance than a dog. Ms. West said setback requirements for coops and compost piles should also be relaxed and that proposed requirements to submit a sketch plan of a proposed chicken coop and to register with the Virginia State Veterinarian's Office be deleted. She added that applying for a Special Use Permit for backyard chicken keeping would be very costly and unnecessary.

Patricia Achten, 1203 Wilkins Drive, Williamsburg, said chickens require so little maintenance that even young children are encouraged to take care of them. She said the "Go Green" initiative in York County is addressed by backyard chicken keeping as chickens eat table scraps and bugs, and chicken waste can be composted and turned into fertilizer for home gardens. Ms. Achten said fresh eggs are beneficial to those with allergies and economical for struggling families. She said there is a growing trend toward encouraging backyard family gardening as well as chicken keeping. She mentioned an online message board (www.backyardchickens.com) that has grown to over 50,000 chicken owners who add over 7,000 new message posts per day and (www.petchickensofvirginia.com) online forum that has 2,040 members.

David Ware, 106 Colonna Point, said he was concerned that the new language proposed in the text amendments regarding backyard chicken keeping was only being proposed because of the state code proposals to treat aquaculture as agriculture. He asked if York County encourages its residents to grow/produce their own food or to consume food produced by local farmers. He asked if staff and commission members listen to concerns of the citizens or only other government officials. Mr. Ware suggested that government should downsize itself enough to encourage its citizens to become self-sufficient, which he felt would reduce the demand for public services. He said raising and purchasing foul in the County should be encouraged as long as the utmost respect for the neighbors in the community is provided.

Dawn Church, 507 Mansion Road, said her property is zoned R20, is not a part of an established neighborhood, and has no visible residences on either side. She indicated that under the current zoning ordinance regulations, she is permitted to have horses as an accessory use on her property but would not be permitted to have chickens, which she feels does not make sense. She added that with the help of PeCK, many citizens provided County staff with information that would help them draft an ordinance that would be beneficial to many citizens in the County. She said the draft text amendments bear little resemblance to what was presented to staff and requested that reasonable latitude be provided to people interested in having chickens.

Marilee Hawkins, 117 Beecham Drive, said that chickens are animals worthy of respect and noted that she has a few free-range birds on her property that are not loud and do not produce an offensive odor. She added that the keeping of chickens allows families to know where their food comes from. Ms. Hawkins said in the interest of health the Commission should support backyard chicken keeping in all zoning districts with minimal restrictions.

Katie Van Vuuren, 215 Pageland Drive, said she is a junior at Tabb High School and would like to go into the field of veterinary medicine. She said it is important to allow chickens to be kept in all residential districts on properties that have enough land and resources to accommodate them. Ms. Van Vuuren said she has, on many occasions, helped a neighbor take care of her chickens and finds them to be perfect pets, with the added benefit of producing fresh eggs. She added that chicken keeping provides one with responsibility for animals, which she opined is beneficial and rewarding in her life. Ms. Van Vuuren said the chickens she has been around are no louder than a neighboring dog and do not produce an offensive odor.

Dr. Peter Guhl, 1008 Hornsbyville Road, said the current regulations regarding noise, pollution, environmental protection, and animal cruelty should suffice or could be modified with regard to backyard chicken keeping. He questioned the need for the regulations and opined that they are arbitrary, discriminatory, and capricious. Dr. Guhl said there was disconnect between a lot size and a pen size and said the calculations do not add up right. He said he does not agree with the proposed setback requirements and asked how he was to dispose of chicken waste when his birds are free-ranged and who would enforce the proposed regulations.

Sunny Hamner, 203 Wharf Row, said she has chickens on her property, which is only 1/3 of an acre in size, and opined that the cost to apply for a Special Use Permit was out of reach for County residents. She said as an added benefit to eggs, chickens also help control bugs and weeds without chemicals. Ms. Hamner demonstrated the difference between grocery store eggs and eggs that come from backyard chickens by cracking open three different eggs and showing them to the Commission and those in attendance.

Kelly Boswell, 128 Scuttle Lane, said people who keep backyard chickens take pride in the appearance of the chicken coops they use. She showed the Commission pictures of several different types of chicken coops and noted that the Leonard factory outlet in York County has sold twelve chicken coops already this year.

Tammie Sue Webb, 205 Cheadle Loop Road, opined that anyone who has 10,500 square feet of land should be permitted to have chickens on his or her property. She spoke of the health benefits of free-range eggs compared to those purchased in stores. She added that any adverse impacts on adjacent residents that could be addressed by public nuisance laws.

Stephen Sheriff, 332 Hodges Cove Road, said the County should be more inclined to support the residents and opined that to change the ordinance in ways that are not financially beneficial to the County does not benefit the citizens. Mr. Sheriff said the ordinance is restrictive enough and that he would not like to see any changes.

Beth Parziale, 164 Dennis Drive, Williamsburg, said as a chicken keeper she likes to know what her family is eating. She added that the chickens are low-maintenance, produce no odor, and create wonderful eggs. Ms. Parziale opined that there are too many regulations in the draft ordinance for something that has not been a problem in the County.

Ken Hamner, 203 Wharf Row, said the ordinance amendments should be structured to help property owners rather than hindering something that they wish to do. He said that best use of the land should incorporate what is best for property owners. Mr. Hamner opined that the County's and the state's responsibility is not to monitor, regulate, or control the rights or activities of its citizens but rather to serve the citizens by securing those rights and activities.

George Thornton, 606 Old Lakeside Drive, said he has raised chickens in York County for 23 years with no complaints from the community. He said there have been visitors to his property, including school children, Boy Scout troops, and people in the neighborhood, just to get a chance to see and touch a live chicken. Mr. Thornton said his chickens have been an educational tool to both children and adults and wondered why the County would impose rules on how to raise chickens since there have been few if any complaints from citizens in the community.. He asked that the County take a common sense approach to backyard chicken keeping and relax the ordinance to benefit the citizens in the community.

Miles Burcher, 709 Patricks Creek Road, asked that the Zoning Ordinance amendments regarding Rural Residential properties not be changed and said that real estate agents should educate potential property owners looking to purchase RR-zoned property as to what is permitted in that zoning district. Mr. Burcher said it is more important to regulate things that harm the environment, not take away from it.

RECESS

Anthony Bavuso, 114 Creek Circle, said that agriculture and aquaculture are very important to the residents in York County. He said the proposed zoning changes would limit the ability of citizens to farm their own land and of watermen to work from their own property as well as prohibit environmentally friendly oyster aquaculture from residential properties, which he stated is not consistent with the Comprehensive Plan. Mr. Bavuso said the County needs small homeowner farmers producing foods to decentralize the country's food system. He spoke of the benefits of small-scale oyster harvesting operations in residential waterfront communities that benefit the Chesapeake Bay along with providing food and jobs. He said concerns about aquaculture should be faced with a strategy to create jobs, help the environment, and preserve homeowners' views with no disruptions. Mr. Bavuso asked that aquaculture be further deliberated amongst the Planning Commission and experts in the field.

Stephen Roane, 307 Fielding Lewis Drive, said he understood the need for standards to be enforced by the County to protect the quality of life for its citizens but he was disappointed to see so many changes within the Zoning Ordinance amendments. Mr. Roane encouraged the Commission to look for ways to offer flexibility that are in line with the historical aspect of the County. He added that the proposed changes to the filing fees are an unfair burden to the taxpayers in the community and asked that they not be changed.

Greg Garrett, 122 Sandbox Lane, said the proposed changes to aquaculture, agriculture and backyard chicken keeping would have a negative impact on the community. He said it would be appropriate for the County to regulate potential problems such as trucks, noise, and smell instead of eliminating uses that are beneficial to the community. He added that there are things that need to be done to clean the Chesapeake Bay. After quoting three Presidents, Mr. Garrett said the proposed changes to the Zoning Ordinance impinge on liberty and impede the pursuit of happiness.

James Riggins, 415 Middle Road, spoke in opposition to the Zoning Ordinance amendments. He asked where watermen would be allowed to work from if new restrictions in the ordinance are adopted. He indicated that most boat ramps in the County are for recreational use only with no provisions for watermen. Mr. Riggins said the County should be encouraging fishermen and young people trying to start out as watermen instead of discouraging them.

Brenda Pogge, 8412 Down Patrick Road, Williamsburg, State Delegate, said the theme of the General Assembly is to cut back on burdensome regulations and opined that the Zoning Ordinance amendments would impose new regulations on the citizens in the County. Delegate Pogge said the language in the proposed changes is not easy to comprehend and that the proposals encroach on property rights. She said she did not understand why references to workboats are proposed to be deleted and added that the Right-to-Farm Act was intended to protect rights that, in her opinion, the County is seeking to deny.

David Turney, 209 Crescent Cove Lane, Lancaster, President of the Tidewater Oyster Gardeners Association (TOGA) and (master) oyster gardener, provided the Commission with information on TOGA. He opined that the County is grappling with an issue of insuring a peaceful coexistence between waterfront homeowners and commercial oyster aquaculture operations. Mr. Turney said that whether or not to allow aquaculture involves site-specific issues and asked if there is a way to manage commercial aquaculture with the use of conditional or Special Use Permits while allowing those uses in the RC and RR districts.

Margo Bavuso, 104 Nobles Landing Road, said as a business owner in York County, she has had the opportunity to see her business grow because regulations have allowed for it and opined that would not be the case for watermen operations. She opined that the ordinance amendments would have a direct negative impact on small agricultural and aquaculture businesses like that of her son, who has a small oyster farm at his residence in York County. Ms. Bavuso said instead of banning agricultural and aquaculture businesses the County should be supporting them and that could be accomplished by setting up a committee to come up with a compromise that satisfies the needs of the County and the citizens.

Ethan Currie, 1115 Poquoson Avenue, Poquoson, said the proposed text amendments regarding agriculture and aquaculture would jeopardize his family oyster business, which leases oyster grounds in York County. He added that his interest in purchasing a waterfront property in York County would be taken away with the restrictions proposed.

Richard Hixson, 800 Dandy Loop Road, said the County has changed over the last four decades and that the Zoning Ordinance has to keep up with the changing needs of the community. Referencing concerns about proposed Senate Bill 1190, Mr. Hixson asked the Commission to structure its Zoning Ordinance recommendations to the Board of Supervisors to meet the needs of the citizens in the community

Jon Quigley, 1379 Wake Road, Wake, VA, said he is an employee of a small oyster farming business (www.bayoyster.com) that helps others also begin oyster farming by selling products such as cages, oyster seed, and supplies. Mr. Quigley opined that part of the best use of land in the County would be to protect the overall health and beauty of the Chesapeake Bay. He said aquaculture and the oysters' natural filtering of water is the last line of defense in protecting this very important national resource.

Chuck McGee, 101 Combs Loop, expressed concern about the proposed changes to Sec. 24.1-302, Uses Not Listed, and Sec. 24.1-306, Table of Land Uses, in the Zoning Ordinance. He specifically noted the deletion of agriculture and aquaculture in RC and RR zoning districts. Mr. McGee, referencing the proposed definition of household pet, asked what residents would do with their domestic chickens, ducks or geese over the age of (2) months old if they are not permitted as household pets. He also expressed concerns about the proposed increase in filing fees and said the proposed requirements for business vehicles should be eliminated.

Shay Dirmeyer, 503 Calthrop Neck Road, said as a local veterinarian with an agricultural background she has been able to teach responsible ownership for all types of animals in York County. She said there should be choices for the citizens to maintain a healthy cohabitation that includes gardening and livestock

ownership for enjoyment and food source. She asked that the proposed changes be moderate and not so restrictive that they would totally eliminate livestock in the County.

Mary Leedom, 611 Wildey Road, said she did not understand the reasoning for the proposed changes to the Zoning Ordinance. She said as a property owner, land use is defined as what is best for her property and asked that the proposed amendments be denied.

Robert Alexander, 615 Carys Chapel Road, stated that he moved to York County for the rural residential setting and asked that the proposed text amendments pertaining to agriculture and aquaculture be eliminated. He also asked that the County enact a new regulation to allow citizens to gain control over the use of their own land.

Linda Hutchinson, 204 Robanna Drive, spoke in opposition to the proposed text amendments and said she would not like to see any changes made.

There being no further citizens wishing to speak, **Chair Fisher** asked the Commission for comments.

Mr. Suiter said he would like to see some of the complex proposed text amendments taken out to allow more time for review.

Mr. Hamilton and **Mr. Myer** agreed and said that several proposed amendments could be addressed at that time.

Chapter 20.5 – Subdivision

Section 20.5-34, Special provisions for family subdivisions – add language pertaining to family subdivision of land held in a trust; add language requiring a restrictive covenant to prohibit voluntary transfer of any family subdivision lot for three years.

Mr. Fisher asked if the language in paragraph (b) meant that a lot or parcel held in trust could only be divided one time. **Mr. Carter** replied that the language came directly from the State Code. **Mr. Barnett** further explained that the language is not intended to mean that a family can only create one lot in a family subdivision.

Mr. Suiter asked if the alternate wording would be used in a situation where a restrictive covenant guarantee of a family subdivision was desired. **Mr. Carter** said staff recommends using the alternate wording as it would establish the covenant requirement for all family subdivisions and not just those that involving property that is held by a family trust.

Section 20.5-57, Submittal Requirements – add state-mandated language pertaining to Chesapeake Bay Preservation Area notes on plats.

Mr. Carter said he was in agreement with the observation made by the Homebuilders Association representative and said the intent was not to preclude anything that was otherwise allowed by the Chesapeake Bay regulations in terms of authorized types of clearing within a RPA – Resource Protection Area. He said language could be added to reflect the fact that “*clearing authorized by the Chesapeake Bay regulations would not be precluded.*”

Mr. Hamilton moved adoption of Resolution No. PC11-11(R).

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ST-18-11 TO AMEND THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK

COUNTY CODE) TO ADD LANGUAGE DEALING WITH FAMILY SUBDIVISION OF PROPERTY HELD IN THE NAME OF A FAMILY TRUST AND TO MAKE OTHER MINOR CHANGES TO COMPLY WITH CHESAPEAKE BAY PRESERVATION AREA REQUIREMENTS.

WHEREAS, Application No. ST-18-11 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Subdivision Ordinance current with respect to State Code requirements and case law; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of October, 2011, that Application No. ST-18-11 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Subdivision Ordinance (Chapter 20.5, York County Code) to read as shown on the Draft amendments package labeled August 30, 2011 / September 29, 2011 Supplement, as annotated to reflect the Commission's discussion, which draft is made a part of this resolution by reference

Yea: (6) Magowan, Suiter, Hamilton, Buffa, Myer, Fisher
Nay: (0)

Chapter 24.1 – Zoning

General Amendments – correct outdated references to Code of Virginia Title 15.1; now Title 15.2.

The Commission's consensus was to recommend approval of this change.

104, Definitions – revise definitions for: Agriculture, Aquaculture, Household pet, and Livestock; add definitions for: Aquaculture facility, Convent/Monastery; delete definition of Companion animal.

Mr. Fisher questioned the language regarding domestic chickens, ducks, and geese under two (2) months old.

Mr. Suiter asked what the reasoning was for changing companion animal to household pet. **Mr. Carter** said the proposed deletion of Companion animal was to eliminate redundancy.

Ms. Magowan asked for clarification of what one would do with chickens, ducks, or geese that reach the age of (2) months since they would no longer be considered pets. **Mr. Carter** said the rationale is that they would not be permitted as household pets at the age of (2) months or over unless provided for somewhere in the Zoning Ordinance. He added that chickens are currently allowed as agricultural livestock animals in the RR zoning district; however, if the agriculture/livestock use is eliminated then there would need to be a new listing if opportunities for that type of accessory activity are to be continued.

Mr. Hamilton suggested that the reference to chickens, ducks, and geese under the age of (2) months be removed and there was consensus to do so, and to change a reference from “companion animal” to “household pet.” In addition, there was consensus to recommend approval of the remaining definitions.

108, Filing Fees – increase: rezoning, planned development, special use permit, and special exception fees to \$800; the maximum rezoning and planned development fee to \$3000; the fee for readvertisement of applications to \$800 and \$500, depending on circumstance; and, the fee for variances to \$350.

Mr. Suiter said he would like to see a better solution to the filing fee increase as some of them would be discouraging to new businesses/developments. **Mr. Myer** agreed and said he would like to see the filing fees maintained as they currently are.

Mr. Hamilton asked if the Daily Press is the only newspaper used for public hearing notices. **Mr. Carter** replied that the Daily Press is a general circulation paper that provides the opportunity to advertise on a schedule that meets the requirements of the State Code.

Mr. Myer asked if the public hearing notices could be provided online to avoid the high advertisement costs. **Mr. Barnett** said the Legislative Program recently adopted by the Board of Supervisors includes a request to the General Assembly to allow public hearing notices to be published online rather than in a newspaper; currently, however, newspaper ads are required.

Mr. Suiter asked how much advertising costs were over the last year. **Mr. Barnett** replied that the County has been known to spend up to \$3,000 for one individual public hearing notice. **Mr. Carter** said the Planning Division’s advertising budget for the fiscal year is around \$10,000 and added that what is not covered by the filing fees collected is paid for out of general tax revenues. He said the costs are then repeated for advertising for the Board of Supervisors public hearings.

Ms. Magowan agreed that the filing fees should be left as they are with the understanding that the ads are being paid for anyway by tax revenues. She said the only advantage is that it would spread the cost over a larger tax base instead of an individual person/ or business.

Mr. Fisher referred to the Board of Supervisors discussion of the filing fees, saying he agreed that the “beneficiary” in the case of use permit requests is the adjoining property owner(s) and surrounding area who have the opportunity to review and comment on a proposed land use which for various reasons has been determined to be inappropriate as a use permitted as a matter of right. He agreed that the fees should remain as they are. There was consensus to recommend denial of the fee increases.

109, Administration, enforcement, and penalties – add State-mandated language to defer accrual of civil penalties for violations during 30-day appeal period.

110, Interpretations – add State-mandated language requiring a property owner to be provided written notice of any zoning determination or finding pertaining to their property but requested by another party.

114, Conditional zoning – add State-mandated language regarding notice to property owner.

The Commission agreed that these three changes should be recommended for approval.

261(b), Emergency services (driveway standards) – modify driveway width, horizontal clearance, turnout, and turning radius requirements for driveways providing emergency access to single-family detached residences.

Discussion took place regarding proposed driveway standards. **Mr. Carter** said the proposed changes would make some of the requirements less restrictive while still ensuring adequate and safe emergency access. He added that the drafted revisions would also include clarifying language regarding the need to show driveway construction details/cross-sections on the required site layout plan.

Mr. Buffa asked about what type of specific driveway material would be approved and also asked about the 80,000 lb. driveway capacity figure and Mr. Carter indicated that it was based on the weight of some of the fire apparatus that might need to respond to an incident. **Mr. Fisher** said he expected the depth of the driveway construction to be six or eight inch gravel. The Commission indicated its support for the proposed changes but with clarification of the turning radius measurement provision.

271, Accessory uses in conjunction with residential uses – add Accessory Apartments, noncommercial Home Gardens, noncommercial Horsekeeping, noncommercial Backyard Chicken-Keeping, and Home Occupations to the list of accessory uses; modify and clarify the listing for Barns and Household Pets.

Mr. Carter requested that the Commission recommend approval of the amendments as drafted but defer action on the Backyard Chicken-Keeping listing to allow further more detailed discussion by a subcommittee of the Commission. After discussion, the Commission agreed to forward recommendations concerning listings for Accessory Apartments, noncommercial horse-keeping and home occupations and to defer action on the other draft provisions.

272, Accessory uses in conjunction with commercial and industrial uses – add language to establish allowable locations for parking business vehicles and cargo or utility trailers.

Mr. Fisher asked how many complaints the County has received regarding the parking of cargo trailers or trucks on commercial corridors. **Mr. Carter** said he did not have that information but that County staff had been contacted about the vehicles such as trailers and large trucks being used for advertising purposes and asked what could be done to address those practices.

Ms. Magowan asked if businesses are doing this to avoid paying for the cost of signage. **Mr. Carter** replied that only one freestanding sign per parcel is permitted along commercial corridors and the problem with the cargo trailers or vehicles is that they are being used as de-facto billboards or freestanding signs.

Discussion continued regarding the presence of commercial vehicles and trailers specifically along the Route 17 corridor and the provisions that could prohibit parking or storage of such vehicles forward of the principal building.

Mr. Suiter asked if any of the provisions would apply to a company car that someone would drive to and from their place of business. **Mr. Carter** said the intent of the provisions is not to limit company cars, but to address utility trailers and large trucks.

Mr. Fisher said he agreed with most of the provisions; however, he opined that as long as a vehicle is street-legal it should be allowed to be parked if it can fit within a single standard parking space and asked that the provision “*such equipment shall not be parked or stored closer to any front lot line than the front of the principal building;*” be removed.

Mr. Buffa asked that this section be deferred. After further discussion, the consensus was to recommend approval absent the phrase prohibiting parking in front of buildings and with clarification to indicate trucks rather than business vehicles.

273, Location, height, and size requirements – add a requirement that cargo trailers and recreational vehicles must be parked on a driveway if in the front yard of a residence; establish a maximum footprint for accessory structures of not more than 50% of that of the principal building. After discussion, the consensus was to recommend the changes regarding cargo trailers on residential lots and to recommend denial of the limit on accessory structure size.

283, Home occupation permitted by special use permit – delete subsection (d) Docking workboats and off-loading seafood in RR and RC districts.

The Commission chose to defer action on this section.

302, Uses not listed – clarify language related to uses not listed.

Mr. Fisher said he would like to revisit the format of the Zoning Ordinance, which, he feels, puts the citizens in the position of having to request changes in the laws pertaining to allowable uses. He opined that moving to a performance-based Zoning Ordinance could be done by regulating the impacts of any issues that could take place.

Discussion continued regarding the minor wording changes that had been recommended by the County Attorney to clarify the interpretation and applicability of this section as well as the difference between permissive and prohibitory zoning ordinances.

Mr. Hamilton said the wording changes should be considered a housekeeping measure. **Ms. Magowan** said the new wording does not change the way the paragraph is written and asked that it be approved as drafted, to which there was consensus.

306, Table of land uses – add listing for Hotel/motel conversion to senior housing; delete Aquaculture as a permitted use in the RC District; delete Agriculture as a permitted use in the RC and RR Districts and convert to a Special Use Permit (SUP) use in the IL and IG Districts; convert Private Kennel to a permitted use in RC and delete for IL; add Backyard Chicken-Keeping as permitted in RC and RR and SUP in R20, R13, and WCI; add Convent/Monastery as SUP in RR, RMF, LB, and EO; add Single-story Mini-Warehouse as SUP in GB.

The Planning Commissioners agreed to approve changes as drafted with the exception of deferring the Accessory Backyard Chicken-keeping proposals as well as the changes to the Agriculture/Aquaculture listings.

321 and 322, RC – Resource Conservation District and RR – Rural Residential District – clarify that they are residential districts.

Mr. Myer asked that the wording in the statement of intent be changed to add a “type of” residential district. After further discussion, the consensus was to recommend approval of the RR change and deferral of the RC change.

373, FMA – Floodplain management area overlay district – convert “freeboard” (elevation above 100-year flood level) recommendations to requirements.

Mr. Fisher asked if unfinished basements or garages are included. **Mr. Carter** said the provisions are intended to apply to habitable space and that a garage would be required to have flood vents but not to have its floor elevated. He said he would make sure that language would be included to say that crawl spaces would not be required to be elevated.

Mr. Carter said that approval of these changes would provide an opportunity for additional rating points under the CRS – Community Rating System, which would provide opportunities for County Flood Insurance policyholders to be eligible for premium savings.

402(c)(6), Open space (cluster) development – insert cross-referencing to transitional buffer and flag lot standards.

411, Standards for Senior Housing (Housing for Older Persons) – insert reference to adaptive re-use of former hotel or motel.

The Commission's consensus was to recommend approval of both of these changes.

413, Standards for agriculture – add performance standards for agriculture concerning minimum area and minimum setback.

The Commission's consensus was to defer action on these proposals.

414, Standards for horsekeeping and commercial stables – modify usable acreage standards to exclude heavily wooded areas.

Mr. Carter said the new language is to clarify the exclusion of heavily wooded or vegetated land as suitable areas to pasture horses.

Mr. Fisher asked how many acres are needed to pasture a horse. **Mr. Carter** replied that the standard in York County has been two usable acres.

The Commission's consensus was to recommend approval of this change.

414.1, Standards for chicken-keeping as an accessory activity on residential property – add performance standards pertaining to backyard chicken-keeping as a residential accessory use.

The Commission's consensus was to defer action on these proposals.

423, 427, 431, 434, Standards for Community, Educational, Institutional, and Public/Semi Public uses – add setback requirement for circulation drives and paved fire lanes, and standards to require HVAC noise to be considered in site design.

Mr. Myer asked how the new objectives would be enforced. **Mr. Carter** said the developer of the property would be required to submit a site plan showing a location for the HVAC equipment to ensure that the noise impact on adjacent properties will be minimized.

The Commission's consensus was to recommend approval of this change.

432, Standards for Convents/Monasteries – add performance standards.

The Commission's consensus was to recommend approval of this change.

712, Standards for increases in sign area and height – add provisions to allow an additional freestanding sign for retail development in excess of 100,000 square feet with more than 100 feet of frontage.

The Commission's consensus was to recommend approval of this change.

Discussion took place regarding the establishment of two committees to discuss Backyard Chicken-Keeping and Agriculture/Aquaculture and to continue the public hearing to the November 9, 2011 Planning Commission meeting. **Mr. Fisher** asked the citizens in attendance to provide their contact information to the staff if they are interested in participating on one of the committees.

Mr. Myer moved to continue the Public Hearing to the November 9, 2011 Planning Commission Meeting.

Yea: (6) Myer, Magowan, Suiter, Hamilton, Buffa, Fisher
Nay: (0)

Mr. Hamilton moved the adoption of Resolution No. PC11-12(R) to forward the proposed amendments supported by the Commission, as noted during its discussion, to the Board with a recommendation for approval.

A RESOLUTION TO RECOMMEND APPROVAL OF PORTIONS OF APPLICATION NO. ZT-133-11 TO AMEND VARIOUS SECTIONS OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE)

WHEREAS, Application No. ZT-133-11 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Zoning Ordinance current with respect to State Code requirements and to address various other issues identified for consideration by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of October, 2011, that certain portions of the amendments proposed in Application No. ZT-133-11 be, and they are it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read and provide as follows as shown on the Draft amendments package labeled August 30, 2011 / September 29, 2011 Supplement, as annotated to reflect the Commission's discussion, which draft is made a part of this resolution by reference.

Yea: (6) Magowan, Suiter, Hamilton, Buffa, Myer, Fisher
Nay: (0)

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

STAFF REPORTS

Mr. Carter referred to the Development Activity Report dated September 14, 2011 and offered to answer any questions.

COMMITTEE REPORTS

There were no committee reports.

COMMISSION REPORTS AND REQUESTS

There were no Commission reports or requests.

ADJOURN

The meeting was adjourned at 11:38 P.M.

SUBMITTED: _____
JoAnn R. Witt, Secretary

APPROVED: _____
M. Sean Fisher, Chairman

DATE: _____

Application No. ZT-133-11, York County Board of Supervisors: Consider amendments to the following sections of the York County Zoning Ordinance (Chapter 24.1):

Zoning – Chapter 24.1

- 271, Residential accessory uses - noncommercial Backyard Chicken-Keeping
- 283, Home occupations permitted by special use permit – delete subsection (d) Docking workboats and off-loading seafood in RR and RC districts
- 306, Table of land uses – delete Aquaculture as a permitted use in the RC District; delete Agriculture as a permitted use in the RC and RR Districts; add Backyard Chicken-Keeping as permitted in RC and RR and SUP in R20, R13, and WCI
- 321, RC Districts – clarify that it is a residential district
- 413, Standards for agriculture – add performance standards for agriculture concerning minimum area and minimum setback
- 414.1, Standards for backyard chicken-keeping – add performance standards pertaining to backyard chicken-keeping as a residential accessory use

J. Mark Carter, Assistant County Administrator, summarized the staff report to the Commission dated November 8, 2011 and noted that these proposed amendments represented the remainder of the series of changes considered by the Commission in October . He said that to assist the Commission in considering the various alternatives, staff has prepared several different versions of the proposed amendments as follows:

- **Alternative A** – reflects the recommendations of the Agriculture/Aquaculture Committee and the Backyard Chicken-Keeping Committee, showing specifically Crop/Livestock Farming being retained as a Permitted (P) use in the RC and RR Districts and also including some additional language in the Backyard Chicken-Keeping performance standards (Section 24.1-414.1) to properly coordinate the Committees’ recommendations;
- **Alternative A-1** – is the same as Alternative A but includes all the proposed additions to Section 24.1-271 – Residential Accessory Use – which, in staff’s opinion, provide the following beneficial clarifications and guidance to improve understanding and administration of the accessory use provisions;
 - Adjusting the language concerning *barns and customary accessory agricultural structures* to recognize that legally existing agricultural uses may be present in districts other than just the RC and RR.
 - Providing a listing for commonly accepted practices such as *home gardens, orchards, and riparian shellfish gardening where the purpose is household use/consumption as opposed to a commercial venture*. The reference to the Virginia Administrative provision dealing with Noncommercial Riparian Shellfish Growing would limit any structures used in conjunction with the activity (e.g., oyster cages, floats, etc.) to a total cumulative area not to exceed 160 square feet.
 - Adjusting the language dealing with household pets to make it less restrictive with respect to the keeping of pets within the principal structure and to better define the applicability of the special requirements for private kennels.
- **Alternative B** – reflects rejection of the recommendations of the Agriculture/Aquaculture Committee and approval of the Backyard Chicken-Keeping Committee proposals;

Mr. Carter said the staff's recommendation is to support Alternative B and forward those proposed text changes to the Board of Supervisors with a recommendation for approval.

Chair Fisher reopened the public hearing.

Stephen Sheriff, 332 Hodges Cove Road, said the County has always had wildlife such as deer, foxes, and hawks, and he did not think that there would be a problem with predators associated with backyard chicken-keeping. He said that limiting the number of birds was not feasible because when the birds reach the age at which they no longer produce eggs, a homeowner may not want to slaughter them or give them away and if a chicken-keeper wanted eggs produced every day then more birds would be necessary. Mr. Sheriff said additional regulations are unnecessary.

Ken Hamner, 203 Wharf Row, said the ordinance amendments were objected to by over thirty (30) citizens at the Commission's October 12 public hearing and while he understood the need for change, he opined that the proposals are unnecessary and arbitrary. He thanked the Commission for forming the subcommittees but opined that the outcome was not much change from the original text amendments regarding setbacks, square footage standards, selling eggs, etc., and he noted that the County has fewer restrictions for a private dog kennel.

Anthony Bavuso, 114 Creek Circle, read portions of the *Comprehensive Plan* regarding Land Use and opined that to eliminate watermen activities completely from the Zoning Ordinance would not be respecting the wishes outlined in the *Comprehensive Plan*. He said the *Comprehensive Plan* highlights the importance of agriculture and water-related activities and businesses in residential areas. Mr. Bavuso said agriculture and aquaculture activities have been permitted for over half a century in York County without a Special Use Permit or any problems or concerns. He said he had asked the County's Division of Development and Compliance if there had ever been any complaints received regarding aquaculture and was told that there had never been any complaints. Mr. Bavuso added that the County has received significant citizen opposition to the proposed Zoning Ordinance changes. He then provided the Commission with a petition of 120 signatures from residents in the community who oppose the changes. He opined that the proposed changes are not desired by the citizens in the community and are not consistent with the *Comprehensive Plan* and asked that they not be approved.

Patricia Achten, 1203 Wilkins Drive, Williamsburg, said she wanted to retract a statement she made at the October 26 ad hoc committee meeting in which she asked that the Special Use Permit application fee be reduced and said her main point was that a use permit should not be required for chicken-keeping on R13 properties as those properties can accommodate the same requirements and standards applicable to other zoning districts where it is proposed to be permitted by right. Ms. Achten said she has been circulating a petition in R13 zoning districts and noted overwhelming support for backyard chicken-keeping.

Marilee Hawkins, 117 Beecham Drive, said she is much more optimistic and appreciated the approach that the County staff and Planning Commissioners have taken to review the proposed regulations. She said she did have concerns about arbitrary conditions and misunderstandings regarding backyard chicken-keeping and noted that there are many R13 properties that are the same size as properties in R20. Ms. Hawkins added that chickens do not require a lot of space and produce less waste than a single dog and opined that roosters are beneficial to flocks of chickens from keeping order in the hen house to standing alert to predators. She said the proposals would regulate a use that does not need to be regulated and asked that the recommendations be removed from the Zoning Ordinance.

Norman C. Rush, Sr., 102 Heritage Place, asked if home gardens and watermen operations are being proposed to be removed from the Zoning Ordinance as permitted uses. He said he did not agree if those were proposals made by the County but agreed that some restrictions need to be made to enforce compliance.

Bart White, 129 Landing Road, co-owner of Sea Tow, lower Chesapeake, which involves operating two work boats from his residential property, said he was not sure if the proposals regarding work boats will pertain to his business. Mr. White said his business is an emergency response team that has saved many lives/boats in the Chesapeake Bay waterways. He said the proposals would create a financial strain and delayed response time for his business if he would not be allowed to dock his boats at his residence. Mr. White said his family heritage consists of working watermen and he did not want to see that use taken away from families who have done it for generations. He opined that the citizens did not want to see York County turn into a city.

Jeff White, 131B Landing Road, asked for clarification on the definition of work boats and how that relates to his business Sea Tow, lower Chesapeake, co-owned with his brother. He said his business provides emergency response, marine assistance and towing to recreational boaters and did not know if the definition of work boats would pertain to what his business does. Mr. White asked that the recommendations forwarded to the Board of Supervisors leave anything related to watermen operations the way they are. He said many areas of York County were founded as fishing communities with residents trying to make a living and that should not be taken away from them.

Kim Huskey, 105 Woodhaven Drive, Executive Director of the Virginia Seafood Council, a 56-year old trade association primarily involved with packers and traders of seafood, said the council supports the continuation of aquaculture and opined that the demise of oyster harvesting has contributed to the negative factors in our waterways. Ms. Huskey said the proposals would restrict the rights of the residents to engage in a profitable economic venture that could create jobs and help with the restoration of the Chesapeake Bay.

Teresa Brandt, 1408 Showalter Road, said her husband is a lifelong commercial fisherman as well as her 16-year old son who is a 4th generation registered commercial fisherman in York County. She said the proposed changes would negatively affect their way of life. She said while she understood that many would be grandfathered, she was concerned about the future generations of watermen. She asked how the County could continue to take pride in its rich watermen heritage when they were making steps to take it away. She urged the Commission to defer any recommendations to the Board of Supervisors at this time.

Brenda Pogge, 8412 Down Patrick Road, Williamsburg, State Delegate, said the majority of the citizens she represents would be affected by the changes to the Zoning Ordinance amendments. She asked that the recommendations that came from the agriculture/aquaculture subcommittee be adopted and that the staff recommendations and the original zoning ordinance amendments be rejected. Delegate Pogge said that governments derive their just power from the consent of the governed and noted that she has heard from only two citizens who are in favor of the proposed changes. She opined that the amendments are an encroachment on personal property rights and that citizens should not have to ask permission from their local government to continue to enjoy their current lifestyles.

Ray Hook, 113 Berry's Landing, member of the Tidewater Oyster Gardeners Association, spoke in support of the aquaculture/agriculture subcommittee recommendations. He opined that the

number of oysters needed to be placed in the Chesapeake Bay will never be achieved by oyster gardeners alone. He said it would take a lifetime and millions of oysters to improve the quality of the water. He said the organization's purpose is to increase the number of oysters in the bay and to educate.

Jamie Jordan-Nunes, 112 Harbor Crescent, said she purchased property in York County two years ago specifically for the reasons/rights that the County is considering removing. She said she grew up on a commercial poultry and beef cattle farm and now is an attorney who has a garden and keeps pet chickens in her yard for eggs and the environmental benefits they provide. She urged the Commission to keep the current language and Table of Land Uses which permits agriculture in areas zoned RR and RC, at least until or unless Senate Bill 1190 is enacted in some form. She asked that the County adopt minimal restrictions on R20, R13, and R7 properties and allow roosters on properties of one half-acre or more subject to noise ordinances, and without Special Use Permits, which she said are costly to individuals and the County and should only be used as a last resort. Ms. Jordan-Nunes added that neither the County nor the residents should have to bear the burden of permits for chickens, roosters, or other agricultural endeavors when the County can use other methods to protect neighbors, such as noise ordinances, setbacks, and cleanliness standards.

Richard Hixson, 800 Dandy Loop Road, said he was chosen to be the spokesperson of the minority report from the Agriculture/Aquaculture Committee. He said the features of SB1190 would affect the local government control of land use to include aquaculture and agriculture under the Right to Farm Act (RTFA) and the Commission and Board of Supervisors would be without authority to manage those activities. He said a land owner could undertake commercial activities in residential neighborhoods regardless of the distress imposed on residents in the neighborhoods. Mr. Hixson added that the better course of action would be to recommend approval of the draft Zoning Ordinance amendments because delaying action would invite the hazards of unanticipated developments which could deny retention of the Special Use Permit as a local tool for dealing with land use problems.

Jocelyn Roberts, 107 Forest Lane, Williamsburg, said as a horse-keeper she was concerned that the changes to the Zoning Ordinance would not allow her property to stay grandfathered if she decided to sell in the future, which could lessen the value of her property. She noted other properties in the area that board horses and was concerned that they too would be negatively affected by the changes. Ms. Roberts asked for clarification from the Planning Commission of what changes are being proposed relative to residential horse-keeping.

Chuck McGee, 101 Combs Loop, said the restriction of rights to the citizens in York County will limit their pursuit of inalienable rights. He expressed concern about the regulations and said the mistakes of history should not be repeated. He asked County officials to resist the urge to limit the rights of all County citizens for the convenience of a few. He asked that ordinances be implemented to deal with noise, traffic, or anything else that would negatively affect citizens instead of removing a use completely.

Mary Leedom, 611 Wildey Road, thanked the Commission for setting up the subcommittees and meeting with the citizens to discuss their concerns. She said while most of the standards proposed for backyard chicken-keeping are necessary, she opined that some of them are more restrictive and expensive than those in jurisdictions such as Poquoson, James City County, or the City of Williamsburg. She encouraged the Commission to adopt the recommendations from the aquaculture/agriculture subcommittee as they reflect the will of the citizens.

Joe Thornton, 600 Old Lakeside Drive, opined that the outcome of the backyard chicken-keeping subcommittee imposed fairly restrictive rules on all properties in York County. He said there need to be fewer regulations, not more, and as a citizen who has lived in the County for over 20 years he would not like to see the area become like a city. Mr. Thornton said he did not think there was fair representation on the subcommittee to include all zoning districts and noted that he owns over four acres of property zoned RR which would be subject to new rules. He said his grandchildren have been privileged to grow up in a rural atmosphere where they have grown up around the chickens and did not want to see that taken away.

H. J. Darst, 409 Oak Tree Road, President of the Charles City, James City, New Kent and York County Farm Bureau, said he believes that the restrictions being imposed are not wise and asked if the proposed changes began with an individual citizen in the County. He said his farm property is surrounded by commercial development and can appreciate the fact that the County is always changing but was concerned that restrictions imposed on any agriculture activity would not be beneficial to the citizens in York County who wish to continue gardening, horse-keeping or anything along those lines.

Salvatore Bavuso, 104 Nobles Landing Road, said he believes that most of the citizens in York County who live in rural areas desire the ability to continue to do so and asked that it be maintained that way for the benefit of the citizens.

Margo Bavuso, 104 Nobles Landing Road, said she hoped that the Commission had a chance to see the petition that was sent around supporting agriculture/aquaculture as well as backyard chicken-keeping. She asked that the rural atmosphere of the County be protected and asked staff members why they were recommending Alternative B and if the voices of the citizens were being heard. Ms. Bavuso said Virginia has been home to oyster farming for over 100 years and the benefits of it are too numerous to list. She asked that the recommendations to remove agriculture/aquaculture from the RC districts not be approved.

Frank Barger, 302 Honeysuckle Lane, said he was concerned about the property rights of the citizens. He asked what the next thing eliminated would be and said the Planning Commission should deny any changes proposed by the Board of Supervisors and County staff.

Greg Garrett, 122 Sandbox Lane, thanked the Commission members for coming up with ways to resolve something that did not originate directly from the Planning Commission members themselves. He said he appreciated the fact that a decision was not made at the October meeting when faced with much opposition and that subcommittees were formed. Mr. Garrett said he would understand the need for the proposed regulations if there had been a push from a large group of citizens in the County wanting to see changes made, however, he opined that there were no complaints from County citizens. He opined that smells and noise relating to aquaculture do not exist and there are unsubstantiated fears among the County staff. He said it would be appropriate for the County to regulate potential problems if there are any such as trucks, noise, and smell instead of eliminating uses that are beneficial to the community.

Beth Parziale, 164 Dennis Drive, Williamsburg, thanked the Commission for allowing her to be a part of the Backyard Chicken-Keeping committee. She said the proposed changes are over-regulating but the committee was able to reduce the burden on some County citizens. She said backyard chicken-keeping came to the attention of the County by citizens who wanted to increase the areas where it is allowed. Ms. Parziale opined while some of the proposals are positive, those that would apply to her RR-zoned lot are now more restrictive and involve unnecessary performance standards.

Charles Forbes, 110 Buckingham Drive, opined that SB1190 was an attempt to go around the local government to get to a point where the State of Virginia has a right to take away the rights of the citizens at a local level. He said there was no denying that oysters are good for the Chesapeake Bay; however, it is not good for residential communities to be affected by commercial operations. Mr. Forbes said you can not take a commercial operation into a residential neighborhood without producing some type of problems for adjacent neighbors and suggested that the legislature should not have the opportunity to pass a bill that would eliminate the rights of the citizens.

Tim McCulloch, 118 Sandbox Lane, noted that there is an abundance of misinformation being passed along to citizens regarding the proposed text amendments and clarified that the proposed changes are intended to maintain local control over commercial operations in residential neighborhoods. He said citizens would know what to expect if they moved next door to a commercial operation as they were already in existence. He said SB1190 would prevent any homeowner in the RR or RC zoning districts to have any say regarding a commercial operation being started next door without going to court. Mr. McCulloch said it would be practically impossible to go back and change state law and unless the ordinances are adopted as proposed, the County would deserve whatever it gets.

Maria Tiller, 115 Sandbox Lane, said local governments are comprised of people living in the affected areas who see what is going on in the communities. She said local government should control what is going on in neighborhoods and that commercial activities should be considered on a case-by-case basis with a Special Use Permit process.

John Young, 210 Roberts Road, opined that in the current economic climate, it would be a good thing to permit selling residential produce or eggs and it was possible to have a commercial operation in a residential area that would not negatively affect the neighbors. He added that it was not wise to eliminate the use altogether and said regulations regarding things such as noise and smell could be implemented instead.

Rick Bennett, 1201 Wilkins Drive, said he worked with his neighbor in York Terrace to address the howling of his coon hound in the middle of the night and said he thought that the County would have had ordinances in place to protect him if the neighbor was not willing to work with him on his concerns. He said citizens should be permitted to pursue interests that they have as long as an adjacent property owner has the recourse to address any problems that arise.

There being no further citizens wishing to speak, **Chair Fisher** closed the public hearing.

RECESS

Chair Fisher thanked all in attendance for the public comments and advised those in attendance that there would be a final public hearing before the Board of Supervisors.

Mr. Carter summarized that the Zoning Ordinance currently allows agriculture as a permitted use in the RR and RC districts and aquaculture as a permitted principal use in the RC district. He added that the Zoning Ordinance allows for an opportunity to offload seafood and other types of commercial watermen activities on a residential property in the RC and RR zoning districts by a Special Use Permit as a home occupation. He said the proposals and recommendations from the subcommittees would modify those listing in various ways and repeated the various alternatives presented to the Commission at the beginning of the meeting. He added that grandfathering rights, which would apply to many County citizens, run with the land and do not disappear if the property in question is sold.

Mr. Fisher said he felt the Agriculture/Aquaculture subcommittee came to a reasonable resolution of the issue. He expressed his support for recommendations, noting that if SB1190 passes in some fashion, the County would still have time to amend the Zoning Ordinance as necessary.

Mr. Suiter said the majority of the Agriculture/Aquaculture subcommittee members thought the Special Use Permit process was the best way to regulate any aquaculture activities in residential areas and the threat of whether SB1190 would pass or not was not sufficient reason to change what was felt to be the best process.

Mr. Abel opined that the text amendments were presented to fix something that is not broken. He said the Board of Supervisors came up with the proposals and by law is required to send them through the Planning Commission for review and recommendation. He said the pending state legislation could take away the County's ability to regulate land use. Mr. Abel said he did not think the County's laws regarding agriculture/aquaculture needed to be changed until they have to be.

Mr. Hamilton said he thought the Board of Supervisors was being proactive in recommending the changes to the Zoning Ordinance and said it would be best to change them now and reverse that action later if need be.

Ms. Magowan said it was interesting to see citizens seeking to have their rights protected alongside a bill being triggered that would take away the rights of the County and how to govern itself. She said the only way she could support the committee's recommendations would be with a caveat that if the bill should pass that the County should readdress the amendments immediately.

Mr. Myer said most of the long term planning suggestions for the County come from the citizens and asked everyone to take a look at York County's Comprehensive Plan and urged citizens to become involved in the next review process.

Chair Fisher said he did not like making changes to the Zoning Ordinance based on a law that has not been passed. He said the best use of the land is what should be considered and opined that removing agriculture/aquaculture would be a drastic change.

Mr. Barnett said the draft amendments before the Planning Commission would be passed on to the Board of Supervisors on November 16, 2011. He added that legislation adopted by the General Assembly is not usually effective until July 1 and added that there is no requirement for the Board of Supervisors to vote on something the same night as a public hearing.

Discussion continued regarding the timeframe of bills going through the General Assembly as well as the draft changes proposed regarding aquaculture/agriculture and the rights of the citizens.

Mr. Suiter spoke of the differing perspectives of the County's stratified citizenry, which includes those who live in subdivisions and others who live in rural areas or on the water. He said that given the County's history and longstanding relationship with the water, he is reluctant to do anything to harm the ability of people to make their living on the water unless there is a really compelling reason. He stated that he doesn't see a compelling reason at this time and therefore supports the agriculture/aquaculture subcommittee recommendation.

Mr. Abel moved adoption of Resolution No. PC11-14 (Alternative A) that pertains to agriculture/aquaculture.

A RESOLUTION TO RECOMMEND APPROVAL OF VARIOUS ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TEXT AMENDMENTS SPONSORED AS PART OF APPLICATION NO. ZT-133-11

WHEREAS, Application No. ZT-133-11 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Zoning Ordinance current with respect to State Code requirements and to address various other issues identified for consideration by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and referred several of the proposals to study committees for further review and discussion; and

WHEREAS, the study committees have reported their recommendations to the Commission; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of November, 2011, that the ~~remaining~~ elements of Application No. ZT-133-11 pertaining to agriculture and aquaculture be, and they are hereby, transmitted to the York County Board of Supervisors with a recommendation to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read and provide as follows:

24.1-283. Home occupations permitted by special use permit.

No changes to current ordinance language

Sec. 24.1-306. Table of land uses.

No changes to current ordinance language

Sec. 24.1-321. RC-Resource conservation district.

No changes to current ordinance language

Yea: (4) Suiter, Abel, Buffa, Fisher
Nay: (3) Magowan, Hamilton, Myer

Ms. Magowan said it would be a good idea to have licensing requirements for backyard chicken-keeping so the County can stay abreast of how many people within each zoning district are participating. She said it would be helpful for future use plans to know what the population of chicken keepers are to keep the requirements consistent within the zoning districts.

Discussion took place regarding the zoning districts in which backyard chicken-keeping would be permitted if the Commission chose to adopt recommendations from the subcommittee and which zoning districts would require performance standards or licensing requirements.

Mr. Hamilton moved adoption of Resolution No. PC11-14 (Alternative A) as it pertains to Backyard Chicken-Keeping.

A RESOLUTION TO RECOMMEND APPROVAL OF VARIOUS ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TEXT AMENDMENTS SPONSORED AS PART OF APPLICATION NO. ZT-133-11

WHEREAS, Application No. ZT-133-11 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Zoning Ordinance current with respect to State Code requirements and to address various other issues identified for consideration by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and referred several of the proposals to study committees for further review and discussion; and

WHEREAS, the study committees have reported their recommendations to the Commission; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of November, 2011, that the ~~remaining~~ elements of Application No. ZT-133-11 pertaining to backyard chicken-keeping be, and they are hereby, transmitted to the York County Board of Supervisors with a recommendation to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read and provide as follows:

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

No changes to current ordinance language except the addition of a new subsection (gg) as follows:

(gg) Backyard chicken-keeping for personal but not commercial purposes, when in accordance with the Permitting and Performance Standards set forth in Section Nos. 24.1-306 and 24.1-414.1 of this Chapter.

Sec. 24.1-306. Table of land uses.

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS	COMMERCIAL INDUSTRIAL DISTRICTS	AND
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USES	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
CATEGORY 2 - AGRICULTURE, ANIMAL KEEPING, AND RELATED USES													
1. Aquaculture	P									P		P	P
2. Crop/Livestock Farming	P	P										P	P
3. Horsekeeping in Conjunction with Residential Use	P	P	S	S		S	S	S	S	S		S	S
4. Plant Nursery or Greenhouse													
a) Wholesale Only	P	P							P		P	P	
b) Retail Sales with or without wholesale sales	S	S						P	P		P	P	
c) Retail or Wholesale with accessory landscape contracting storage & equipment	S	S							S		P	P	P
6. Private Kennel accessory to a residence	PS	P	S	S						S		S	
6a. Backyard chicken-keeping accessory to a single-family detached dwelling	P	P	S	S						S			
7. Animal Hospital, Vet Clinic, Commercial Kennel													
a) Without Outside Runs	S	S				S		S	P		P	P	P
b) With Outside Runs	S	S						S			S	P	P
8. Commercial Stables		S										S	S
9. Commercial Orchard or Vineyard	P	P	S	S					S		P	P	P
10. Forestry	P	P	S	S	S	S	S	S	S	S	S	S	S
11. Farmer's Market	S						P		P		P	P	P

**** Note: Changes shown on Line #6 were recommended by the Planning Commission at its October 12th meeting.**

DIVISION 2. AGRICULTURE, ANIMAL KEEPING AND RELATED USES (CATEGORY 2)

Sec. 24.1-414.1. Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens on residentially-zoned and occupied property in the R20, R13 and WCI Districts shall be solely for purposes of household consumption and shall be permitted only in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

(a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed unless authorized as a home occupation through the issuance of a special use

- permit by the board of supervisors pursuant to the terms of Section 24.1-283(b) of this chapter.
- (b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.
- (c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.
- (d) No roosters shall be allowed.
- (e) There shall be no outdoor slaughtering of birds.
- (f) Pens, coops, or cages shall not be located in any front or side yard area.
- (g) All pens, coops, or cages shall be situated at least () ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.
- (h) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.
- (i) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- (j) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. .
- (k) In accordance with the terms of section 24.1-306, proposals for backyard chicken-keeping in the R13 district shall be processed under the Special Use Permit procedures. In the case of proposals for backyard chicken-keeping in the ~~RC, RR or~~ R20 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application shall be accompanied by a \$15.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the Division of Development

and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken-keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.

- (1) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements (in the case of chicken-keeping that would otherwise be allowed as a matter-of-right) or as part of an initial or subsequent use permit application (in the case of chicken-keeping allowed only by special use permit).

Yea: (7) Suiter, Hamilton, Abel, Buffa, Myer, Magowan, Fisher
Nay: (0)

jrww

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE APPLICATION NO. ST-18-11 TO AMEND VARIOUS SECTIONS OF THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK COUNTY CODE)

WHEREAS, Application No. ST-18-11 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Subdivision Ordinance current with respect to State Code requirements and to address various other issues identified for consideration by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval of the proposed amendments; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the public comments and the recommendations of the Planning Commission and the staff with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the ____ day of _____, 2011, that Application No. ST-18-11 be, and it is hereby, approved to amend the York County Subdivision Ordinance (Chapter 20.5, York County Code) to read and provide as follows:

Chapter 20.5 – Subdivisions

Sec. 20.5-34. Special provisions for family subdivisions.

A single division of a lot or parcel is permitted for the purpose of sale or gift to a member of the immediate family of the property owner. For the purposes of this section, a member of the immediate family is defined as any person who is a natural or legally defined offspring, eighteen years (18) of age or older, or an emancipated minor under section 16.1-331 et seq., Code of Virginia, or parent of the owner, or the spouse or siblings of an owner having no natural or legally defined offspring. Such subdivision shall be subject to the following provisions:

- (a) Only one (1) such division shall be allowed per family member, as defined above, and shall not be made for the purpose of circumventing this chapter. Lots created under this section shall be titled in the name of the immediate family member for whom the subdivision is made for a period of no less than three (3) years following the recordation of the subdivision plat unless such lots are subject to an involuntary transfer such as foreclosure, death, judicial sale, condemnation or bankruptcy. The subdivider shall place a restrictive covenant on the subdivided property that would prohibit the further voluntary transfer of the property for a period of three (3) years, with such covenant to be approved as to form and content by the county attorney and to be recorded simultaneously with the subdivision plat.
- (b) In addition, in the case of property held in trust, the family subdivision opportunity may be used to effect a single division of a lot or parcel for the purpose of sale or gift to beneficiaries of the trust. All trust beneficiaries must
 - 1. be immediate family members, as defined above, of the originators of the trust;
 - 2. agree in writing that the property should be subdivided;
 - 3. agree to place a restrictive covenant on the subdivided property that would prohibit the further voluntary transfer of the property for a period of three (3) years, with such covenant to be approved as to form and content by the county attorney and to be recorded simultaneously with the subdivision plat.
- (c) The minimum width, yard, and area requirements of all lots, including the remaining property from which the lot is subdivided, shall be in accordance with the applicable provisions of the zoning ordinance. Land proposed for subdivision shall be suitable for platting in accordance with section 20.5-66.
- (d) The provisions of this section shall apply only to those properties having a single-family residential zoning district classification.

- | (ed) For property not served with public water and public sewer, each lot shall have a primary and reserve septic system and a water source approved by the health department with evidence of such approval shown on the subdivision plat. If public water and public sewer facilities are available, as defined in this chapter, to the property proposed to be subdivided then all proposed lots shall be served by such facilities in accordance with applicable provisions of the Code.
- | (fe) Each lot or parcel of property shall front a public road or shall front upon a private driveway or road which is in a permanent easement of right-of-way not less than twenty feet (20') in width. Such right-of-way shall include a driveway within it consisting of, at a minimum, an all-weather surface of rock, stone or gravel, with a minimum depth of three inches (3") and a minimum width of ten feet (10'). The right-of-way shall be maintained by the adjacent property owners in a condition passable by emergency vehicles at all times. A notation to this effect shall be placed on the face of the final plat and this provision shall also be included in the deeds by which the subdivision is effected. Passable condition refers not only to the surface, but also to horizontal and vertical clearance. An erosion and sediment control plan with appropriate surety shall be submitted for approval if the proposed right-of-way and driveway construction disturbs more than two thousand five hundred (2,500) square feet.
- | (gf) Drainage and utility easements shall be dedicated to the county when deemed necessary by the agent to accommodate drainage and/or sanitary sewer facilities, whether for current or future needs, in accordance with applicable provisions of the county code.
- | (hg) For property which fronts on an existing street or streets whose rights-of-way are, in accordance with section 20.5-70(c), deficient in width, one-half (½) of the right-of-way width deficiency shall be dedicated by the subdivider at the time of plat recordation.
- | (ih) The corners of all lots created shall be marked with survey monuments ~~iron pipes~~ as provided for in section 20.5-78.
- | (ji) No parcel created by family subdivision shall be further subdivided unless such division is in full compliance with all requirements of this chapter.
- | (kj) A final plat shall be submitted to the agent for approval as provided in section 20.5-30 of this chapter along with an affidavit describing the purposes of the subdivision and identifying the members of the immediate family receiving the lots created. Any plan submitted shall be subject to the fees set forth in section 20.5-13. All physical improvements, including, but not limited to, public water, public sewer, and all-weather access drives shall be incorporated into a subdivision agreement and appropriately guaranteed in accordance with article VII of this chapter.

Sec. 20.5-57. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) copies (12 folded, 1 rolled) of the final plat on blue-line or black-line prints at a scale of one hundred feet (100') to the inch except in cases where the agent has approved an alternate scale. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled. The size of any final plat shall be eighteen inches by twenty-four inches (18" x 24").

The following information for the subdivision or part thereof shall be shown on the face of the final plat:

- (h) The location of all approved private sewage disposal systems, including both primary and reserve locations, and a notation on any plat of property located in whole or in part within a Chesapeake Bay Preservation Area (CBPA) indicating that any on-site sewage treatment system on such property must be pumped out at least once every five (5) years.

- (k) The location of any resource protection area, resource management area ~~and/or~~ watershed management area including delineation of all required buffers and setbacks and including a notation indicating that required buffers, and specifically the 100-foot RPA Buffer, are to remain undisturbed and vegetated, except for such modifications as may be authorized for reasonable sight-lines, access paths, and shoreline erosion control best management practices. In the event the property is within any area designated as a RPA – Resource Protection Area, the plat shall also contain a notation indicating that development in the RPA is limited to water dependent facilities or redevelopment.

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-133-11 TO AMEND VARIOUS SECTIONS OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE)

WHEREAS, Application No. ZT-133-11 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Zoning Ordinance current with respect to State Code requirements and to address various other issues identified for consideration by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval of the proposed amendments; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the public comments and the recommendations of the Planning Commission and the staff with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the ____ day of _____, 2011, that Application No. ZT-133-11 be, and it is hereby, approved to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read and provide as follows:

Chapter 24.1 – Zoning

General – Correct and replace outdated references to former Title 15.1 of the Code of Virginia; new references: title 15.2.

Sec. 24.1-104. Definitions.

Agriculture. The use of land for a bona fide agricultural operation involving the production for sale (but not the processing) of plants, animals, and agricultural products useful to man and including such as tilling of the soil, the raising of crops, horticulture, the keeping of agricultural animals and fowl, dairy and poultry operations, or any other similar and customary agricultural activity, but not aquaculture, and including the customary accessory uses which are normally associated with agricultural activities. Fruit, vegetables, eggs and honey are deemed agricultural products only prior to processing of any kind other than washing.

~~*Animal, companion.* Any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, Vietnamese potbellied pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals.~~

~~*Aquaculture.* A controlled environment to enhance growth or propagation of harvestable freshwater, estuarine, or marine life plant or animal species. The propagation, rearing, enhancement, and harvest of aquatic organisms (including but not limited to shellfish) in controlled or selected environments, conducted in marine, estuarine, brackish, or fresh water.~~

~~*Aquaculture facility.* Any land, structure, or other appurtenance that is used for aquaculture, including any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.~~

~~*Convent/Monastery.* A facility housing a group of individuals devoted to a religious life and existence, such as a group of monks, friars, or nuns, and in which the inhabitants live in a communal manner as a single residential unit with various shared facilities such as, but not necessarily limited to, cooking and meal preparation.~~

Household pet. ~~Companion animals~~ Animals that are typically and customarily kept for company or pleasure in the house or yard including: domesticated rabbits; hamsters; ferrets; gerbils; guinea pigs; Vietnamese potbellied pigs; pet mice and pet rats; turtles; fish; dogs; cats; birds such as canaries, parakeets, doves and parrots; non-poisonous spiders; chameleons and similar lizards; and non-poisonous snakes. Agricultural animals, game and wild species or hybrids thereof, poisonous snakes, or animals regulated under federal law as research animals shall not be considered as household pets.

Livestock. Includes all domestic or domesticated animals that are typically characterized as farm animals including without limitation horses, ponies, bison (American buffalo), cattle, sheep, goats, alpacas, llamas, poultry, or ~~bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; enclosed domesticated rabbits or hares raised for human food or fiber; or any other similar individual animals~~ specifically raised for food or fiber, except household pets ~~companion animals~~. Vietnamese potbellied pigs (*sus scrofa vittatus*) which are kept as household pets are excluded from this definition.

Sec. 24.1-110. Interpretations.

- (b) Interpretations by the zoning administrator with respect to situations not specifically addressed by the provisions of this chapter shall be issued in writing and shall become a part of a permanent file to be maintained and available for review in the office of the zoning administrator. Such interpretations shall describe the rationale for the decision and shall include citations of the specific policies of the board of supervisors, as expressed in the adopted comprehensive plan, which support the interpretation.
- (c) Any decision, order, requirement or determination by the zoning administrator shall be rendered in writing and shall include the following statement:
- You have thirty (30) days in which to appeal this decision to the Board of Zoning Appeals, in accordance with section 15.2-2311, Code of Virginia, or this decision shall be final and unappealable. The filing fee for an appeal application is _____ (stating the amount of the fee). Information regarding the appeal application process can be obtained by contacting the Secretary of the Board of Zoning Appeals [(757)890-3532].*
- (d) Charts and diagrams included in this chapter are intended to supplement and illustrate the chapter provisions. In the event of conflict between such charts or diagrams and the text of this chapter, the text shall control.

(e) When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or the Board of Zoning Appeals is not the owner or the agent of the real property subject to such written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer, or the zoning administrator may require the applicant to give the notice and to provide satisfactory evidence of having done so. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment records shall be deemed to satisfy the notice requirement.

Sec. 24.1-109. Administration, enforcement, and penalties.

(c) *Penalties.* Violating, causing, or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner, lessee, employee or other similar position shall be unlawful and is subject to the following:

(3) *Civil fines:*

- a. Any person summoned or issued a ticket for a violation of this chapter listed in subsection (b) below may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established in this section for the offense charged, in lieu of criminal sanctions. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.
- b. A civil penalty is hereby established for a violation of any offense listed below in the amount of two hundred dollars (\$200.00) for any one (1) violation for the initial summons and five hundred (\$500.00) for each additional summons:

1. Constructing, placing, erecting, installing, maintaining, operating, or establishing an accessory structure or use in violation of section 24.1-270 et seq.
 2. Constructing, placing, erecting or displaying a sign in violation of section 24.1-700 et seq.
 3. Erecting, altering, or changing use or occupancy of any building, structure, or premises without first obtaining a zoning certificate or certificate of zoning compliance in violation of section 24.1-107.
 4. Failure to perpetuate and maintain all landscaping, screening, and fencing materials required by this chapter in violation of section 24.1-242.
 5. Operating, conducting or maintaining a home occupation in violation of Article II – Division 8, Home Occupations.
 6. Failure to observe the requirements for keeping sight triangles, as described in section 24.1-220(b), free of obstructions.
- c. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten (10) day period and in no event shall a series of such violations result in civil penalties which exceed a total of more than five thousand dollars (\$5,000.00). When such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
- d. The above provisions notwithstanding, civil penalties shall not accrue or be assessed during the pendency of the 30-day appeal period allowable pursuant to the terms of Section 24.1-903. b.
- e. No provisions herein shall be construed to allow the imposition of civil penalties for:
1. enforcement of the Uniform Statewide Building Code;
 2. activities related to land development;
 3. violations of the erosion and sediment control ordinance;
 4. violations relating to the posting of signs on public property or public rights-of-way; or

5. violations resulting in injury to any person or persons.

Section 24.1-114. Conditional zoning.

- (g) *Petition for review of decision.* Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator pursuant to the provisions of section 24.1-114(f) herein may petition the board for the review of such decision. Any such appeal shall occur within thirty (30) days of the action complained of and shall be instituted by filing with the zoning administrator a notice of appeal fully specifying the grounds therefor.

The zoning administrator shall forthwith transmit to the board all of the papers constituting the record upon which the decision appealed from was taken, and the board shall proceed to hear the appeal at its next regularly scheduled meeting.

An appeal shall stay all proceedings and furtherance of the action appealed from unless the zoning administrator certifies to the governing body after the notice of appeal has been filed with the zoning administrator that by reason of the fact stated in the certificate a stay will cause imminent peril to life or property. In such case the proceeding shall not be stayed otherwise than by a restraining order which may be granted by the governing body or by a court of record on application or notice to the zoning administrator and on due cause shown.

A decision by the board of supervisors on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.

Sec. 24.1-261. Public service facility standards.

- (b) *Emergency services.* The following design standards are intended to ensure that emergency services can be delivered effectively and efficiently should the need arise:
- (1) All buildings, and all portions thereof, on a site shall be readily accessible to emergency vehicles and apparatus. Where two or more principal buildings are proposed on the same parcel, the distance between any two such buildings shall be sufficient to ensure convenient emergency access and to

comply with all applicable fire separation standards prescribed by the Uniform Virginia Statewide Building Code. Circulation routes, driveways, parking lot aisles and other vehicular circulation areas shall be designed and arranged so as to provide for convenient access and operation of emergency services apparatus. Permanent obstruction or closing of existing access routes shall require specific approval of the fire chief prior to being authorized.

- (2) Any single-family detached residential structure constructed after the date of adoption of this subsection and ~~having any part of the structure~~ located more than 150 feet from the edge of pavement of a public street or highway shall be subject to the following emergency access and site design standards:
- a. ~~The structure shall be served by an access drive not less than twelve fourteen feet (12') (14') in width and capable of supporting fire and rescue vehicles and apparatus. Such driveway shall be bordered by with~~ two-foot (2') ~~wide compacted/treated~~ shoulders. ~~Such shoulders need not be constructed of the same material as the driveway but shall be sufficient to ensure the stability of the driveway when it is traversed by -capable of supporting~~ fire and rescue apparatus and vehicles.
 - b. ~~The access drive shall be an all-weather surface (concrete, asphalt, gravel, or other approved material) engineered and certified to adequately accommodate~~ capable of supporting the weight of large fire and rescue apparatus up to 80,000 pounds (gvw).
 - c. ~~The access drive shall be maintained with an unobstructed horizontal clearance of sixteen twenty feet (16') (20') and unobstructed vertical clearance of thirteen feet six inches (13'6").~~
 - d. ~~The access drive shall extend to at least the front of the building or one side (as determined by the Department of Fire and Life Safety). On properties where the structure has a floor area in excess of 4,500 square feet or where the height of the ridge line or highest part of the roof exceeds thirty-five feet (35') the access drive -and shall include an apparatus parking/operations area pad at least twenty feet (20') in width. The exact location and length shall be determined during the site layout plan review process. Turn-arounds of a size and configuration necessary to accommodate the apparatus likely to respond to an incident, as determined -by the Department of Fire and Life Safety, shall be required where the access drive exceeds two hundred feet (200') in length and may also be required for shorter access drives based on the site layout plan review and any unique site characteristics.~~

- e. When the structure has a floor area in excess of 4,500 square feet or where the height of the ridgeline or highest part of the roof exceeds thirty-five feet, the site shall be designed such that the entire perimeter of the structure shall be within 150' of the access drive.
- f. Where fire hydrants are installed~~located~~ along access drives, turnouts shall be installed at each hydrant location. Turnouts shall be forty feet (40') in length (twenty feet (20') on either side of the hydrant) and the combined width of the driveway and turnout shall be a minimum ~~the width of the drive shall be increased to twenty four feet (24') for a distance~~ of twenty feet (20') ~~on either side of the fire hydrant.~~
- g. The intersection of the access drive and the public street to which it connects shall be designed with a minimum turning radius of thirty-three feet (33') (taking into consideration the entire width of the roadway) unless otherwise approved by the Department of Fire and Life Safety

Building plans and a site layout plan (both to scale) shall be submitted for review and approval by the Department of Fire and Life Safety to ensure appropriate accessibility around the structure for firefighting/rescue operations by fire and rescue personnel and apparatus and vehicles where appropriate. The site layout plan shall include a cross-section and description of construction materials and methods for the proposed driveway.

- (3) An adequate water supply for firefighting must be ensured through compliance with the provisions of the county's water construction standards.

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (g) shall be deemed not allowed as residential accessory uses:

- (a) Antenna structures including guy wires for radio, television, and other noncommercial communication purposes subject to the following provisions:
 - (1) All locational standards and setbacks applicable to accessory structures shall be observed. Guy wires shall not be permitted in the front setback areas.

- (2) Antennas in excess of the height requirements specified in division 3 of this article shall be permitted only by the board after conducting a duly advertised public hearing. The measurement of height shall include both the antenna, any ancillary antennae, and any support structure.
- (3) The above provisions notwithstanding, dish antennas shall be subject to the following standards:
- a. Dish antennae shall not exceed twelve feet (12') in diameter and fifteen feet (15') in height.
 - b. In residential districts, dish antennae larger than twenty-four inches (24") in diameter shall be permitted in rear yards only. No part of a dish antenna shall be closer than five feet (5') to any lot line. Dish antennae larger than twenty-four inches (24") in diameter shall not be permitted on the roofs of residential structures or structures accessory thereto.
 - c. All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.
 - d. The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board, in accordance with the procedures established in article I, for authorization, by use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.

(aa) Accessory apartments, subject to the district location and supplementary requirements set forth in Section No. 24.1-306, Table of Land Uses, and Section No. 24.1-407, Standards for Accessory Apartments, respectively, of this chapter.

(b) Barns or other structures that are customarily incidental to an agricultural use in the RC or RR districts or when used in conjunction with horsekeeping as permitted in the residential districts.

~~(b)~~(c) Carports, garages, utility sheds, and similar storage facilities customarily associated with residential living. Movable storage boxes, also known as portable on-demand storage units, may be placed temporarily on a residential property for

loading or unloading. Such units shall not be placed in a front yard area, except on a driveway and at least twenty (20) feet from the front property line. When placed in a side or rear yard, the boxes shall be located at least five (5) feet from any property line. For the purposes of this section, temporary placement shall mean no more than sixteen (16) consecutive days at a time, and with at least one (1) year between successive placements. Not more than one (1) unit shall be placed on a residential property at a time and if multiple units are used for sequential loading or unloading, the sixteen (16) day limit shall apply to all cumulatively.

The above restrictions notwithstanding, when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, one or more movable storage boxes may be used for on-site storage purposes exceeding sixteen (16) days while the principal building is undergoing reconstruction/repair. The authorization for such use shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

- (d) Child's playhouses, without plumbing.
- (e) Private kennels in the RC or RR districts.
- (f) Doghouses, pens, or similar structures for the housing of not more than four (4) commonly accepted ~~companion animals~~ household pets over the age of six (6) months. The keeping of more than four (4) such animals over the age of six (6) months shall be deemed a private kennel and shall be permitted only in accordance with the requirements for same.
- (ff) Horsekeeping for personal but not commercial purposes, when in accordance with the Permitting and Performance Standards set forth in Section Nos. 24.1-306 and 24.1-414 of this Chapter.
- (g) Beekeeping provided no beehive is closer than fifty feet (50') to any dwelling, school or church establishment and that the owner provides a supply of water for the bees within fifty feet (50') of the hive.
- (gg) Backyard chicken-keeping for personal but not commercial purposes, when in accordance with the Permitting and Performance Standards set forth in Section Nos. 24.1-306 and 24.1-414.1 of this Chapter.

- (h) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, and also including commercial vehicles having a carrying capacity of 1-ton or less and used as transportation by the occupant of the dwelling to and from their place of employment, provided that the following requirements are observed:
- (1) such vehicles or equipment may not be parked or stored in front yards except on the driveway;
 - (2) such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, provided however, that when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, motor homes and recreational vehicles may be used for temporary residential occupancy during the time of reconstruction/repair of the principal dwelling. The authorization for such temporary occupancy shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.
 - (3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

The provisions of this subsection shall not be deemed to authorize take-off or landing operations from residential properties for aircraft of any type, including special light-sport aircraft, experimental light-sport aircraft, or ultra-light aircraft, as defined by the Federal Aviation Administration (FAA).

[\(hh\) Home occupations in accordance with the terms and requirements set forth in Division 8 of this Article.](#)

Sec. 24.1-272. Accessory uses permitted in conjunction with commercial and industrial uses.

The following accessory uses shall be permitted in conjunction with commercial and industrial uses. No accessory use, activity, or structure, except fences, shall be constructed until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously

pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (l) shall be deemed not allowed as commercial or industrial accessory uses:

- (k) Small wind energy systems subject to the standards set forth in section nos. 24.1-231 and 274 of this chapter.
- (l) Parking or storage of heavy trucks and cargo or utility trailers provided that the following requirements are observed:
 - (1) such vehicles may be parked in any required parking spaces located on the site, provided they can fit within a single standard-dimension parking space, as set forth in Section 24.1-607, and that the site remains compliant with the requirements of Section 24.1-604(c);
 - (2) vehicles that cannot fit in a standard-dimension parking space must be accommodated on a properly paved and located surface that does not constitute any of the required parking space, drive aisles, or fire lanes on the site.
 - (3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.
 - (4) any signage attached or affixed in any manner to the trailer must be capable of remaining in place and being legal when the trailer is driven on public roads;
- (m) Other uses and structures of a similar nature which are customarily associated with and incidental to commercial or industrial uses, as determined by the zoning administrator.

Sec. 24.1-273. Location, height, and size requirements.

Except where other provisions of this chapter are more restrictive, the following requirements shall apply to the location, height, and size of all accessory uses or structures in all districts, including the planned development district unless the approving ordinance for such district (project) has established alternative or supplementary requirements:

- (a) With the exception of statues, arbors, trellises, flagpoles, fences, walls or roadside stands, accessory buildings or structures shall not be located closer to the front lot line than the principal building façade provided, however, that where the setback of the principal building exceeds fifty feet (50'), accessory buildings and structures shall be subject only to a fifty-foot (50') minimum setback requirement.

- (b) Accessory buildings or structures located closer to the front lot line than the rear of the principal building shall observe the side yard requirements applicable to the principal building. When the rear façade of the principal building has more than one plane, the accessory building side yard requirements shall be determined based on accessory building location in relation to those rear facades as depicted in Figure II-7.1, Appendix A.
- (c) An accessory building or structure attached to a principal building by any wall or roof construction, or located within ten feet (10') of any principal building, shall be considered a part of the principal building and shall observe all yard regulations applicable thereto. Setback and spacing requirements for accessory in-ground swimming pools shall be measured to the edge of the water. Setback and spacing requirements for above-ground pools shall be measured to the outer edge of the pool wall or any above-ground decking surrounding the pool.
- (d) Accessory buildings and structures shall observe minimum side and rear yard setbacks of five feet (5') except where the provisions of this chapter specifically require otherwise and provided, however:
 - (1) There shall be no side and rear yard requirements for fences or walls; and
 - (2) There shall be no rear yard requirement for docks, piers or boathouses; however, a setback of ten feet (10') from side lot lines extended to mean low water shall be observed. All such uses shall be subject to applicable permitting requirements of the Virginia Marine Resource Commission and United States Army Corps of Engineers.
- (e) Roadside stands shall be set back at least twenty feet (20') from any road right-of-way.
- (f) The above listed requirements shall not apply to the parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment on residential properties; however, no such trailer, vehicle, or equipment shall be stored -in any required front yard area within twenty feet (20') of any public road right of way, unless in on an all-weather surfaced-a driveway. Any signage attached or affixed in any manner to the trailer must be capable of remaining in place and being legal when the trailer is driven on public roads;
- (g) Except as authorized by section 24.1-231 or section 24.1-274 of this chapter, no accessory building or structure shall exceed the maximum height limitation established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of

a) Single-Family, Detached	P	P	P	P										
b) Single-Family, Attached • Duplex	S	S	S	S										
3. Apartment Accessory to Single-Family Detached	(1)	(1)	(1)	(1)										
4. Manufactured Home Park					S									
5. Boarding House		S				S								
6. Tourist Home, Bed and Breakfast	S	S	S	S		S	P	P						
7. Group Home (for more than 8 occupants)		S	S	S		S								
8. Transitional Home		S	S	S		S								
9. Senior Housing – Independent Living Facility														
(a) detached or attached units w/individual outside entrances						S								
(b) multi-unit structures w/internal entrances						S	S	S						
(c) multi-unit structure w/ internal or external entrances to individual units when established in an adapted structure formerly used as hotel or motel.							S	S		S				

(4) Refer to Section 24.1-407 for accessory apartment location and performance standards

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS							
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG	
	CATEGORY 2 - AGRICULTURE, ANIMAL KEEPING, AND RELATED USES													
1. Aquaculture	P									P		P	P	
2. Crop/Livestock Farming Agriculture	P	P										P	P	
3. Horsekeeping in Conjunction with Residential Use	P	P	S	S		S	S	S	S			S	S	
4. Plant Nursery or Greenhouse														
a) Wholesale Only	P	P							P		P	P		
b) Retail Sales with or without wholesale sales	S								P		P	P		
		S							P					
c) Retail or Wholesale with accessory landscape contracting storage & equipment	S	S							S		P	P	P	
6. Private Kennel accessory to a residence	PS	P	S	S					S			S		
6a. Backyard chicken-keeping accessory to a single-family detached dwelling	P	P	P	S					P					
7. Animal Hospital, Vet Clinic, Commercial Kennel														
a) Without Outside Runs	S					S		S			P	P	P	
		S							P					
b) With Outside Runs	S	S							S		S	P	P	
8. Commercial Stables		S										S	S	
9. Commercial Orchard or Vineyard	P	P	S	S					S		P	P	P	
10. Forestry	P	P	S	S	S	S	S	S	S	S	S	S	S	
11. Farmer's Market	S						P	P			P	P	P	

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS							
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG	
	CATEGORY 6 - INSTITUTIONAL USES													
1. Place of Worship including Accessory Parsonage, Parochial School, Accessory Day Care, Accessory Cemetery		P	P	P	P	P	P	P	P					
1.a. Convent / Monastery		S				S		S			S			
2. Senior Housing – Congregate Care						S		S	S		S			
3. Senior Housing – Assisted Living						S		S	S		S			
4. Senior Housing – Continuing Care Retirement Community						S		S	S		S			
5. Nursing Home		S	S	S		S		S	S		S			

6. Medical Care Facility, including General Care Hospital, Trauma Center								S	P		P		
7. Emergency Care/First-Aid Centers or Clinic								P	P		P		
8. Secured Medical Facility									S				

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 14 - WHOLESALING / WAREHOUSING												
1. Wholesale Auction Establishment a) without outdoor storage/activity b) with outdoor storage									P			P	P
									S			P	P
2. Warehousing, Including Moving and Storage Establishment									S		S	P	P
3. Wholesale Trade Establishment (May Include accessory retail sales) a) without outdoor storage b) with outdoor storage									P		P	P	P
									S		S	P	P
4. Seafood Receiving, Packing, Storage										P		S	P
5. Petroleum Products Bulk Storage/Retail Distribution												S	P
6. Mini-Storage Warehouses a. Single-story b. Multi-story									S			P	P
									S			P	P

Sec. 24.1-322. RR-Rural residential district.

- (a) *Statement of intent.* The RR district is [a type of residential district](#) intended to provide opportunities primarily for single-family residential development generally having a maximum density of one dwelling unit per acre. Low density [residential](#) development is appropriate in areas where public services and facilities are limited and/or physical or environmental constraints are prevalent.
- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

RR-RURAL RESIDENTIAL DISTRICT

Use Classification	Minimum Lot Requirements ⁽¹⁾		Minimum Yard Requirements			Maximum Building Height ⁽²⁾
	Area	Width	Front	Side	Rear	
Single-Family Detached Dwellings	1 ac 4000-m ²	150' 45m	50' 15m	20' 6m	50' 15m	35' 12m
All Other Permitted & Special Uses	1 ac 4000-m ²	150' 45m	50' 15m	20' 6m	50' 15m	35' 10.5M

⁽¹⁾ These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to Section 24.1-204.
⁽²⁾ For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none

NOTE:
Residential open space subdivision techniques may be used in this district.
Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

Sec. 24.1-373. FMA-Floodplain management area overlay district.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” ~~is required in order to~~ is required in order to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

(e) *Special standards and requirements.*

- (7) *Construction standards for properties in Zone AE.* All new construction or substantial improvement in Zone AE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone AE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy.

In addition, the following standards shall apply:

- a. ~~It is strongly recommended that~~ All new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least one and one-half feet (1½') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
- b. ~~It is strongly recommended that~~ All electrical distribution panels be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent inundation.
- c. ~~In all cases, The~~ The elevation of the lowest floor of the structure, including basements, ~~shall be constructed with~~ shall be constructed with ~~to~~ a freeboard at least one and one-half feet (1½') above the base flood elevation or, in the case of non-residential structures, floodproofing to at least that

level shall be required., ~~is strongly encouraged and may result in a reduction of flood insurance premiums.~~

- (8) *Construction standards for properties in Zone VE.* All new construction or substantial improvement in Zone VE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone VE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. In addition, the following standards shall apply:
- a. All new construction or development shall be located landward of the reach of the mean high tide.
 - b. Any man-made alteration of a sand dune or any part thereof shall be prohibited.
 - c. No structure or any part thereof may be constructed on fill material of any kind.
 - d. ~~It is strongly recommended that~~ All new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
 - e. ~~It is strongly recommended that~~ All electrical distribution panels be installed with a freeboard at least six feet (6') above the base flood elevation or otherwise located so as to prevent inundation.
 - f. ~~In all cases,~~ The elevation of the bottom of the lowest horizontal structural member of the lowest floor of the structure, excluding pilings or columns, shall be constructed with ~~to~~ a freeboard at least three feet (3') above the base flood elevation. ~~is strongly encouraged and may result in a reduction of flood insurance premiums.~~

Sec. 24.1-402. Standards for open space development (cluster techniques).

(c) *Yard, size and dimension requirements.*

- (1) There are no lot width or area requirements.

- (2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development unless the abutting development shall have been developed as an open space development. In the case of any open space development receiving Preliminary Plan approval after October 20, 2009, the building setback requirement from any property line on the perimeter of the development shall be the same dimension as would be required for a conventional development unless the lot abuts another open space development or an open space area not less than forty-five feet (45') in width. A lot shall be considered to be abutting unless it is separated by an area of open space which is not less than forty-five feet (45') in width. Any open space strip used to satisfy this requirement shall remain undeveloped, except for stormwater management facilities if approved as specified below, and shall be maintained in its natural state if wooded or, if void of vegetation or undervegetated, it shall be landscaped to meet Type 25 Transitional Buffer standards, as established in section 24.1-243 of this chapter. Such open space area shall not be used to accommodate stormwater management facilities unless such stormwater management facilities are set back at least twenty five feet (25') from any property not in the open space development. Existing trees and vegetation within such setback area shall be preserved and protected and/or the area shall be landscaped to meet the planting standards of a Type 25 Transitional Buffer. With the concurrence of abutting property owners, the landscaping along all or portions of the 25-foot wide buffer strip may be eliminated or reduced in scope so as not to obscure desirable views of a BMP feature such as a pond or lake.
- (3) The minimum setback from external streets shall be that which is prescribed in the underlying zoning district.
- (4) The minimum setback from internal public streets shall be thirty feet (30') and from internal private driveways or streets the setback shall be established on the plan of development, but in no case shall it be less than ten feet (10').
- (5) The minimum distance between any two principal buildings within the open space development shall be twenty feet (20'). Side yard dimensions on each individual lot shall be a minimum of ten feet (10') in depth and rear yard dimensions shall be a minimum of twenty feet (20') in depth. Accessory building locations and setbacks shall be governed by the provisions set out in Section 24.1-273 of this Chapter.
- (6) Where Flag lots, if proposed, shall be subject to the limitations and dimensional standards set forth in Section 24.1-202(c) of this chapter. are utilized, the "staff" portion shall be twenty feet (20') or greater in width.

Sec. 24.1-411. Standards for Senior Housing (Housing for Older Persons)

- (n) Applications for Special Permits for senior housing projects shall be accompanied by a community impact statement which shall analyze in specific terms the probable impact of the project on the community over time. The assessment shall include, but not be limited to, reports on population projections, public services and facilities demands and impacts, and environmental, fiscal and economic impacts.
- (o) In the case of proposals involving the adaptive re-use of a structure and property formerly used as a hotel or motel, the applicant may propose, and the Board may approve, adjustments in the normally applicable site design requirements such as, but not necessarily limited to, building setbacks, landscape areas, and buffers when such adjustments will allow existing site features and elements to remain and to be incorporated into the new development in an appropriate and acceptable manner, as determined by the Board.

Sec. 24.1-414. Standards for horsekeeping and commercial stables.

- (a) The minimum area of any parcel proposed for the keeping of horses, whether accessory to a residential use or as a commercial stable, shall be two (2) usable acres. In determining usable acreage, the area occupied by any residential structures, the area of required front or side yards, and any areas unsuitable for keeping of horses by reason of topography, ~~ie or~~ drainage conditions, or the extent of tree or other vegetation cover shall not be included in the computation.

Sec. 24.1-414.1. Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens on residentially-zoned and occupied property in the R20, R13 and WCI Districts shall be solely for purposes of household consumption and shall be permitted only in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed unless authorized as a home occupation through the

issuance of a special use permit by the board of supervisors pursuant to the terms of Section 24.1-283(b) of this chapter.

- (b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.
- (c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.
- (d) No roosters shall be allowed.
- (e) There shall be no outdoor slaughtering of birds.
- (f) Pens, coops, or cages shall not be located in any front or side yard area.
- (g) All pens, coops, or cages shall be situated at least ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.
- (h) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.
- (i) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- (j) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. .
- (k) In accordance with the terms of section 24.1-306, proposals for backyard chicken-keeping in the R13 district shall be processed under the Special Use Permit procedures. In the case of proposals for backyard chicken-keeping in the R20 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application shall be accompanied by a \$15.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size

of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the Division of Development and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken-keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.

- (l) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements (in the case of chicken-keeping that would otherwise be allowed as a matter-of-right) or as part of an initial or subsequent use permit application (in the case of chicken-keeping allowed only by special use permit).

DIVISION 3. COMMUNITY USES (CATEGORY 4)

Sec. 24.1-423. Standards for all community uses.

- (a) Outdoor recreational facilities such as swimming pools and tennis courts shall be not less than fifty feet (50') from any residential property line external to the development served. Such facilities shall be effectively screened from view from properties external to the development served by landscaping or appropriate fencing materials. Ancillary buildings or structures associated with such facilities shall be subject to the setback and yard requirements specified in the district in which located.
- (b) Off-street parking areas shall be provided in accordance with all applicable requirements of this chapter. Such parking areas, as well as circulation drives and paved fire lanes, shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties external to the development served by landscaping supplemented, as necessary, with appropriate masonry or wooden fencing materials. The provisions of this section do not apply to neighborhood or community recreation or assembly facilities which are approved as a part of an overall plan of development for a subdivision or planned development.
- (c) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property

- (de) Community uses may be established only by organizations, the charter and by-laws of which ensure that the organization shall be a cooperative established by the Virginia Real Estate Cooperative Act (section 55-425 et seq., Code of Virginia) or can achieve bona fide nonprofit status in accordance with the Internal Revenue Service guidelines.

DIVISION 4. EDUCATION USES (CATEGORY 5)

Sec. 24.1-427. Standards for all education uses.

- (a) All off-street parking and loading spaces, [circulation drives, and paved firelanes](#) for education uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials.
- (b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for educational uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.
- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) [Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.](#)

DIVISION 5. INSTITUTIONAL USES (CATEGORY 6)

Sec. 24.1-431. Standards for all institutional uses.

- (a) All off-street parking and loading spaces, [circulation drives, and paved firelanes](#) for institutional uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping supplemented, as necessary, by appropriate fencing materials.

- (b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for institutional uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.
- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.

Sec. 24.1-432. Standards for Convents / Monasteries

- (a) The minimum area of any parcel on which such uses may be proposed shall be four (4) times the minimum lot area for the zoning district in which located or 5 acres, whichever is less.
- (b) The maximum number of resident occupants in such facility shall be established by the Board of Supervisors in consideration of the character of the site and the surrounding area, infrastructure and service delivery capacities, compatibility with existing and potential development in the area, and such other factors as the Board may deem appropriate.
- (c) The provisions of Article VI – Off-Street Parking and Loading notwithstanding, the minimum required number of parking spaces shall be established by the Board of Supervisors on a case-by-case basis in consideration of the specific characteristics and operational policies of the proposed facility, as documented in writing by the applicant.

Secs. ~~24.1-432~~–24.1-433. Reserved.

DIVISION 6. PUBLIC AND SEMI-PUBLIC USES (CATEGORY 7)

Sec. 24.1-434. Standards for all public and semi-public uses.

- (a) All off-street parking and loading spaces, circulation drives, and paved firelanes for public and semi-public uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from

view from adjacent residential properties by landscaping supplemented, as necessary, by appropriate fencing materials.

- (b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for public and semi-public uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.
- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.

Sec. 24.1-712. Standards for increases in sign placement, area and height.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements;

- (a) increases in sign area and sign height when unusual topography, vegetation, parcel shape, or the distance from the road right-of-way would impose substantial hardship by making a sign otherwise permitted by the terms of this chapter ineffective and unreadable from vehicles on adjoining (i.e., abutting) roadways; or
- (b) an increase in the number of allowable signs in the case of shopping centers or other large commercial uses having more than 100,000 square feet of retail floor area, and having in excess of 1,000 feet of frontage and more than one entrance drive on the same street frontage, when it is determined that distance, topography, or other factors prevent adequate and timely recognition by motorists of the available entrance points to such shopping center or commercial use.

In authorizing signs in either of the above situations, the board shall limit the area, height, and location of such signs to that which, in its opinion, is reasonably in keeping with the provisions of Article VII.

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following ordinance was adopted:

AN ORDINANCE TO APPROVE APPLICATION NO. ZT-133-11 TO AMEND VARIOUS SECTIONS OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE)

WHEREAS, Application No. ZT-133-11 has been sponsored by the Board of Supervisors to allow consideration of amendments necessary to keep the Zoning Ordinance current with respect to State Code requirements and to address various other issues identified for consideration by the Board; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application and has recommended approval of the proposed amendments; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the public comments and the recommendations of the Planning Commission and the staff with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the ____ day of _____, 2011, that Application No. ZT-133-11 be, and it is hereby, approved to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to read and provide as follows:

Chapter 24.1 – Zoning

General – Correct and replace outdated references to former Title 15.1 of the Code of Virginia; new references: title 15.2.

Sec. 24.1-104. Definitions.

Agriculture. The use of land for a bona fide agricultural operation involving the production for sale (but not the processing) of plants, animals, and agricultural products useful to man and including such as tilling of the soil, the raising of crops, horticulture, the keeping of agricultural animals and fowl, dairy and poultry operations, or any other similar and customary agricultural activity, but not aquaculture, and including the customary accessory uses which are normally associated with agricultural activities. Fruit, vegetables, eggs and honey are deemed agricultural products only prior to processing of any kind other than washing.

~~Animal, companion. Any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, Vietnamese potbellied pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal which is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals.~~

~~Aquaculture. A controlled environment to enhance growth or propagation of harvestable freshwater, estuarine, or marine life plant or animal species. The propagation, rearing, enhancement, and harvest of aquatic organisms (including but not limited to shellfish) in controlled or selected environments, conducted in marine, estuarine, brackish, or fresh water.~~

~~Aquaculture facility. Any land, structure, or other appurtenance that is used for aquaculture, including any laboratory, hatchery, pond, raceway, pen, cage, incubator, or other equipment used in aquaculture.~~

~~Convent/Monastery. A facility housing a group of individuals devoted to a religious life and existence, such as a group of monks, friars, or nuns, and in which the inhabitants live in a communal manner as a single residential unit with various shared facilities such as, but not necessarily limited to, cooking and meal preparation.~~

Household pet. Companion animals that are typically and customarily kept for company or pleasure in the house or yard including: domesticated rabbits; hamsters; ferrets; gerbils; guinea pigs; Vietnamese potbellied pigs; pet mice and pet rats; turtles; fish; dogs; cats; birds such as canaries, parakeets, doves and parrots; non-poisonous spiders; chameleons and similar lizards; and non-poisonous snakes. Agricultural animals, game and wild species or hybrids thereof, poisonous snakes, or animals regulated under federal law as research animals shall not be considered as household pets., -

Livestock. Includes all domestic or domesticated animals that are typically characterized as farm animals including without limitation horses, ponies, bison (American buffalo), cattle, sheep, goats, alpacas, llamas, poultry, or ~~bovine animals; equine animals; ovine animals; porcine animals; cervidae animals; capradae animals; animals of the genus Lama; ratites; enclosed domesticated rabbits or hares raised for human food or fiber; or any other similar individual~~ animals specifically raised for food or fiber, except household pets ~~companion animals~~. Vietnamese potbellied pigs (*sus scrofa vittatus*) which are kept as household pets are excluded from this definition.

Sec. 24.1-108. Filing fees.

(a) *Application fees.*

- (1) An application fee shall be charged to offset the cost of reviewing plans, processing applications, making inspections, issuing permits, advertising public notices and other expenses incident to the administration of this chapter or to the filing or processing of any amendment to the zoning ordinance, special use permit or zoning appeals. Such fees shall also include charges for readvertising and re-mailing notices when necessitated by the amendment, postponement, or modification of an application. Filing fees shall be paid upon submission of an application and shall be as set forth in the following schedule:

TYPE OF APPLICATION	FEE
a. Amendment to the zoning ordinance, except planned development applications	\$600 \$800, plus \$10 for every acre in excess of 5, but not to exceed a maximum fee of \$2,000 \$3,000.
b. Application for planned development approval (1) Phase I submission (overall concept)	\$800, plus \$10 for every acre, but not to exceed a maximum fee of \$3,000. \$800, plus \$10 for every acre, but not to exceed a maximum fee of \$3,000.

(2) Phase II submission (detailed plan)	(Refer to site plan or subdivision plat fees)
c. Limited deviations from approved planned developments	\$100
d. Special use permits and amendments thereto: <ol style="list-style-type: none"> 1. Applications for home occupations and accessory apartments 2. All other types of Special Use Permit applications 	\$400 \$450 \$800, plus \$10 for every acre-over-5, but not to exceed a maximum fee of \$1,000 \$3,000.
e. Minor enlargement or expansion of a conforming special use under provisions of section 24.1-115(d)(2)	\$100
f. Special exception to height limitations as provided in section 24.1-231	\$200 \$800
g. Special exception to allow expansion of a nonconforming use as provided in section 24.1-801	\$200 \$800
h. Other special exception	\$200 \$800
i. Appeals/Variances/Modifications: <ol style="list-style-type: none"> 1. Appeal or variance request to the board of zoning appeals 2. Administrative modification request 	\$250 \$350 \$50
j. Amendment, modification or postponement of rezoning or use permit application requiring readvertisement and renotification by both the commission and board	\$300 \$800; provided, however, that if the actual invoiced cost of the re-advertisement is less than \$800, the applicant shall be refunded the difference.
k. Amendment, modification, or postponement of rezoning, use permit or variance application requiring readvertisement and renotification by the commission, board, or board of zoning appeals	\$200 \$500; provided, however, that if the actual invoiced cost of the re-advertisement is less than \$500, the applicant shall be refunded the difference.
l. Zoning Verification/Certification letters: <ol style="list-style-type: none"> 1. Requests for verification of zoning classification and permissible uses 2. Requests for zoning verification that also include confirmation of plan approvals, previous permits, violation notices, property conformance, and similar requests requiring file research and/or site inspections 	No Charge \$50

- (2) No application shall be received or shall be deemed to have been filed until accompanied by the required filing fee.
- (3) Application fees shall not be refundable in the case of appeals to the board of zoning appeals. In the case of withdrawal of applications for zoning amendments, use permits or planned development approval, exemptions or exceptions, refunds of application fees shall be according to the following schedule:

- a. Written request received in sufficient time to cancel the publication of the first legal notice for the commission public hearing: one hundred percent (100%) of fee, minus a \$50 administrative processing fee, is refundable.
- b. Written request received after the first legal notice has been published but prior to the first meeting of the planning commission at which the request will be considered: fifty percent (50%) of the fee refundable.
- c. Written request received within five working (5) days after the date of final action by the commission: twenty-five percent (25%) of fee refundable.
- d. Written request received more than five (5) working days after the date of final action by the commission: No refund.

All requests for withdrawal must be in writing, signed by the applicant, and be submitted to the zoning administrator.

- (4) The above described fees shall be waived for any application submitted by any board, commission, agency or department of the county.

Sec. 24.1-110. Interpretations.

- (b) Interpretations by the zoning administrator with respect to situations not specifically addressed by the provisions of this chapter shall be issued in writing and shall become a part of a permanent file to be maintained and available for review in the office of the zoning administrator. Such interpretations shall describe the rationale for the decision and shall include citations of the specific policies of the board of supervisors, as expressed in the adopted comprehensive plan, which support the interpretation.
- (c) Any decision, order, requirement or determination by the zoning administrator shall be rendered in writing and shall include the following statement:

You have thirty (30) days in which to appeal this decision to the Board of Zoning Appeals, in accordance with section 15.2-2311, Code of Virginia, or this decision shall be final and unappealable. The filing fee for an appeal application is _____ (stating the amount of the fee). Information regarding the appeal application process can be obtained by contacting the Secretary of the Board of Zoning Appeals [(757)890-3532].

(d) Charts and diagrams included in this chapter are intended to supplement and illustrate the chapter provisions. In the event of conflict between such charts or diagrams and the text of this chapter, the text shall control.

(e) When any applicant requesting a written order, requirement, decision, or determination from the zoning administrator, other administrative officer, or the Board of Zoning Appeals is not the owner or the agent of the real property subject to such written order, requirement, decision or determination, written notice shall be given to the owner of the property within 10 days of the receipt of such request. Such written notice shall be given by the zoning administrator or other administrative officer, or the zoning administrator may require the applicant to give the notice and to provide satisfactory evidence of having done so. Written notice mailed to the owner at the last known address of the owner as shown on the current real estate tax assessment records shall be deemed to satisfy the notice requirement.

Sec. 24.1-109. Administration, enforcement, and penalties.

(c) *Penalties.* Violating, causing, or permitting the violation of, or otherwise disregarding any of the provisions of this chapter by any person, firm or corporation, whether as principal, agent, owner, lessee, employee or other similar position shall be unlawful and is subject to the following:

(3) *Civil fines:*

a. Any person summoned or issued a ticket for a violation of this chapter listed in subsection (b) below may make an appearance in person or in writing by mail to the county treasurer prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established in this section for the offense charged, in lieu of criminal sanctions.

Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law.

b. A civil penalty is hereby established for a violation of any offense listed below in the amount of two hundred dollars (\$200.00) for any one (1) violation for the initial summons and five hundred (\$500.00) for each additional summons:

1. Constructing, placing, erecting, installing, maintaining, operating, or establishing an accessory structure or use in violation of section 24.1-270 et seq.
 2. Constructing, placing, erecting or displaying a sign in violation of section 24.1-700 et seq.
 3. Erecting, altering, or changing use or occupancy of any building, structure, or premises without first obtaining a zoning certificate or certificate of zoning compliance in violation of section 24.1-107.
 4. Failure to perpetuate and maintain all landscaping, screening, and fencing materials required by this chapter in violation of section 24.1-242.
 5. Operating, conducting or maintaining a home occupation in violation of Article II – Division 8, Home Occupations.
 6. Failure to observe the requirements for keeping sight triangles, as described in section 24.1-220(b), free of obstructions.
- c. Each day during which a violation is found to exist shall be a separate offense. However, in no event shall specified violations arising from the same set of operative facts be charged more frequently than once in a ten (10) day period and in no event shall a series of such violations result in civil penalties which exceed a total of more than five thousand dollars (\$5,000.00). When such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.
- d. [The above provisions notwithstanding, civil penalties shall not accrue or be assessed during the pendency of the 30-day appeal period allowable pursuant to the terms of Section 24.1-903. b.](#)
- ed. No provisions herein shall be construed to allow the imposition of civil penalties for:
1. enforcement of the Uniform Statewide Building Code;
 2. activities related to land development;
 3. violations of the erosion and sediment control ordinance;
 4. violations relating to the posting of signs on public property or public rights-of-way; or

5. violations resulting in injury to any person or persons.

Section 24.1-114. Conditional zoning.

- (g) *Petition for review of decision.* Any zoning applicant or any other person who is aggrieved by a decision of the zoning administrator pursuant to the provisions of section 24.1-114(f) herein may petition the board for the review of such decision. Any such appeal shall occur within thirty (30) days of the action complained of and shall be instituted by filing with the zoning administrator a notice of appeal fully specifying the grounds therefor.

The zoning administrator shall forthwith transmit to the board all of the papers constituting the record upon which the decision appealed from was taken, and the board shall proceed to hear the appeal at its next regularly scheduled meeting.

An appeal shall stay all proceedings and furtherance of the action appealed from unless the zoning administrator certifies to the governing body after the notice of appeal has been filed with the zoning administrator that by reason of the fact stated in the certificate a stay will cause imminent peril to life or property. In such case the proceeding shall not be stayed otherwise than by a restraining order which may be granted by the governing body or by a court of record on application or notice to the zoning administrator and on due cause shown.

[A decision by the board of supervisors on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided written notice of the zoning violation, written determination, or other appealable decision.](#)

Sec. 24.1-261. Public service facility standards.

- (b) *Emergency services.* The following design standards are intended to ensure that emergency services can be delivered effectively and efficiently should the need arise:
 - (1) All buildings, and all portions thereof, on a site shall be readily accessible to emergency vehicles and apparatus. Where two or more principal buildings are proposed on the same parcel, the distance between any two such buildings shall be sufficient to ensure convenient emergency access and to comply with all applicable fire separation standards prescribed by the Uni-

form Virginia Statewide Building Code. Circulation routes, driveways, parking lot aisles and other vehicular circulation areas shall be designed and arranged so as to provide for convenient access and operation of emergency services apparatus. Permanent obstruction or closing of existing access routes shall require specific approval of the fire chief prior to being authorized.

- (2) Any single-family detached residential structure constructed after the date of adoption of this subsection and ~~having any part of the structure~~ located more than 150 feet from the edge of pavement of a public street or highway shall be subject to the following emergency access and site design standards:
- a. ~~The~~ structure shall be served by an access drive not less than ~~twelve fourteen~~ feet ~~(12') (14')~~ in width and capable of supporting fire and rescue vehicles and apparatus. Such driveway shall be bordered by with two-foot (2') wide compacted/treated shoulders. Such shoulders need not be constructed of the same material as the driveway but shall be sufficient to ensure the stability of the driveway when it is traversed by -capable of supporting fire and rescue apparatus and vehicles.
 - b. ~~The~~ access drive shall be an all-weather surface (concrete, asphalt, gravel, or other approved material) engineered and certified to adequately accommodate ~~capable of supporting~~ the weight of large fire and rescue apparatus up to 80,000 pounds (gvw).
 - c. ~~The~~ access drive shall be maintained with an unobstructed horizontal clearance of ~~sixteen twenty~~ feet ~~(16') (20')~~ and unobstructed vertical clearance of thirteen feet six inches (13'6").
 - d. ~~The~~ access drive shall extend to at least the front of the building or one side (as determined by the Department of Fire and Life Safety). On properties where the structure has a floor area in excess of 4,500 square feet or where the height of the ridgeline or highest part of the roof exceeds thirty-five feet (35') the access drive -and shall include an apparatus parking/operations area pad at least twenty feet (20') in width. The exact location and length shall be determined during the site layout plan review process. Turn-arounds of a size and configuration necessary to accommodate the apparatus likely to respond to an incident, as determined -by the Department of Fire and Life Safety, shall be required where the access drive exceeds two hundred feet (200') in length and may also be required for shorter access drives based on the site layout plan review and any unique site characteristics.
 - e. When the structure has a floor area in excess of 4,500 square feet or where the height of the ridgeline or highest part of the roof ex-

ceeds thirty-five feet, the site shall be designed such that the entire perimeter of the structure shall be within 150' of the access drive.

- f. Where fire hydrants are installed~~located~~ along access drives, turnouts shall be installed at each hydrant location. Turnouts shall be forty feet (40') in length (twenty feet (20') on either side of the hydrant) and the combined width of the driveway and turnout shall be a minimum ~~the width of the drive shall be increased to twenty four feet (24') for a distance~~ of twenty feet (20') ~~on either side of the fire hydrant.~~
- g. The intersection of the access drive and the public street to which it connects shall be designed with a minimum turning radius of thirty-three feet (33') (taking into consideration the entire width of the roadway) unless otherwise approved by the Department of Fire and Life Safety

Building plans and a site layout plan (both to scale) shall be submitted for review and approval by the Department of Fire and Life Safety to ensure appropriate accessibility around the structure for firefighting/rescue operations by fire and rescue personnel and apparatus and vehicles where appropriate. The site layout plan shall include a cross-section and description of construction materials and methods for the proposed driveway.

- (3) An adequate water supply for firefighting must be ensured through compliance with the provisions of the county's water construction standards.

Sec. 24.1-271. Accessory uses permitted in conjunction with residential uses.

The following accessory uses shall be permitted in conjunction with residential uses. No accessory use, activity or structure, except fences, shall be constructed or conducted until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (g) shall be deemed not allowed as residential accessory uses:

- (a) Antenna structures including guy wires for radio, television, and other noncommercial communication purposes subject to the following provisions:
- (1) All locational standards and setbacks applicable to accessory structures shall be observed. Guy wires shall not be permitted in the front setback areas.
 - (2) Antennas in excess of the height requirements specified in division 3 of this article shall be permitted only by the board after conducting a duly

advertised public hearing. The measurement of height shall include both the antenna, any ancillary antennae, and any support structure.

- (3) The above provisions notwithstanding, dish antennas shall be subject to the following standards:
- a. Dish antennae shall not exceed twelve feet (12') in diameter and fifteen feet (15') in height.
 - b. In residential districts, dish antennae larger than twenty-four inches (24") in diameter shall be permitted in rear yards only. No part of a dish antenna shall be closer than five feet (5') to any lot line. Dish antennae larger than twenty-four inches (24") in diameter shall not be permitted on the roofs of residential structures or structures accessory thereto.
 - c. All dish antennae and the construction and installation thereof shall conform with applicable requirements of the Uniform Statewide Building Code. No dish antenna may be installed on a portable or movable base.
 - d. The above dimensional and location standards notwithstanding, where the zoning administrator determines that a usable satellite signal cannot be obtained by locating or sizing a dish antenna in accordance with such criteria, application may be made to the board, in accordance with the procedures established in article I, for authorization, by use permit, of an alternative placement or size in order to provide for the reception of a usable signal. In its consideration of such applications, the board may impose such conditions as it deems necessary to protect the public health, safety and general welfare and to protect the character of surrounding properties.

(aa) Accessory apartments, subject to the district location and supplementary requirements set forth in Section No. 24.1-306, Table of Land Uses, and Section No. 24.1-407, Standards for Accessory Apartments, respectively, of this chapter.

(b) Barns or other structures that are customarily incidental to ~~an~~ legally established and permitted agricultural use ~~in the RC or RR districts~~ or when used in conjunction with horsekeeping as permitted in the residential districts.

~~(b)~~(c) Carports, garages, utility sheds, and similar storage facilities customarily associated with residential living. Movable storage boxes, also known as portable on-demand storage units, may be placed temporarily on a residential property for loading or unloading. Such units shall not be placed in a front yard area, except on a driveway and at least twenty (20) feet from the front property line. When placed in a side or rear yard, the boxes shall be located at least five (5) feet from any property line. For the purposes of this section, temporary placement shall

mean no more than sixteen (16) consecutive days at a time, and with at least one (1) year between successive placements. Not more than one (1) unit shall be placed on a residential property at a time and if multiple units are used for sequential loading or unloading, the sixteen (16) day limit shall apply to all cumulatively.

The above restrictions notwithstanding, when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, one or more movable storage boxes may be used for on-site storage purposes exceeding sixteen (16) days while the principal building is undergoing reconstruction/repair. The authorization for such use shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

(d) Child's playhouses, without plumbing.

(dd) Home gardens, orchards, vineyards, riparian shellfish gardening when in accordance with the terms of Virginia Administrative Code section 4VAC20-336 General Permit No. 3 Pertaining to Noncommercial Riparian Shellfish Growing Activities, and similar pursuits when the produce of such activities is for household consumption purposes and not for commercial marketing purposes. Nothing in this subsection shall be construed to prohibit the sharing of such produce with friends, neighbors and others in a non-commercial manner.

(e) Raising and keeping of household pets which are housed within the principal structure. ~~Private kennels in the RC or RR districts.~~

(f) Doghouses, pens, ~~hutches,~~ or similar structures or enclosures, that are not within the principal structure and which are intended for the housing and confinement of ~~not more than four (4) commonly accepted companion animals household pets. over the age of six (6) months.~~ The keeping of more than four (4) canines or felines such animals over the age of six (6) months in such a structure or enclosure shall be deemed a private kennel and shall be permitted only in accordance with the ~~requirements for same location and supplementary requirements set forth, in Section No. 24.1-306, Table of Land Uses, and Section No. 24.1-417, Standards for Private Kennels, respectively, of this chapter.~~

(ff) Horsekeeping for personal but not commercial purposes, when in accordance with the Permitting and Performance Standards set forth in Section Nos. 24.1-306 and 24.1-414 of this Chapter.

(g) Beekeeping provided no beehive is closer than fifty feet (50') to any dwelling, school or church establishment and that the owner provides a supply of water for the bees within fifty feet (50') of the hive.

(gg) Backyard chicken-keeping for personal but not commercial purposes, when in accordance with the Permitting and Performance Standards set forth in Section Nos. 24.1-306 and 24.-414.1 of this Chapter.

(h) Parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment, including, but not limited to, boats, boat trailers, motor homes, tent trailers and horse vans, and also including commercial vehicles having a carrying capacity of 1-ton or less and used as transportation by the occupant of the dwelling to and from their place of employment, provided that the following requirements are observed:

(i) such vehicles or equipment may not be parked or stored in front yards except on the driveway;

(1) such vehicles or equipment shall not be used for living, housekeeping or business purposes when parked or stored on the lot, provided however, that when the principal structure on the property has been made uninhabitable as a result of a natural disaster for which a local state of emergency declaration has been issued or a fire or other damaging event beyond the control of the owner, motor homes and recreational vehicles may be used for temporary residential occupancy during the time of reconstruction/repair of the principal dwelling. The authorization for such temporary occupancy shall be dependent on issuance of a building permit for the reconstruction/repair of the principal residence and shall expire upon issuance of a Certificate of Occupancy for the principal structure or twelve (12) months from the date of the event that damaged the structure, whichever occurs first. For good cause shown and to recognize extenuating circumstances, the Zoning Administrator may extend the authorization for as much as an additional 12-month period or until a Certificate of Occupancy is issued, whichever occurs first.

(2) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

The provisions of this subsection shall not be deemed to authorize take-off or landing operations from residential properties for aircraft of any type, including special light-sport aircraft, experimental light-sport aircraft, or ultra-light aircraft, as defined by the Federal Aviation Administration (FAA).

(hh) Home occupations in accordance with the terms and requirements set forth in Division 8 of this Article.

Sec. 24.1-272. Accessory uses permitted in conjunction with commercial and industrial uses.

The following accessory uses shall be permitted in conjunction with commercial and industrial uses. No accessory use, activity, or structure, except fences, shall be constructed until the principal use of the lot has commenced, or the construction of the principal building/structure has commenced and is thereafter diligently and continuously pursued to completion. Land uses not listed in this section and not deemed similar to a listed use pursuant to subsection (l) shall be deemed not allowed as commercial or industrial accessory uses:

(k) Small wind energy systems subject to the standards set forth in section nos. 24.1-231 and 274 of this chapter.

(l) Parking or storage of heavy trucks and cargo or utility trailers provided that the following requirements are observed:

(1) such vehicles may be parked in any required parking spaces located on the site, provided they can fit within a single standard-dimension parking space, as set forth in Section 24.1-607, and that the site remains compliant with the requirements of Section 24.1-604(c) ;

(2) vehicles that cannot fit in a standard-dimension parking space must be accommodated on a properly paved and located surface that does not constitute any of the required parking space, drive aisles, or fire lanes on the site.

(3) wheels or other transporting devices shall not be removed except for necessary repairs or seasonal storage.

(4) any signage attached or affixed in any manner to the trailer must be capable of remaining in place and being legal when the trailer is driven on public roads;

(m) Other uses and structures of a similar nature which are customarily associated with and incidental to commercial or industrial uses, as determined by the zoning administrator.

Sec. 24.1-273. Location, height, and size requirements.

Except where other provisions of this chapter are more restrictive, the following requirements shall apply to the location, height, and size of all accessory uses or structures in all districts, including the planned development district unless the approving ordinance for such district (project) has established alternative or supplementary requirements:

- (a) With the exception of statues, arbors, trellises, flagpoles, fences, walls or road-side stands, accessory buildings or structures shall not be located closer to the front lot line than the principal building façade provided, however, that where the setback of the principal building exceeds fifty feet (50'), accessory buildings and structures shall be subject only to a fifty-foot (50') minimum setback requirement.
- (b) Accessory buildings or structures located closer to the front lot line than the rear of the principal building shall observe the side yard requirements applicable to the principal building. When the rear façade of the principal building has more than one plane, the accessory building side yard requirements shall be determined based on accessory building location in relation to those rear facades as depicted in Figure II-7.1, Appendix A.
- (c) An accessory building or structure attached to a principal building by any wall or roof construction, or located within ten feet (10') of any principal building, shall be considered a part of the principal building and shall observe all yard regulations applicable thereto. Setback and spacing requirements for accessory in-ground swimming pools shall be measured to the edge of the water. Setback and spacing requirements for above-ground pools shall be measured to the outer edge of the pool wall or any above-ground decking surrounding the pool.
- (d) Accessory buildings and structures shall observe minimum side and rear yard setbacks of five feet (5') except where the provisions of this chapter specifically require otherwise and provided, however:
 - (1) There shall be no side and rear yard requirements for fences or walls; and
 - (2) There shall be no rear yard requirement for docks, piers or boathouses; however, a setback of ten feet (10') from side lot lines extended to mean low water shall be observed. All such uses shall be subject to applicable permitting requirements of the Virginia Marine Resource Commission and United States Army Corps of Engineers.
- (e) Roadside stands shall be set back at least twenty feet (20') from any road right-of-way.
- (f) The above listed requirements shall not apply to the parking or storage of small cargo or utility trailers, recreational vehicles and similar equipment on residential properties; however, no such trailer, vehicle, or equipment shall be stored -in any required front yard area within twenty feet (20') of any public road right-of-way, unless in on an all-weather surfaced-a driveway. Any signage attached or affixed in any manner to the trailer must be capable of remaining in place and being legal when the trailer is driven on public roads;
- (g) Except as authorized by section 24.1-231 or section 24.1-274 of this chapter, no accessory building or structure shall exceed the maximum height limitation es-

established for the district or the height of the structure to which it is accessory, whichever is less, provided, however, that buildings which are accessory to a single-story building may be constructed to a maximum height not exceeding 1.25 times the height of the principal building. In cases where this is permitted, the accessory building shall be separated from the principal building by a distance of at least twenty feet (20') and shall observe a minimum side and rear yard setback of ten (10) feet rather than the normally applicable five (5) feet.

- (h) With the exception of barns and similar structures associated with a bona fide agricultural/farming operation, the building footprint (i.e., lot coverage) of a structure accessory to a residential use shall not exceed fifty percent (50%) of the area of the building footprint of the principal residential structure.
- (i) Accessory structures shall be located on the same lot as the principal structure. Where adjoining lots are under single ownership and an accessory structure is proposed to be located so as to straddle an interior property line, or where the accessory and principal structures would be on different lots, the owner shall be responsible for preparing and recording, prior to issuance of a building permit, a survey plat to vacate the interior lot line(s) as necessary to ensure the principal and accessory structures are located on the same lot.

24.1-283. Home occupations permitted by special use permit.

~~(d) Docking workboats and off loading seafood in RR and RC districts.~~

- ~~(1) Such uses may be authorized only on property which is classified RC or RR. The docking of workboats and the conduct of a waterman's operation shall be limited to occupants of the premises.~~
- ~~(2) No admission, dockage, or wharfage fees shall be charged.~~
- ~~(3) On premises wholesale or retail sale of seafood shall be prohibited.~~
- ~~(4) Outdoor storage of goods, equipment, or materials (other than the workboat itself) shall be limited to a total of one thousand (1,000) square feet and shall not be located in any front or side yard, or within twenty feet (20') of any property line. Any equipment or storage located on the property shall be screened from view from all public streets and adjacent properties by a landscaped buffer area supplemented, if determined necessary by the zoning administrator or the board at the time of permit approval, by masonry or wooden fencing material. In its approval of a special use permit, the board may limit outdoor storage to less than one thousand (1,000) square feet or may require a setback greater than twenty feet (20') if~~

~~deemed necessary based on the characteristics of the subject site or its surroundings.~~

- ~~(5) Repair of workboats shall be limited to routine maintenance, which may include:
 - a. minor tune-ups;
 - b. change of oil and filters;
 - c. washdown and drainage of workboats;
 - d. winterizing (draining lines, etc.);
 - e. other customary routine repairs or maintenance.~~
- ~~(6) All federal, state and local requirements for docking facilities shall be met and the necessary permits obtained prior to the issuance of a building permit for docks, piers, or boat houses.~~
- ~~(7) The workboats and seafood unloading operations shall be conducted in such a manner as to prevent potentially offensive odors from being produced. No overnight storage of seafood waste shall be permitted on the property.~~
- ~~(8) Any outdoor or security lighting shall be shielded so that glare is not directed onto adjacent property.~~
- ~~(9) The number of workboats docked at the property shall not exceed the capacity of the pier or boat house. The "rafting" of boats shall not be permitted.~~
- ~~(10) No heavy trucks shall be permitted to operate from the property.~~
- ~~(11) Any demand for parking generated by the conduct of such use shall be accommodated off the street.~~
- ~~(12) No bulk fuel storage in excess of twenty five (25) gallons for dispensing into a workboat shall be permitted. The storage and utilization of toxic substances shall be limited to types and quantities that would customarily be utilized or stored for residential use. Any storage or utilization of combustible, toxic, or flammable substances shall be in accordance with the National Fire Prevention Code.~~
- ~~(13) The board shall, on a case by case basis, review and impose such other conditions as it deems necessary and appropriate to assure that the use will be compatible with, and will not adversely impact, adjoining properties~~

~~and the environment of the area. Such conditions and restrictions may include:~~

~~a. hours of operation;~~

~~b. number of workboats permitted to use the private residential pier or dock;~~

~~c. a requirement to prepare a water quality impact assessment;~~

~~d. additional screening or landscaping requirements for outdoor storage areas and equipment.~~

(de) Home occupations with non-resident employees.

- (1) All home occupation categories whether permitted as a matter of right or by special use permit under section 24.1-282 and 24.1-283 may be authorized under this section to include one (1) or more non-resident employees. The allowable number of non-resident employees shall be specified in the use permit approval.
- (2) Evaluation of this allowance shall be based on the general provisions of section 24.1-281 and applicable requirements as set forth in section 24.1-283.
- (3) The term of any use permit issued under the provisions of this section shall be for two (2) years or such other specific time period (either lesser or greater) as may be deemed appropriate by the board. Nothing in this section shall be construed to prevent the operator of the home occupation from applying for a new permit prior to or after expiration of the initial permit. Requests for an extension of the non-resident employee term shall be processed as a minor amendment which shall require only review and authorization by board resolution, provided that the request is accompanied by written statements from the owners of each of the properties abutting the subject property indicating that they have no objection to continuation of the non-resident employee authorization. In the event such statements of approval cannot be provided by the applicant, the request for an extension shall be required to be submitted and processed as if it were an original application for a Special Use Permit.

(ef) Enlargement or expansion of permitted home occupations.

- (1) The board may authorize by special use permit issued in accordance with the procedures stipulated in article I, enlargements or expansion of home occupations permitted in sections 24.1-282 and 24.1-283.
- (2) The board shall find that the overall spirit and intent of section 24.1-281 will not be violated by the issuance of a special use permit authorizing an

enlargement or expansion and may attach any conditions deemed necessary to ensure such compliance.

Sec. 24.1-302. Uses not listed.

It is the intent of this chapter to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by special permit. In the event a particular use is not listed in this chapter as a permitted use, a specially permitted use, or an administratively permitted use, and such use is not listed in section 24.1-307 as a prohibited use and is not prohibited by law, then such use shall not be permitted unless the zoning administrator shall determine whether a materially similar use exists in this chapter. Should the zoning administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the administrator's decision shall be recorded in writing. Should the zoning administrator determine that a materially similar use does not exist, the matter shall be referred to the planning commission for consideration of the initiation of an application for amendment of the chapter to establish a specific listing for the use in question.

Sec. 24.1-306. Table of land uses.

P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
USES	CATEGORY 1 - RESIDENTIAL USES												
1. Residential - Conventional													
a) Single-Family, Detached	P	P	P	P		S							
b) Single-Family, Attached													
• Duplex				S		P							
• Townhouse						P							
• Multiplex						P							
c) Multi-Family						P							
d) Manufactured Home (Permanent)					P								
2. Residential (Cluster Techniques Open Space Development)													
a) Single-Family, Detached	P	P	P	P									
b) Single-Family, Attached													
• Duplex	S	S	S	S									
3. Apartment Accessory to Single-Family Detached	(1)	(1)	(1)	(1)									
4. Manufactured Home Park					S								
5. Boarding House		S				S							
6. Tourist Home, Bed and Breakfast	S	S	S	S		S		P	P				
7. Group Home (for more than 8 occupants)		S	S	S		S							
8. Transitional Home		S	S	S		S							
9. Senior Housing – Independent Living Facility													
(a) detached or attached units w/individual outside entrances						S							
(b) multi-unit structures w/internal entrances						S		<u>S</u>	<u>S</u>				
(c) multi-unit structure w/ <u>internal or external entrances to individual units when estab-</u>								S	S		S		

lished in an adapted structure formerly used as hotel or motel.																				
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(1) Refer to Section 24.1-407 for accessory apartment location and performance standards

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 2 - AGRICULTURE, ANIMAL KEEPING, AND RELATED USES												
1. Aquaculture	P									P		P	P
2. Crop/Livestock Farming Agriculture	P	P										P	P
3. Horsekeeping in Conjunction with Residential Use	P	P	S	S		S	S	S	S			S	S
4. Plant Nursery or Greenhouse													
a) Wholesale Only	P	P							P		P	P	
b) Retail Sales with or without wholesale sales	S								P		P		
		S							P				
c) Retail or Wholesale with accessory landscape contracting storage & equipment	S	S							S		P	P	P
6. Private Kennel accessory to a residence	P S	P	S	S						S		S	
6a. Backyard chicken-keeping accessory to a single-family detached dwelling	<u>P</u>	<u>P</u>	<u>P</u>	<u>S</u>						<u>P</u>			
7. Animal Hospital, Vet Clinic, Commercial Kennel													
a) Without Outside Runs	S					S		S			P	P	P
		S											
b) With Outside Runs	S	S								S	P	P	P
		S									S	S	S
8. Commercial Stables												S	S
9. Commercial Orchard or Vineyard	P	P	S	S					S		P	P	P
10. Forestry	P	P	S	S	S	S	S	S	S	S	S	S	S
11. Farmer's Market	S						P		P		P	P	P

USES	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 6 - INSTITUTIONAL USES												
1. Place of Worship including Accessory Parsonage, Parochial School, Accessory Day Care, Accessory Cemetery		P	P	P	P	P	P	P	P				
1.a. Convent/Monastery		<u>S</u>				<u>S</u>		<u>S</u>			<u>S</u>		
2. Senior Housing – Congregate Care						S		S	S		S		
3. Senior Housing – Assisted Living						S		S	S		S		
4. Senior Housing – Continuing Care Retirement Community						S		S	S		S		
5. Nursing Home		S	S	S		S		S	S		S		
6. Medical Care Facility, including General Care Hospital, Trauma Center								S	P		P		
7. Emergency Care/First-Aid Centers or Clinic								P	P		P		
8. Secured Medical Facility									S				

USES P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS						COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 14 - WHOLESALING / WAREHOUSING												
1. Wholesale Auction Establishment a) without outdoor storage/activity b) with outdoor storage									P			P	P
									S			P	P
2. Warehousing, Including Moving and Storage Establishment									S		S	P	P
3. Wholesale Trade Establishment (May Include accessory retail sales) a) without outdoor storage b) with outdoor storage									P		P	P	P
									S		S	P	P
4. Seafood Receiving, Packing, Storage										P		S	P
5. Petroleum Products Bulk Storage/Retail Distribution												S	P
6. Mini-Storage Warehouses a. Single-story b. Multi-story									S			P	P
									S			P	P

Sec. 24.1-321. RC-Resource conservation district.

- (a) *Statement of intent.* The RC district is the least intense residential zoning classification and is intended primarily for those areas of the county designated for military or conservation uses in the comprehensive plan. This designation is also appropriate for lands designated for low density residential development which are not served by public utilities, are located within areas of particular environmental sensitivity as identified in the natural areas inventory, or have unusual development constraints caused by previous development or the presence of steep slopes, wetlands, or other environmental constraints.
- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

RC-RESOURCE CONSERVATION DISTRICT

Use Classification	Minimum Lot Requirements		Minimum Yard Requirements			Maximum Building Height ⁽¹⁾
	Area	Width	Front	Side	Rear	
Single-Family Detached Dwellings	5 ac 2 ha	300' 90m	50' 15m	50' 15m	50' 15m	35' 12m
All Other Permitted & Special Uses	5 ac 2 ha	300' 90m	50' 15m	50' 15m	50' 15m	35' 10.5m

⁽¹⁾ For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none

NOTE:

Residential open space subdivision techniques may be used in this district. Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

Sec. 24.1-322. RR-Rural residential district.

- (a) *Statement of intent.* The RR district is [a type of residential district](#) intended to provide opportunities primarily for single-family residential development generally having a maximum density of one dwelling unit per acre. Low density [residential](#) development is appropriate in areas where public services and facilities are limited and/or physical or environmental constraints are prevalent.
- (b) *Dimensional standards.* Each lot created or used shall be subject to the following dimensional standards:

RR-RURAL RESIDENTIAL DISTRICT

Use Classification	Minimum Lot Requirements ⁽¹⁾		Minimum Yard Requirements			Maximum Building Height ⁽²⁾
	Area	Width	Front	Side	Rear	
Single-Family Detached Dwellings	1 ac <u>4000-m²</u>	150' <u>45m</u>	50' <u>15m</u>	20' <u>6m</u>	50' <u>15m</u>	35' <u>12m</u>
All Other Permitted & Special Uses	1 ac <u>4000-m²</u>	150' <u>45m</u>	50' <u>15m</u>	20' <u>6m</u>	50' <u>15m</u>	35' <u>10.5M</u>

⁽¹⁾ These minimum lot requirements apply where both public water and public sewer are available. For lots not served by public water and public sewer, refer to Section 24.1-204.
⁽²⁾ For dwelling units in excess of thirty-five feet (35') in height, refer to Section 24.1-233.

Minimum district size: none

NOTE:
 Residential open space subdivision techniques may be used in this district. Performance standards and special use permit requirements or conditions may increase yard and lot requirements. See article IV.

Sec. 24.1-373. FMA-Floodplain management area overlay district.

Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. “Freeboard” [is required in order](#) ~~tends~~ to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization in the watershed.

- (e) *Special standards and requirements.*

- (7) *Construction standards for properties in Zone AE.* All new construction or substantial improvement in Zone AE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone AE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy.

In addition, the following standards shall apply:

- a. ~~It is strongly recommended that~~ All new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least one and one-half feet (1½') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
 - b. ~~It is strongly recommended that~~ All electrical distribution panels be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent inundation.
 - c. ~~In all cases, The~~ elevation of the lowest floor of the structure, including basements, shall be constructed with to a freeboard at least one and one-half feet (1½') above the base flood elevation or, in the case of non-residential structures, floodproofing to at least that level shall be required. ~~, is strongly encouraged and may result in a reduction of flood insurance premiums.~~
- (8) *Construction standards for properties in Zone VE.* All new construction or substantial improvement in Zone VE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone VE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. In addition, the following standards shall apply:
- a. All new construction or development shall be located landward of the reach of the mean high tide.
 - b. Any man-made alteration of a sand dune or any part thereof shall be prohibited.
 - c. No structure or any part thereof may be constructed on fill material of any kind.

- d. ~~It is strongly recommended that~~ All new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed with a freeboard at least three feet (3') above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
- e. ~~It is strongly recommended that~~ All electrical distribution panels be installed with a freeboard at least six feet (6') above the base flood elevation or otherwise located so as to prevent inundation.
- f. ~~In all cases, The~~ elevation of the bottom of the lowest horizontal structural member of the lowest floor of the structure, excluding pilings or columns, ~~shall be constructed with to~~ a freeboard at least three feet (3') above the base flood elevation. ~~is strongly encouraged and may result in a reduction of flood insurance premiums.~~

Sec. 24.1-402. Standards for open space development (cluster techniques).

(c) *Yard, size and dimension requirements.*

- (1) There are no lot width or area requirements.
- (2) The above notwithstanding, any lots abutting the exterior boundary of the open space development shall be of the same size as would be required of conventional development unless the abutting development shall have been developed as an open space development. In the case of any open space development receiving Preliminary Plan approval after October 20, 2009, the building setback requirement from any property line on the perimeter of the development shall be the same dimension as would be required for a conventional development unless the lot abuts another open space development or an open space area not less than forty-five feet (45') in width. A lot shall be considered to be abutting unless it is separated by an area of open space which is not less than forty-five feet (45') in width. Any open space strip used to satisfy this requirement shall remain undeveloped, except for stormwater management facilities if approved as specified below, and shall be maintained in its natural state if wooded or, if void of vegetation or undervegetated, it shall be landscaped to meet Type 25 Transitional Buffer standards, as established in section 24.1-243 of this chapter. Such open space area shall not be used to accommodate stormwater management facilities unless such stormwater management facilities are set back at least twenty five feet (25') from any property not in the open space development. Existing trees and vegetation within such setback area shall be preserved and protected and/or the area shall be land-

scaped to meet the planting standards of a Type 25 Transitional Buffer. With the concurrence of abutting property owners, the landscaping along all or portions of the 25-foot wide buffer strip may be eliminated or reduced in scope so as not to obscure desirable views of a BMP feature such as a pond or lake.

- (3) The minimum setback from external streets shall be that which is prescribed in the underlying zoning district.
- (4) The minimum setback from internal public streets shall be thirty feet (30') and from internal private driveways or streets the setback shall be established on the plan of development, but in no case shall it be less than ten feet (10').
- (5) The minimum distance between any two principal buildings within the open space development shall be twenty feet (20'). Side yard dimensions on each individual lot shall be a minimum of ten feet (10') in depth and rear yard dimensions shall be a minimum of twenty feet (20') in depth. Accessory building locations and setbacks shall be governed by the provisions set out in Section 24.1-273 of this Chapter.
- (6) ~~Where flag lots, if proposed, shall be subject to the limitations and dimensional standards set forth in Section 24.1-202(c) of this chapter. are utilized, the "staff" portion shall be twenty feet (20') or greater in width.~~

Sec. 24.1-411. Standards for Senior Housing (Housing for Older Persons)

- (n) Applications for Special Permits for senior housing projects shall be accompanied by a community impact statement which shall analyze in specific terms the probable impact of the project on the community over time. The assessment shall include, but not be limited to, reports on population projections, public services and facilities demands and impacts, and environmental, fiscal and economic impacts.
- (o) In the case of proposals involving the adaptive re-use of a structure and property formerly used as a hotel or motel, the applicant may propose, and the Board may approve, adjustments in the normally applicable site design requirements such as, but not necessarily limited to, building setbacks, landscape areas, and buffers when such adjustments will allow existing site features and elements to remain and to be incorporated into the new development in an appropriate and acceptable manner, as determined by the Board.

Secs. 24.1-412 —~~24.1-413~~. Reserved

**DIVISION 2. AGRICULTURE, ANIMAL KEEPING AND RELATED USES
(CATEGORY 2)**

Sec. 24.1-413. Standards for agriculture

- (a) Notwithstanding the minimum area requirements stated elsewhere in this chapter for any zoning classification, the minimum area of any parcel proposed for an agricultural use, as defined in section 24.1-1-104 shall be 5 acres, exclusive of the area occupied by any principal structure and its required minimum yard dimensions as well as any land with an elevation less than 2 feet above mean sea level.
- (b) Any pen or confinement area for livestock in which the available space is less than 200 square feet per animal shall be located at least 100 feet from the property line of any adjoining parcel on which a residential dwelling unit exists or is under construction. This setback shall not apply if such residential dwelling is located more than 100 feet from the respective common property.
- (c) All agricultural uses shall comply with all applicable provisions of Chapter 4, Article II. Livestock, of the York County Code.

Sec. 24.1-414. Standards for horsekeeping and commercial stables.

- (a) The minimum area of any parcel proposed for the keeping of horses, whether accessory to a residential use or as a commercial stable, shall be two (2) usable acres. In determining usable acreage, the area occupied by any residential structures, the area of required front or side yards, and any areas unsuitable for keeping of horses by reason of topography, ~~ie or~~ drainage conditions, or the extent of tree or other vegetation cover shall not be included in the computation.

Sec. 24.1-414.1. Standards for Domestic Chicken-keeping as an Accessory Activity on Residential Property

Keeping and housing domestic chickens on residentially-zoned and occupied property in the R20, R13 and WCI Districts shall be solely for purposes of household consumption and shall be permitted only in accordance with the following terms and conditions. These provisions shall not be construed to allow the keeping of game birds, ducks, geese, pheasants, guinea fowl, or similar fowl/poultry.

- (a) Chickens allowed pursuant to this section shall be kept and raised only for domestic purposes and no commercial activity such as selling eggs or selling chickens for meat shall be allowed unless authorized as a home occupation through the issuance of a special use permit by the board of supervisors pursuant to the terms of Section 24.1-283(b) of this chapter.
- (b) The maximum number of chickens permitted on a residential lot shall be one (1) hen per 2,500 square feet of lot area, not to exceed a maximum of sixteen (16) hens.
- (c) No chickens shall be allowed on townhouse, duplex, condominium, apartment or manufactured housing park properties.
- (d) No roosters shall be allowed.
- (e) There shall be no outdoor slaughtering of birds.
- (f) Pens, coops, or cages shall not be located in any front or side yard area.
- (g) All pens, coops, or cages shall be situated at least ten (10) feet from adjoining property lines and twenty-five (25) feet from any dwelling located on a property not owned by the applicant. Pens, coops, or cages shall not be located in a storm drainage area that would allow fecal matter to enter any storm drainage system or stream.
- (h) All chickens shall be provided with a covered, predator-proof shelter that is thoroughly ventilated, provides adequate sun and shade and protection from the elements, is designed to be easily accessed and cleaned. Such structures shall be enclosed on all sides and shall have a roof and at least one access door. Coops shall provide adequate space for free movement and a healthy environment for birds.
- (i) All pens, coops, or cages shall be kept in a neat and sanitary condition at all times, and must be cleaned on a regular basis so as to prevent odors perceptible at the property boundaries. All feed for the chickens shall be kept in a secure container or location to prevent the attraction of rodents and other animals.
- (j) No person shall store, stockpile or permit any accumulation of chicken litter and waste in any manner whatsoever that, due to odor, attraction of flies or other pests, or for any other reason diminishes the rights of adjacent property owners to enjoy reasonable use of their property. .
- (k) In accordance with the terms of section 24.1-306, proposals for backyard chicken-keeping in the R13 district shall be processed under the Special Use Permit procedures. In the case of proposals for backyard chicken-keeping in the R20 and WCI Districts, the property owner must file an application with the Division of Development and Compliance, Department of Environmental and Development Services, on such forms as the Division provides. Such application

shall be accompanied by a \$15.00 processing fee. The application shall include a sketch showing the area where the chickens will be housed and the types and size of enclosures in which the chickens shall be housed. The sketch must show all dimensions and setbacks. Upon review and determination that the proposed chicken-keeping complies with the standards set forth above, the Division of Development and Compliance shall issue a permit to document that the proposed activity has been reviewed and is authorized pursuant to the terms of this chapter. Accessory residential chicken-keeping operations shall be subject to periodic inspection to assure compliance with the performance standards established in this section.

- (l) Proposals for keeping more chickens than allowed by subsection (b) above, for observing setbacks of a lesser dimension than any of those set forth above, or for keeping roosters, may be considered and approved by Special Use Permit in accordance with all applicable procedural requirements (in the case of chicken-keeping that would otherwise be allowed as a matter-of-right) or as part of an initial or subsequent use permit application (in the case of chicken-keeping allowed only by special use permit).

DIVISION 3. COMMUNITY USES (CATEGORY 4)

Sec. 24.1-423. Standards for all community uses.

- (a) Outdoor recreational facilities such as swimming pools and tennis courts shall be not less than fifty feet (50') from any residential property line external to the development served. Such facilities shall be effectively screened from view from properties external to the development served by landscaping or appropriate fencing materials. Ancillary buildings or structures associated with such facilities shall be subject to the setback and yard requirements specified in the district in which located.
- (b) Off-street parking areas shall be provided in accordance with all applicable requirements of this chapter. Such parking areas, as well as circulation drives and paved fire lanes, shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties external to the development served by landscaping supplemented, as necessary, with appropriate masonry or wooden fencing materials. The provisions of this section do not apply to neighborhood or community recreation or assembly facilities which are approved as a part of an overall plan of development for a subdivision or planned development.
- (c) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property

- (de) Community uses may be established only by organizations, the charter and by-laws of which ensure that the organization shall be a cooperative established by the Virginia Real Estate Cooperative Act (section 55-425 et seq., Code of Virginia) or can achieve bona fide nonprofit status in accordance with the Internal Revenue Service guidelines.

DIVISION 4. EDUCATION USES (CATEGORY 5)

Sec. 24.1-427. Standards for all education uses.

- (a) All off-street parking and loading spaces, [circulation drives, and paved firelanes](#) for education uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping, supplemented, as necessary, by appropriate fencing materials.
- (b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for educational uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.
- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) [Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property](#)

DIVISION 5. INSTITUTIONAL USES (CATEGORY 6)

Sec. 24.1-431. Standards for all institutional uses.

- (a) All off-street parking and loading spaces, [circulation drives, and paved firelanes](#) for institutional uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping supplemented, as necessary, by appropriate fencing materials.
- (b) Unless waived in writing by the zoning administrator at the time of application, a

traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for institutional uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.

- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.

Sec. 24.1-432. Standards for Convents/Monasteries

- (a) The minimum area of any parcel on which such uses may be proposed shall be four (4) times the minimum lot area for the zoning district in which located or 5 acres, whichever is less.
- (b) The maximum number of resident occupants in such facility shall be established by the Board of Supervisors in consideration of the character of the site and the surrounding area, infrastructure and service delivery capacities, compatibility with existing and potential development in the area, and such other factors as the Board may deem appropriate.
- (c) The provisions of Article VI – Off-Street Parking and Loading notwithstanding, the minimum required number of parking spaces shall be established by the Board of Supervisors on a case-by-case basis in consideration of the specific characteristics and operational policies of the proposed facility, as documented in writing by the applicant.

Secs. ~~24.1-432~~–24.1-433. Reserved.

DIVISION 6. PUBLIC AND SEMI-PUBLIC USES (CATEGORY 7)

Sec. 24.1-434. Standards for all public and semi-public uses.

- (a) All off-street parking and loading spaces, circulation drives, and paved firelanes for public and semi-public uses shall be located not less than twenty-five feet (25') from any residential property line and shall be effectively screened from view from adjacent residential properties by landscaping supplemented, as necessary, by appropriate fencing materials.

- (b) Unless waived in writing by the zoning administrator at the time of application, a traffic impact study prepared in accordance with the standards established in article II of this chapter shall be submitted with all applications for public and semi-public uses. The study shall either find that such a facility will have no excessive or adverse impact on residential streets nor will there be a demonstrable safety hazard at the site entrance(s) or it shall determine what improvements are necessary to making such a finding.
- (c) Outdoor lighting shall be sufficient to protect public safety; however, it shall be directed away from property lines and rights-of-way and shall not cast unreasonable or objectionable glare on adjacent properties and streets.
- (d) Site and building design shall be accomplished in a manner that will appropriately minimize and mitigate any noise associated with HVAC, emergency generator systems, or other mechanical equipment that would otherwise be audible on any adjacent residentially zoned property.

Sec. 24.1-712. Standards for increases in sign placement, area and height.

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements;

- (a) increases in sign area and sign height when unusual topography, vegetation, parcel shape, or the distance from the road right-of-way would impose substantial hardship by making a sign otherwise permitted by the terms of this chapter ineffective and unreadable from vehicles on adjoining (i.e., abutting) roadways; or
- (b) an increase in the number of allowable signs in the case of shopping centers or other large commercial uses having more than 100,000 square feet of retail floor area, and having in excess of 1,000 feet of frontage and more than one entrance drive on the same street frontage, when it is determined that distance, topography, or other factors prevent adequate and timely recognition by motorists of the available entrance points to such shopping center or commercial use.

In authorizing signs in either of the above situations, the board shall limit the area, height, and location of such signs to that which, in its opinion, is reasonably in keeping with the provisions of Article VII.

COUNTY OF YORK

MEMORANDUM

DATE: November 3, 2011 (BOS Mtg. 11/16/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Application No. UP-797-11, Sea World Parks & Entertainment Inc.; Water Country USA

ISSUE

This application requests approval of a major amendment to a Special Use Permit (UP-506-96), pursuant to Section 24.1-115(d)(3) of the Zoning Ordinance, to authorize expansion of an existing theme park on property located at 176 Water Country Parkway. The 220.8-acre property is located on the south side of Marquis Center Parkway (Route 199) at its intersection with Water Country Parkway and is further identified as Assessor's Parcel No. 11-4-2 (GPIN 113a-0846-4200).

In accordance with Zoning Ordinance Section 24.1-115 (d)(3), a proposed Special Use Permit amendment which would result in a 25% or more increase in area of the use "*shall be considered a major amendment of a previously approved and currently valid special use and shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original permit.*"

Land area approved for the theme park use in 1995 totaled 163 acres, which included existing and future attractions, operations and maintenance facilities, parking areas, and vegetative buffer areas. The current application covers 220.8 acres of land, or an increase of approximately 35% of land area devoted to the theme park use.

DESCRIPTION

- Property Owner: Sea World Parks & Entertainment Inc.
- Location: 176 Water Country Parkway (private road)
- Area: 220.8 acres
- Frontage: Approximately 1550 feet on Marquis Center Parkway and 2300 feet on Marquis Parkway
- Utilities: Public water and sewer
- Topography: Varied

- 2025 Land Use Map Designation: Economic Opportunity
- Zoning Classification: EO – Economic Opportunity
HRM – Historic Resources Management overlay
FMA – Floodplain Management Area overlay
- Existing Development: Outdoor theme park (Water Country USA)
- Surrounding Development:
 - North: Kings Creek Plantation timeshare development
 - East: US Naval Weapons Station Yorktown
 - South: Marquis retail center
 - West: Vacant land
- Proposed Development: Phased expansion of existing theme park

BACKGROUND

The theme park was initially approved in 1984 on 63 acres of land as a use permitted as a matter of right. In 1996 a Special Use Permit (UP-506-96) covering 163 acres of land was approved for a multi-year expansion master plan pursuant to Board Resolution No. R96-201 (attached). In a subsequent 1998 resubdivision of the Water Country, Kings Creek Plantation and Marquis properties, Water County's total landholdings (the subject property area) increased from 163 to 222 acres.

In 2005, the entrance to the park was relocated approximately 1,200 feet north to its present location and turn lanes servicing the entrance were extended in both directions on Route 199. A 2007 boundary line adjustment in the area of the Marquis entrance (former Water Country entrance) reduced the subject property area slightly to 220.8 acres.

CONSIDERATIONS/CONCLUSIONS

1. The approved 1996 master plan called for the addition of 37 acres of attractions to the 28 acres of attractions existing at the time for an eventual total of 65 acres of attractions. Proposed plans call for approximately 84 acres of existing and future attractions to be completed in five phases. To date, approximately 41 acres of attractions have been developed.
2. A portion of the property is located in the 500-foot Chesapeake Bay Resource Management Area (RMA) and the 200-foot Resource Protection Area (RPA) because of its proximity to King Creek and the existing lake on the property. Development in these areas will be subject to regulations contained in Chapter 23.2 of the County Code - Chesapeake Bay Preservation Areas. A proposed approval condition addresses this issue.

3. Environmental and Development Services staff has indicated that stormwater management facilities as shown on the master plan are acceptable for conceptual plan review purposes. Detailed stormwater engineering plans will be required at the time of site plan approval for the proposed development phases. A proposed approval condition addresses this issue.
4. There are two archaeological sites in the vicinity of areas proposed for expansion that are subject to the Historic Resources Management (HRM) overlay district. A proposed approval condition requiring archaeological studies (if needed) at time of site plan approval for the development phases addresses this issue.
5. According to Federal Emergency Management Agency (FEMA) data, a portion of the property along King Creek is located within the 100-year floodplain. Accordingly, any development in this area must comply with applicable floodplain regulations. A proposed approval condition addresses this issue.
6. In accordance with a condition in the 1996 Special Use Permit approving resolution, the applicant has maintained a 100-foot vegetated buffer around the perimeter of the site having plantings equivalent to a Type 50 transitional buffer (with the exception of the area between the guest parking lot and Marquis Center Parkway). I am recommending that the buffer be maintained surrounding the park.
7. The 1996 approving resolution contains a condition requiring the applicant to maintain maximum noise levels of 45 decibels within 1,000 feet of any property both used and zoned for residential purposes. At the time this condition was established, a portion of the Water Country perimeter abutted property zoned RR-Rural Residential. Although that is no longer the case, I am of the opinion that the 45 decibels limit would be appropriate along any boundary shared with the adjacent Kings Creek time-shares (zoned EO-Economic Opportunity). Accordingly, I am recommending an approval condition restricting noise levels along that common perimeter when the abutting property is used or approved for transient occupancy purposes. .
8. Specific setback requirements for rides, slides or arenas were included in the original approving resolution. The minimum setback requirement for rides, slides, arenas or buildings containing attractions is 150 feet adjacent to nonresidential zoning districts and 500 feet adjacent to residential districts. All other elements of the park must maintain a minimum 100-foot setback from all external property boundaries. I am recommending that this approval condition be maintained but with a modification to eliminate the reference to adjacent residential districts since there are none.
9. According to Section 24.1-605 of the Zoning Ordinance, a minimum of one parking space is required for every 4 persons based on maximum occupancy. There are currently 2,390 guest spaces, 268 employee/administration spaces, and 28 bus spaces on the site, totaling 2,658 spaces. According to information included on the applicant's master plan, average daily guest attendance between 2006 and 2010 has ranged from 6,304 to 7,537 guests. In accordance with Ordinance standards, 2,390 guest spaces

should accommodate average daily attendance of up to 9,560 guests, not including any arriving by bus.

10. In the past, stacking vehicles on Route 199 have been a problem, but with the relocation of the main entrance and installation of turn lanes on Route 199, the problem has abated. According to the applicant, the new entrance configuration accommodates stacking for over 400 vehicles on-site. An employee access way was constructed connecting to Marquis Parkway when the main entrance was relocated and can be used for guest vehicle circulation (exiting traffic) if needed during peak traffic periods.
11. There have been instances in the past when guests have had to be turned away because of a lack of parking. At the time of the 1996 expansion approval, there were approximately 16 instances (one hour on Saturdays) in that year when this occurred. The applicant has indicated that there were no instances of inadequate parking in 2011, and only two such occurrences in 2010. Since the time of the 1996 approval, over 700 parking spaces have been added to the site. Given the recent years' attendance history, I am of the opinion that existing parking should be adequate to accommodate the park at least through Phase 2 of the development. A proposed approval condition would require updated traffic and parking analysis prior to site plan approvals for further phases of development.

The applicant has indicated that during peak vehicle entrance and exit times, off-duty York County Sheriff's deputies are hired to direct traffic. When guest parking lots become full, the gate at the main entrance is closed, and drivers are directed to make U-turns on Route 199. Vehicles entering from the north (traveling from the Colonial Parkway) can turn around the traffic median on Route 199 at the park entrance. Vehicles entering from the south (traveling from I-64) must proceed to the Penniman Road/Route 199 intersection, turn left on to Penniman Road, left on Water Country Parkway (by Presidents Park), and then right onto northbound Route 199.

I have concerns about the safety of this circulation pattern as well as potential problems with drivers unfamiliar with the roads in the area becoming lost or confused in circling around Penniman Road. In order to facilitate a safer and less confusing U-turn, and in consultation with staff from the Sheriff's Office, an approval condition is recommended which would require that all traffic enter the main gate, and that traffic U-turns be handled completely on the applicant's property. Given the substantial length of the entrance drive that was reconfigured when the entrance was relocated, there appears to be adequate room to design and construct a break in the median to accommodate turning traffic.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its October 12 meeting, at which only the applicant spoke. After discussion and deliberation, the Planning Commission voted 6:0 (Mr. Abel absent) to recommend approval of the application subject to proposed approval conditions.

RECOMMENDATION

The applicant has submitted the request to amend the 1996 Special Use Permit in order to update the previously approved master plan. Acquisition of additional land for expansion of the park as well as changes in timing of development have necessitated changes to the original master plan and development phasing. The park has successfully operated and expanded in accordance with the original master plan, and proposed amendments are in keeping with previous development designs. I am of the opinion that, given the proposed approval conditions, the park will continue to be a significant tourist attraction and economically viable business in the County. Therefore, based on the considerations and conclusions as noted, I recommend that the Board approve this application subject to the conditions set forth in proposed Resolution R11-132.

Carter/3337.amp

Attachments:

- Planning Commission minutes excerpts, October 12, 2011
- Zoning Map
- Board of Supervisors Resolution R96-201
- Applicant's narrative statement
- Applicant's overall master plan
- Expansion area plan
- Park map
- Proposed Resolution R11-132

Excerpts
Planning Commission Meeting
October 12, 2011

Application No. UP-797-11, Water Country USA: Request for a major amendment to a previously approved Special Use Permit (UP-506-96), pursuant to Section 24.1-115(d)(3) of the Zoning Ordinance to authorize expansion of an existing theme park on property located at 176 Water Country Parkway (private road). The property, containing 220.8 acres of land, is located on the south side of Marquis Center Parkway (Route 199) at its intersection with Water Country Parkway. The property is further identified as Assessor's Parcel No. 11-4-2 (GPIN 113a-0846-4200). The property is zoned EO (Economic Opportunity) and is designated Economic Opportunity in the *Comprehensive Plan*.

Amy M. Parker, Senior Planner, summarized the staff report to the Commission dated October 5, 2011, in which staff recommended that the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions shown in proposed Resolution No. PC11-10.

Mr. Hamilton asked if there had been any discussions with business owners at the Marquis regarding the possibility that visitors could park there and walk to Water Country. Ms. Parker said there was no area for pedestrians to walk safely and indicated that a sidewalk between the two developments would be a good safety improvement. She added that the Marquis property owners received notice of the Special Use Permit request and no comments were received from them.

Mr. Fisher asked if any comments were received from other adjacent property owners. **Ms. Parker** said that none were received.

Chair Fisher opened the public hearing.

Suzy Cheely, 1 Busch Gardens Blvd., Director of Design and Engineering for Busch Gardens/Water Country USA, thanked Ms. Parker for the thorough presentation of the staff report and offered to answer questions.

Mr. Hamilton asked again about the possibility of overflow parking at the Marquis if the parking lots within Water Country filled to capacity. He inquired specifically about how visitors would get to the park's property from the Marquis parking lot. **Ms. Cheely** said she would prefer that guests park on Water Country property as there are plenty of parking spaces; however there have been instances where they will avoid paying to park on site and park in front of Target at the Marquis. She said those visitors would walk through the employee entrance to reach the park. Ms. Cheely said she could speak to the Marquis property owners about it.

Mr. Fisher asked Ms. Cheely if they were in agreement with the conditions proposed by staff. **Ms. Cheely** said they were.

There being no one else who wished to speak, **Chair Fisher** closed the public hearing.

Mr. Hamilton said he supported the application.

Ms. Magowan said the park has worked well with the County and provided a good master plan for the development. She was inclined to support the proposal.

Mr. Hamilton moved adoption of Resolution No. PC11-10.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR
A MAJOR AMENDMENT TO A PREVIOUSLY APPROVED SPECIAL USE
PERMIT TO AUTHORIZE THE EXPANSION OF A THEME PARK (WATER
COUNTRY USA) LOCATED AT 176 WATER COUNTRY PARKWAY

WHEREAS, Sea World Parks & Entertainment Inc. (Water Country USA) is operating the theme park (Water Country USA) located at 176 Water Country Parkway (private road), further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200), in accordance with Board of Supervisors Resolution No. R96-201; and

WHEREAS, Sea World Parks & Entertainment Inc. (Water Country USA) has submitted Application No. UP-797-11 requesting approval of a major amendment to a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, to authorize the expansion of the theme park located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of October, 2011 that Application No. UP-797-11 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval of a major amendment of a previously approved Special Use Permit to authorize the expansion of the theme park (Water Country USA) located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200), subject to the following conditions:

1. This Special Use Permit shall authorize the expansion of the theme park (Water Country USA) located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200).
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of any expansion of the subject theme park. Said site plan shall be in substantial conformance with the plans titled "Master Plan of Water Country USA, Sea World Parks & Entertainment, Inc., York County, Virginia, and Master Plan of Water Country USA, Sea World Parks & Entertainment, Inc., York County, Virginia, Expansion

Plan, both dated September 1, 2011, and received by the Planning Division on September 1, 2011, except as modified herein.

3. A one hundred foot (100') undisturbed vegetated buffer shall be preserved around the perimeter of the park as shown on the above-referenced Master Plan and shall be supplemented by additional evergreen plantings, if necessary, to achieve plantings equal to a Type 50 Transitional Buffer.
4. A one hundred foot (100') vegetated buffer shall be maintained around the lake to provide qualitative stormwater management. The Zoning Administrator may modify or reduce the buffer as follows:
 - a. The buffer may be eliminated as noted on the Master Plan referenced in condition #2 above where a future attraction requires a visual or physical connection to the lake as an integral part of that attraction; or
 - b. In all other situations, the buffer may be reduced by not more than 50% upon a demonstration that the same water quality objectives are being met through the use of other acceptable methods.
5. The minimum setback for all arenas, rides, slides, or buildings containing visitor attractions shall be one hundred fifty feet (150') from any external property boundary. All other elements of the theme park shall maintain a one hundred foot (100') setback from all external property boundaries.
6. Any attraction, structure, or facility proposed to be within one thousand feet (1000') of a property used for transient occupancy purposes shall have an individual noise analysis study prepared and submitted to the Plan Review Agent prior to site plan approval. Should such analysis determine that an average noise level exceeding forty-five decibels (45 db) is likely to be imposed on property used or approved for transient occupancy, the Zoning Administrator shall require that noise attenuation be provided to reduce the average noise level at or below forty-five decibels (45 db).
7. Development of the property shall be in compliance with the provisions of York County Code Chapter 23.1, Wetlands, Chapter 23.2, Chesapeake Bay Preservation Areas, and Chapter 23.3, Stormwater Management.
8. Development of the property shall be in compliance with the provisions of Section 24.1- 374 of the York County Zoning Ordinance, Historic Resources Management overlay district.
9. Development of the property shall be in compliance with Section 24.1-373 of the York County Zoning Ordinance – Floodplain Management Area overlay district.
10. At times when parking lots are filled to capacity and it is necessary to preclude additional guest entry to the park attractions, entering guest vehicles shall be directed to the main entry drive off of Route 199 in order to facilitate vehicle u-turns completely within the applicant's property. Persons directing traffic on behalf of the applicant shall not direct u-turns within the Route 199 right-of-way. Should such an operational plan require installation of a median break along the on-site entrance drive, construction of such break shall occur in conjunction with construction of any new attractions at the park.

11. Prior to site plan approval for Phase 3 of the development as shown on the master plan referenced in condition #2 above, the applicant shall submit a detailed traffic and parking study to the Plan Review Agent verifying adequacy of existing parking and vehicular access facilities. Additional parking and/or revised traffic design shall be implemented as deemed necessary in accordance with said study.
12. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of this Resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court and a court-certified copy of the document shall be submitted to the County prior to further development activity under existing approved site plans or at the time of future site plan approval application, whichever occurs first.

BE IT FURTHER RESOLVED that the above conditions are not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

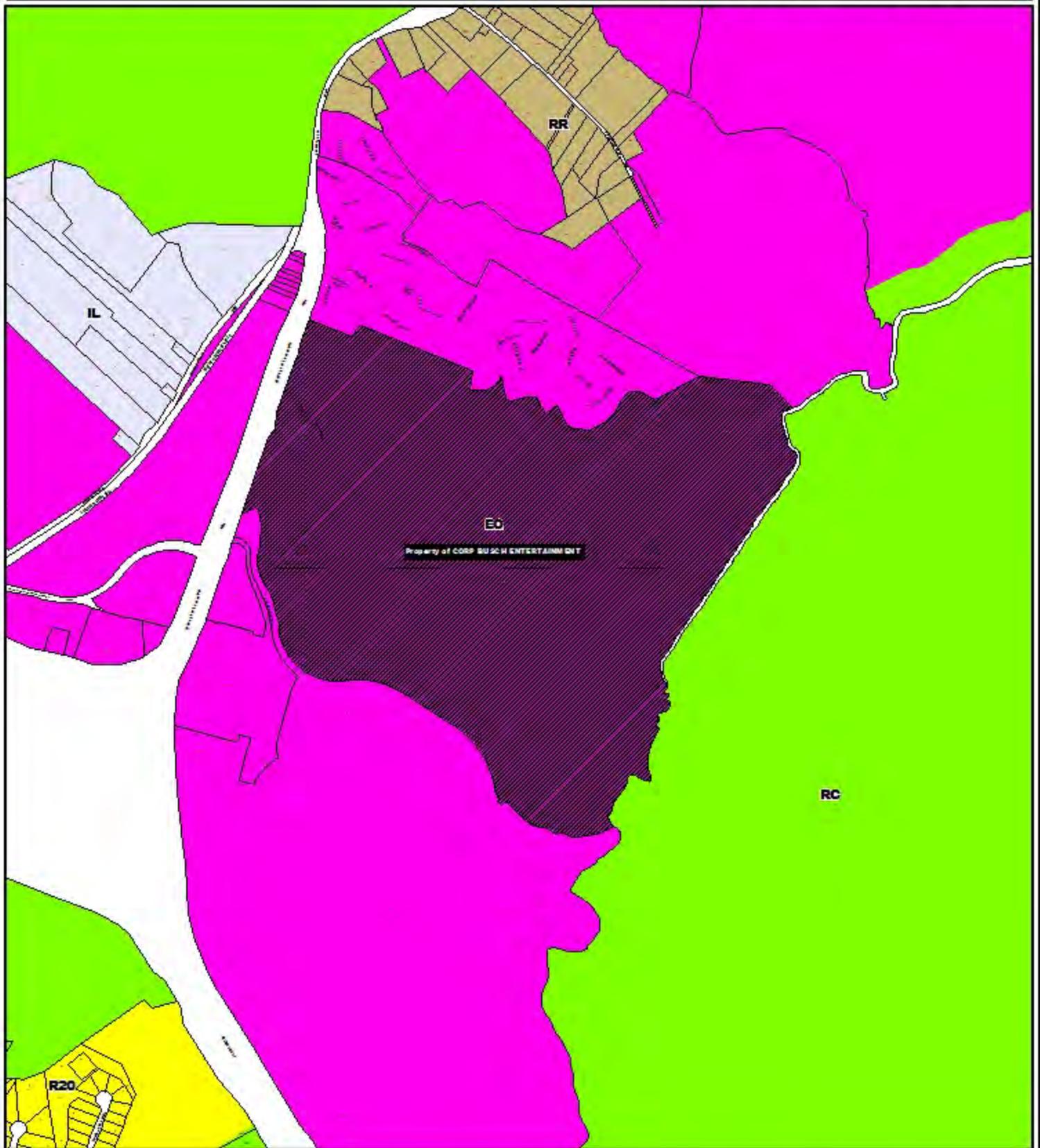
Yea: (6) Suiter, Hamilton, Buffa, Myer Magowan, Fisher
Nay: (0)

APPLICANT: WATER COUNTRY USA

EXPANSION OF PREVIOUSLY APPROVED THEME PARK
176 WATER COUNTRY PKY

ZONING MAP

APPLICATION NUMBER: UP-797-11



0 500 1,000 2,000 Feet



SOURCE: YORK COUNTY
GIS PARCEL DATA and
ZONING COVERAGE

THIS IS NOT A LEGAL PLAT.
This map should be used for
information purposes only. It is
not suitable for detailed site planning.

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in the Courts and Board Room, York County District Courts Building, Yorktown, Virginia, on the 4th day of September, 1996:

<u>Present</u>	<u>Vote</u>
James W. Funk, Chairman	Yea
Walter C. Zaremba, Vice Chairman	Yea
Sheila S. Noll	Yea
Albert R. Meadows	Yea
Jere M. Mills	Yea

On motion of Mrs. Noll, which carried 5:0, the following resolution was adopted:

A RESOLUTION TO APPROVE A USE PERMIT TO AUTHORIZE A MULTI-YEAR EXPANSION OF WATER COUNTRY USA

WHEREAS, Busch Entertainment Corporation has applied for a use permit to authorize a multi-year expansion of the Water Country USA theme park located at the southeast quadrant of the intersection of State Route 199 with Old York Road (formerly SR 640) and further identified as all or part of Assessor's Parcel Nos. 11-132, 11-132A, 11-134, 11-(4)-A, 11-(4)-B, 11-(4)-B1, 11-(8)-D, and 11-(8)-D1; and

WHEREAS, this application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Commission has recommended approval of this application; and

WHEREAS, the Board has conducted a duly advertised public hearing and has carefully considered the recommendation of the Commission and the public comments received;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of September, 1996, that it does hereby approve a use permit authorizing a multi-year expansion of the Water Country USA theme park subject to the following conditions:

1. This permit shall authorize the expansion of the Water Country USA theme park located at the intersection of State Route 199 and Old York Road (discontinued SR 640) comprising 163 acres and further identified as all or part of Assessor's Parcel Nos. 11-132, 11-132A, 11-134, 11-(4)-A, 11-(4)-B, 11-(4)-B1, 11-(8)-D, and 11-(8)-D1.
2. Future development of the Water Country USA theme park shall occur in general conformance, as verified by the Zoning Administrator, with the plans and materials submitted with the application and as supplemented by the conditions contained herein. In the instance of a conflict between the application materials and the conditions of the permit, the conditions shall prevail. The written materials incorporated herein by reference are filed with the application materials held by the County and are comprised of *Master Plan of Water Country U.S.A.* containing two (2) sheets dated July 24, 1996 prepared by Langley and McDonald, P.C. (referred to herein as *Master Plan*) together with *Water Country U.S.A Special Use Permit Application Supplemental Report* containing a noise analysis, traffic analysis, parking analysis, and other narrative materials dated June 27, 1996 prepared by Langley and McDonald, P.C.
3. The maximum height of any structure constructed in the theme park shall be seventy-five feet (75') unless a height waiver is granted by the York County Board of Supervisors in full accordance with established procedures. The intent of this provision is to allow consideration of a height waiver by the Board without revision to this permit.
4. A one hundred-foot (100') undisturbed vegetated buffer shall be preserved around the entire perimeter of the theme park and shall be supplemented by additional plantings, if necessary, to achieve the same screening effect as a Type 50 Transitional Buffer. The Zoning Administrator may require certification of conformance with this requirement by a Virginia Certified Landscape Architect if the Zoning Administrator is in doubt as to the efficacy of the buffer or any part thereof.

5. A one hundred-foot (100') vegetated buffer shall be maintained around the lake to provide qualitative stormwater management. The Zoning Administrator may modify or reduce this buffer as follows:
 - A. The buffer may be eliminated as noted on the *Master Plan* where a future attraction requires a visual or physical connection to the lake as an integral part of that attraction; or
 - B. In all other situations, the buffer may be reduced by not more than 50% upon a demonstration that the same water quality objectives are being met through the use of other acceptable methods.
6. The minimum setback for all arenas or rides or slides or buildings containing visitor attractions shall be one hundred fifty feet (150') from any external property line adjacent to commercially or industrially zoned property and five hundred feet (500') from any external property line adjacent to residentially zoned property. For all other elements of the theme park, a one hundred-foot (100') minimum setback shall be observed.
7. No fewer than 300 additional paved visitor parking spaces shall be constructed prior to the park's opening in 1997.
8. Additional permanent paved parking spaces shall be constructed in conformance with the timing presented in the parking analysis, provided, however, that the Zoning Administrator may accelerate or delay the required parking construction based on how closely the actual attendance at the theme park tracks the projections upon which the parking analysis is based.
9. Grassed overflow parking spaces shall be provided at a ratio of one overflow space for each ten paved visitor spaces.
10. The entrance(s) to the theme park from State Route 199 shall be improved prior to the park's opening in 1998. Specifically, the following shall occur:
 - A. The right-turn radius shall be no less than two hundred feet (200');
 - B. The entrance road shall have no fewer than three receiving lanes;

- C. There shall be sufficient on-site in-queue storage for approximately 200 vehicles upstream of the toll booth stations; and
- D. There shall be no fewer than six (6) toll stations provided.

These requirements shall apply regardless of whether the existing entrance is used or the "Alternate Park Access" depicted on the *Master Plan* is developed or both. Should both entrances be available for public use, conformance with the requirements of this condition shall be based on the total of the two entrances.

- 11. A right-turn lane and taper of a length and design acceptable to the Virginia Department of Transportation shall be provided along State Route 199 to serve the entrance(s) at such time as the entrance improvements required in the paragraph above are constructed.
- 12. Traffic congestion during peak periods shall be constantly monitored by staff of the applicant. Operational plans and policies shall be effectuated to prevent entering vehicle queues from extending onto the traveled way of State Route 199. In addition, the applicant shall have a traffic analysis of the exiting traffic movement performed annually, the purpose of which is to develop operational plans and policies for identifying potential traffic exiting problems via some type of advance warning system and then for handling such peak periods. Copies of these operational plans and policies shall be filed at least annually prior to the opening of the park season with the York County Department of Public Safety, the York County Sheriff's Department, the Williamsburg Residency of the Virginia Department of Transportation, and the Division Headquarters of the Virginia State Police.
- 13. Any attraction, structure, or facility proposed to be within one thousand feet (1,000') of a property both residentially zoned and residentially used shall have an individual noise analysis performed as a part of the site plan review process and, should such analysis determine that an average noise level exceeding forty-five decibels (45 dB) is likely to be imposed upon such residentially zoned property, the Zoning Administrator shall require that noise attenuation be provided to reduce the average noise level below forty-five decibels(45 dB).

14. Access to all portions of the park by emergency vehicles and apparatus shall be maintained at all times. At least one (1) alternate access point acceptable to the Fire Chief shall be provided.
15. Fire hydrants having sufficient fire flows as determined by the Fire Chief shall be installed in locations acceptable to the Fire Chief as a part of each expansion of the theme park.
16. The owner of the theme park shall, by November 30 of each year, provide a report to the Zoning Administrator indicating the total attendance, average daily attendance, the peak 25 days, and the attendance on each of those days; the number of days on which the capacity of the paved visitor parking was exceeded; the days on which traffic congestion incidents resulted in queue lengths exceeding the storage capacity of the entrance road, the methods (if any) employed to manage the incidents, and the time required to eliminate any back-ups onto State Route 199; the days on which the exiting traffic endured delays of five (5) minutes or longer at the park exit, the methods (if any) employed to manage the delay, and an assessment of the relative success of those methods.
17. The owner of the theme park shall submit site plans for all proposed development within the theme park to the Commanding Officer of the Naval Weapons Station Yorktown for courtesy review concurrently with site plan submittals to the County. A copy of the transmittal letter to the Navy shall be attached to the submittal to the County and shall suffice as evidence that this condition has been fulfilled.

A Copy Teste:



Mary E. Simmons
Deputy Clerk



Water Country USA Master Plan Narrative

Water Country USA is a 222 acre outdoor water park located along the eastern side of State Route 199 just north of Interstate 64 and The Marquis at Williamsburg shopping complex. In 1992 then Busch Entertainment Corp. obtained the park from Pleasurama Williamsburg Inc. as part of a larger land purchase by Busch Properties Inc. During the first years of ownership the primary focus was upgrading existing facilities and attractions to meet Busch Entertainment in park standards. Along with the upgrades several new exciting attractions were added including Malibu Pipeline, Cow-A-Bunga and Big Daddy Falls. To support these in park expansions, guest parking and staff parking were expanded to meet the increased demand for guest needs.

During the fall of 1995 the park began working with York County staff in an effort to develop an overall park Master Plan for future park expansions. The final approved July 1996 Master Plan reflects areas reserved for future Attractions, Guest Facilities, Circulation, Operations, Parking and Entrance Relocation. The plan also reflects areas to serve as undisturbed buffers, setbacks from Water Country Lake, setbacks from adjacent property, Stormwater Management areas and Phasing. To date Water Country has closely followed this plan on all park expansion efforts. The Resolution (R96-201) associated with the Master Plan has also been closely adhered to with the majority of conditions satisfied.

The proposed updated Master Plan reflects the additional 59 acres obtained by SeaWorld Parks and Entertainment LLC d/b/a Water Country USA as part of the acquisition from Busch Properties' Inc. subdivision highlighting limits of Future Attractions, Undisturbed Buffers, Operations, Support, Existing and Future Parking along with Stormwater Management areas. As with the currently approved plan these areas are general in nature and reflect buildable areas within the expanded property. The overall plan highlights the following:

- Phase I – Area of existing attractions, guest facilities, circulation, first aid, stormwater management and initial future expansion areas.
- Phase II – Area of future attractions, guest facilities and stormwater management to begin once Phase I has been developed.
- Phase III – Lands obtained as part of the Busch Properties subdivision will serve as area of future attractions, guest facilities and stormwater management once Phase II has been developed.
- Phase IV & V – Areas of future attractions.
- Operations, Support, Existing and Future Parking – Area will include park administration, maintenance, storage, employee parking and possible guest parking near park entrance.
- Guest Parking – Currently all parking expansions outlined in the original Master Plan have been built and serving guest.

The 2011 Master Plan will expand on the 1996 Master Plan and continue to closely follow the document when planning future park expansions as demonstrated in past park development.

- NOTES:
- PHASING OF FUTURE ATTRACTIONS AND SUPPORTING PARKING IS CONCEPTUAL ONLY. ACTUAL LOCATIONS AND SEQUENCES OF DEVELOPMENT MAY VARY DUE TO MARKET CONDITIONS OR OTHER FACTORS WHICH MAY FROM TIME TO TIME INFLUENCE EXPANSION.
 - NO STRUCTURES OF ATTRACTION FEATURES WILL BE VISIBLE FROM ANY CURBENT PUBLIC RIGHT-OF-WAY OR STREET.
 - IN THE EVENT EROSION CONTROL MEASURES ARE INCORPORATED WITHIN ACTIVE DEVELOPMENT AREAS, PROPER STABILIZATION OF SOILS AREAS WILL BE PROVIDED DURING AND AFTER CONSTRUCTION.
 - FUTURE ATTRACTIONS AREAS WILL BE DEVELOPED TO RETAIN A MODERN WOODED BUFFER OF AT LEAST 100 FEET FROM THE EDGE OF THE LAKE EXCEPT AS ATTRACTIONS MAY HAVE OR REQUIRE AN INTERFERE CONNECTION WITH THE LAKE EITHER BY PHYSICAL STRUCTURE OR VISUAL CONNECTIONS, OR AS LAKE ORIENTED ATTRACTIONS MAY REQUIRE INTERFERE CONNECTIONS WITH THE DAMNED ADJACENT LAND.
 - PRELIMINARY STORM WATER MANAGEMENT AREAS ARE DESIGNATED ON THIS PLAN AS SWM. THE NEED, DESIGN, AND INTEGRATION INTO THE ADJACENT SITE WILL BE EVALUATED AS DEVELOPMENT OCCURS. DESIGN OF SITES MAY DIFFER FROM ALL DESIGNATED SWM SITES AND MAY NOT BE REDUCED OR THAT ADDITIONAL SWM SITES MAY BE WARRANTED. THESE DESIGNATIONS ARE INTENDED TO DEMONSTRATE THAT PROPER STORM WATER MANAGEMENT PRACTICES ARE TO BE MAINTAINED AND ADDRESSED IN THE PHASING STAGE, AND THAT THE DESIGNATED OF ALTERNATE AREAS GENERALLY DO NOT EXTEND INTO THE CHESAPEAKE BAY EPA, RMA OR THE DESIGNATED BUFFER AREA.

U.S. NAVAL WINE OFFSET
GPN 1128-4637-4291
MAP #07-00-00-001
ZONE RC

MASTER PLAN
OF
WATER COUNTRY U.S.A.
SEAWORLD PARKS & ENTERTAINMENT, INC.
YORK COUNTY, VIRGINIA
SEPTEMBER 1, 2011

	ACRES	% OF TOTAL
LAKE	10.0	4.5
EXISTING AND PROPOSED ATTRACTIONS	40.9	18.4
EXISTING PARKING	31.6	14.2
FUTURE ATTRACTIONS	42.7	19.3
OPERATIONS, SUPPORT, EXISTING AND FUTURE PARKING	12.0	5.4
NATURAL WOODED BUFFER	84.8	38.2
TOTAL	222	100.0

STATISTICAL DATA:

	YEAR	ATTENDANCE	% CHANGE
OPENED FOR BUSINESS:	1984	2506	
ACQUIRED BY BUSCH ENTERTAINMENT (CORP):	1992	6268	7.3
ACQUIRED BY SEAWORLD PARKS & ENTERTAINMENT, INC.:	2009	6340	-4.3
	2010	7537	18.9

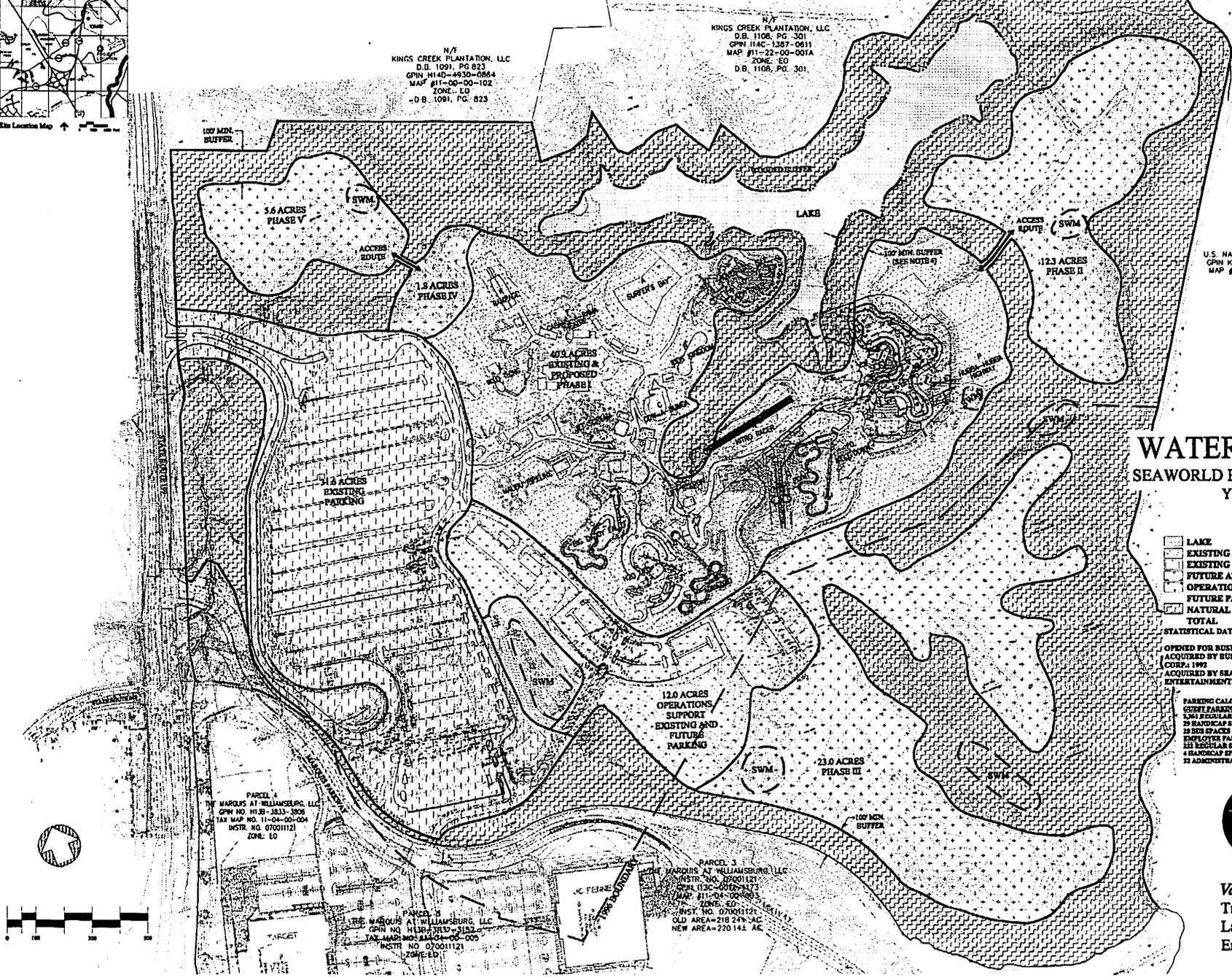
PARKING CALCULATION
 CLIENT PARKING:
 1541 REGULAR SPACES
 29 HANDICAP SPACES
 29 BIKE SPACES
 EMPLOYEE PARKING:
 121 REGULAR SPACES
 4 HANDICAP SPACES
 22 ADMINISTRATION SPACES



Vanasse Hangen Brustlin, Inc.
 Transportation
 Land Development
 Environmental Services



Site Location Map



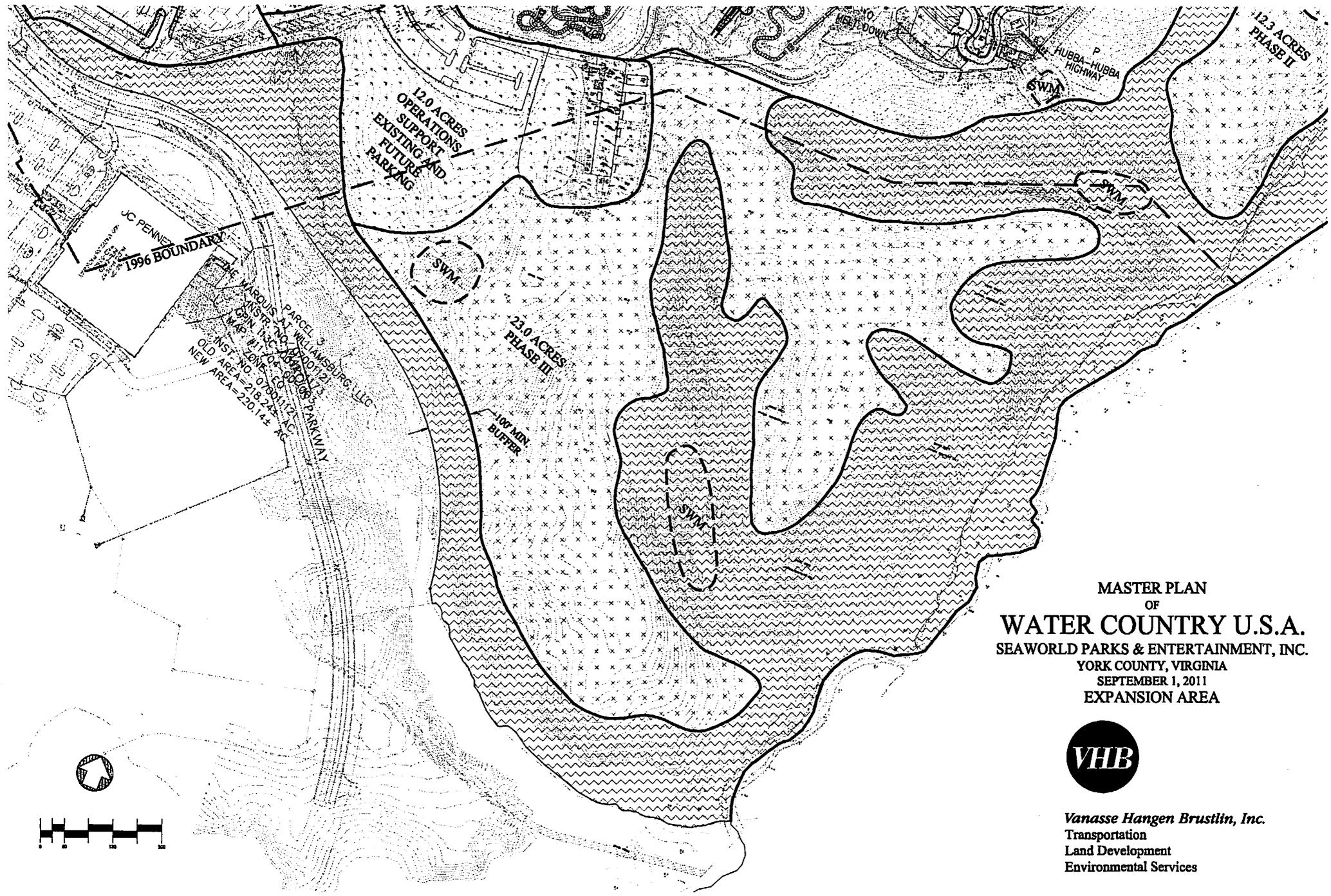
N/T
 KINGS CREEK PLANTATION, LLC
 D.B. 1091, PG. 823
 GPN 1140-4930-0864
 MAP #11-00-00-102
 ZONE: EO
 -D.B. 1091, PG. 823

N/T
 KINGS CREEK PLANTATION, LLC
 D.B. 1108, PG. 301
 GPN 1140-1287-0611
 MAP #11-22-00-001A
 ZONE: EO
 D.B. 1108, PG. 301.

PARCEL 4
 THE MAROLPS AT WILLIAMSBURG, LLC
 GPN NO. 1128-2633-3000
 TAX MAP NO. 11-04-00-004
 INSTR. NO. 070011121
 ZONE: EO

PARCEL 5
 THE MAROLPS AT WILLIAMSBURG, LLC
 GPN NO. 1128-2633-3000
 TAX MAP NO. 11-04-00-004
 INSTR. NO. 070011121
 ZONE: EO

PARCEL 3
 THE MAROLPS AT WILLIAMSBURG, LLC
 INSTR. NO. 070011121
 ZPN 1130-0018-1173
 MAP #11-04-00-004
 ZONE: EO
 INSTR. NO. 070011121
 OLD AREA=218,244 AC
 NEW AREA=220,142 AC



MASTER PLAN
 OF
WATER COUNTRY U.S.A.
 SEAWORLD PARKS & ENTERTAINMENT, INC.
 YORK COUNTY, VIRGINIA
 SEPTEMBER 1, 2011
 EXPANSION AREA



Vanasse Hangen Brustlin, Inc.
 Transportation
 Land Development
 Environmental Services



Map Legend

NEW IN 2014
VANISH POINT

PARK ENTRANCE

Picnic Pavilion

Wild Thang

Rampage

Caban-A-Rama Theatre

Surfer's Cove

Surfer's Bay

Rambling River

Jammin' Jukebox

Rock 'N' Roll Island

SurfSide Market

Coolsville

Catalina Grille

Daddy-O's

Wipeout Gifts And Apparel

Kritter Korral

Cow-A-Bunga

Jet Scream

Way Out Gifts

Way Out Candy

Adventure Photo

Malibu Pipeline

Big Daddy Falls

Hot Spot Cafe

Jet Gifts

Cosmic Cafe

Launch Pad

Nitro Racer

Family Restrooms

Hubba Hubba Hide-a-way

First Aid

Gifts

Traveler's Treats

Hubba Hubba Highway

Cook-N-Cove

Aquazoid

Meltdown

H2O UFO

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO APPROVE A MAJOR AMENDMENT TO A PREVIOUSLY APPROVED SPECIAL USE PERMIT TO AUTHORIZE THE EXPANSION OF A THEME PARK (WATER COUNTRY USA) LOCATED AT 176 WATER COUNTRY PARKWAY

WHEREAS, Sea World Parks & Entertainment Inc. (Water Country USA) is operating the theme park (Water Country USA) located at 176 Water Country Parkway (private road), further identified as Assessor’s Parcel No. 11-4-2 (GPIN I13a-0846-4200), in accordance with Board of Supervisors Resolution No. R96-201; and

WHEREAS, Sea World Parks & Entertainment Inc. (Water Country USA) has submitted Application No. UP-797-11 requesting approval of a major amendment to a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, to authorize the expansion of the theme park located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor’s Parcel No. 11-4-2 (GPIN I13a-0846-4200); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the ___ day of _____, 2011 that Application No. UP-797-11 be, and it is hereby, approved to authorize the expansion of the theme park located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200), subject to the following conditions:

1. This Special Use Permit shall authorize the expansion of the theme park (Water Country USA) located on a 220.8-acre parcel of land located at 176 Water Country Parkway (private road) and further identified as Assessor's Parcel No. 11-4-2 (GPIN I13a-0846-4200).
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the County prior to the commencement of any expansion of the subject theme park. Said site plan shall be in substantial conformance with the plans titled "Master Plan of Water Country USA, Sea World Parks & Entertainment, Inc., York County, Virginia, and Master Plan of Water Country USA, Sea World Parks & Entertainment, Inc., York County, Virginia, Expansion Plan, both dated September 1, 2011, and received by the Planning Division on September 1, 2011, except as modified herein.
3. A one hundred foot (100') undisturbed vegetated buffer shall be preserved around the perimeter of the park as shown on the above-referenced Master Plan and shall be supplemented by additional evergreen plantings, if necessary, to achieve plantings equal to a Type 50 Transitional Buffer.
4. A one hundred foot (100') vegetated buffer shall be maintained around the lake to provide qualitative stormwater management. The Zoning Administrator may modify or reduce the buffer as follows:
 - A. The buffer may be eliminated as noted on the Master Plan referenced in condition #2 above where a future attraction requires a visual or physical connection to the lake as an integral part of that attraction; or
 - B. In all other situations, the buffer may be reduced by not more than 50% upon a demonstration that the same water quality objectives are being met through the use of other acceptable methods.
5. The minimum setback for all arenas, rides, slides, or buildings containing visitor attractions shall be one hundred fifty feet (150') from any external property boundary. All other elements of the theme park shall maintain a one hundred foot (100') setback from all external property boundaries.

6. Any attraction, structure, or facility proposed to be within one thousand feet (1000') of a property used for transient occupancy purposes shall have an individual noise analysis study prepared and submitted to the Plan Review Agent prior to site plan approval. Should such analysis determine that an average noise level exceeding forty-five decibels (45 db) is likely to be imposed on property used or approved for transient occupancy, the Zoning Administrator shall require that noise attenuation be provided to reduce the average noise level at or below forty-five decibels (45 db).
7. Development of the property shall be in compliance with the provisions of York County Code Chapter 23.1, Wetlands, Chapter 23.2, Chesapeake Bay Preservation Areas, and Chapter 23.3, Stormwater Management.
8. Development of the property shall be in compliance with the provisions of Section 24.1- 374 of the York County Zoning Ordinance, Historic Resources Management overlay district.
9. Development of the property shall be in compliance with Section 24.1-373 of the York County Zoning Ordinance – Floodplain Management Area overlay district.
10. At times when parking lots are filled to capacity and it is necessary to preclude additional guest entry to the park attractions, entering guest vehicles shall be directed to the main entry drive off of Route 199 in order to facilitate vehicle u-turns completely within the applicant's property. Persons directing traffic on behalf of the applicant shall not direct u-turns within the Route 199 right-of-way. Should such an operational plan require installation of a median break along the on-site entrance drive, construction of such break shall occur in conjunction with construction of any new attractions at the park.
11. Prior to site plan approval for Phase 3 of the development as shown on the master plan referenced in condition #2 above, the applicant shall submit a detailed traffic and parking study to the Plan Review Agent verifying adequacy of existing parking and vehicular access facilities. Additional parking and/or revised traffic design shall be implemented as deemed necessary in accordance with said study.
12. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of this Resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court and a court-certified copy of the document shall be submitted to the County prior to further development activity under existing approved site plans or at the time of future site plan approval application, whichever occurs first.

BE IT FURTHER RESOLVED that the above conditions are not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

COUNTY OF YORK

MEMORANDUM

DATE: October 31, 2011 (BOS Mtg. 11/16/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Request to Establish a NO WAKE Designation for Cabin Creek

Issue

Mr. Sotiris Kellas and six (6) other property owners along Cabin Creek have submitted the attached correspondence requesting that the Board of Supervisors authorize the establishment of a NO WAKE designation for the waterway. It should be noted that it is the Virginia Department of Game and Inland Fisheries (VDGIF) that must approve the installation of such signs but, procedurally, VDGIF will consider such requests only after review and comment by the local governing body.

This application was tabled at the September 20th meeting (excerpt of Minutes attached) to provide an opportunity for further discussion among the residents of the Cabin Creek area. The public hearing was continued so that additional public comments can be entertained by the Board.

The previously distributed briefing materials and draft resolution concerning this issue are attached for the Board's review and consideration.

Carter/3337

Attachments:

- Minutes, September 20, 2011 Board Meeting
- Memorandum and attachments, dated September 9, 2011

COUNTY OF YORK

MEMORANDUM

DATE: September 9, 2011 (BOS Mtg. 9/20/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Request to Establish a NO WAKE Designation for Cabin Creek

Issue

Mr. Sotiris Kellas and six (6) other property owners along Cabin Creek have submitted the attached correspondence requesting that the Board of Supervisors authorize the establishment of a NO WAKE designation for the waterway. It should be noted that it is the Virginia Department of Game and Inland Fisheries (VDGIF) that must approve the installation of such signs but, procedurally, VDGIF will consider such requests only after review and comment by the local governing body.

Background

Section 16-42 of the County Code (adopted by the Board on June 19, 2007, copy attached) establishes the “local” ordinance that is a prerequisite for Virginia Department of Game and Inland Fisheries (VDGIF) approval of safety-related NO WAKE designations.

Considerations

1. The authority for Section 16-42 of the County Code is derived from Section 29.1-744.E. of the Code of Virginia which provides that “no wake” areas may be approved by VDGIF to provide for the safe and efficient operation of vessels. When established for those purposes and in accordance with applicable procedures, the NWZ restriction becomes enforceable by the VDGIF and VMRC marine patrols.
2. A total of 33 properties front on Cabin Creek (2 on the west side of the creek and 31 on the east side). It appears from a review of aerial photos that at least thirteen (13) of these waterfront properties have piers. Of those who have signed the No Wake Zone request, at least four (4) have piers extending from their property. Cabin Creek averages about 400 feet in width for most of its length.
3. Section 16-42 stipulates that the “applicant” shall be responsible for the costs of placing and maintaining the approved regulatory markers. Mr. Kellas has already had a piling installed to accommodate the No Wake sign if the designation is approved by VDGIF. In addition, he has had a sign fabricated to meet the required specifications.

4. Mr. Kellas' July 24, 2011 letter identifies the perceived navigation and safety issues in Cabin Creek which he and others believe could be addressed by a No Wake designation. VDGIF officials indicate that they are aware of no reported accidents or incidents in Cabin Creek.
5. In accordance with the Board's desires in previous discussions of No Wake Zone requests, all property owners fronting on Cabin Creek have been notified of the request and the September 20th public hearing date.

Recommendation

The descriptions of watercraft operations provided by the requestors would appear to be of the nature envisioned by the "safe and efficient operation" language contained in Section 16-42. Should the Board determine safety to be an issue, adoption of proposed Resolution R11-102 would endorse the No Wake Zone request and forward it on to the Virginia Department of Game and Inland Fisheries for review and consideration.

Carter/3337

Attachments

- Letters from Mr. Sotiris Kellas (and others) requesting No Wake Zone
- Section 16-42, York County Code
- Aerial photo of Chisman Creek area
- Vicinity map highlighting properties owned by those making the request
- Proposed Resolution R11-102

Sotiris Kellas
708 York Point Rd.
Seaford, VA 23696
(757) 329-8762
(757) 864-4150

James O. McReynolds
County Administrator
P.O. Box 532
Yorktown, VA 23690

07/24/2011

Dear Mr. McReynolds:

On behalf of my neighbors, and myself I am requesting permission to place a "No Wake" sign at the mouth of the Cabin Creek.

Over the past couple of years the boat traffic in the Cabin Creek has increased tremendously requiring a regulatory sign to be posted to ensure safe navigation. Jet skis travelling erratically at 40 mph make navigation in the creek particularly hazardous. The increased traffic is from both local owners as well as people using the area just outside the mouth of the creek for recreation during the summer weekends. In addition to the Jet Skis and boat traffic the narrow channel of Cabin Creek is lined on either side with crab pots, making navigation treacherous.

Sincerely,



Sotiris Kellas

James O. McReynolds
County Administrator
P.O. Box 532
Yorktown, VA 23690

07/25/2011

Dear Mr. McReynolds:

Below please find the signatures of my neighbors in support of the "No Wake" sign in Cabin Creek.

Signature: Phoebe Jamlin Address: 712 York Point Rd

Signature: [Signature] Address: 612 YORK POINT RD

Signature: [Signature] Address: 512 YORK POINT RD.

Signature: [Signature] Address: 604 YORK Pt Rd

Signature: [Signature] Address: 706 York Pt Rd

Signature: [Signature] Address: 726 York Pt Rd

Timothy J Gelles
612 York Point Rd
Seaford, Va 23696
Home - (757) 833-3009
Cell - (757) 870-5337

James O. McReynolds
County Administrator

7/25/2011

Dear Mr. McReynolds:

Ref. "No Wake" Sign at mouth of Cabin Creek:
Sotiris Kellas (07/24/2011)

I agree with unsafe conditions within the shores of our creek. I am property owner of three lots on Cabin creek, two lots upstream from Mr. Sotiris and I applaud his initiative to incorporate a regulatory sign.

On several occasions I have witnessed the reckless maneuver as performed by watercraft, predominately jet skis (high speed circular, figure eight maneuvers and swerving in and out of the crab pots). The summer season brings the southwest winds, the water outside our creek becomes rough and the jet skiers will take haven in our narrow creek to travel at high speed in excess of 40 mph, due to the calm waters. This creates the unsafe navigation of the creek, not only for the residents but also for the jet skiers themselves. It is just a matter of time before there will be an incident or God help us, a fatality.

Please take serious consideration toward this application and approve.

Sincerely,



Timothy J Gelles
Property owner
(Parcel # 026F 4B 5A, 026 4B 6 and 026 4B 7)

Section 16-42. "No Wake" regulatory markers on waterways.

(a) As used in this section, the following terms shall have the meanings listed below:

"*Motorboat*" means any vessel propelled by machinery whether or not the machinery is the principal source of propulsion.

"*No wake*" means operation of a motorboat at the slowest possible speed required to maintain steerage and headway.

"*Operate*" means to navigate or otherwise control the movement of a motorboat or a vessel.

"*Personal watercraft*" means a motorboat less than sixteen feet in length which uses an inboard motor powering a jet pump, as its primary motive power and which is designed to be operated by a person sitting, standing, or kneeling on, rather than in the conventional manner of sitting or standing inside, the vessel.

"*Vessel*" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(b) No person shall operate a motorboat or vessel, which shall include personal watercraft, at such a speed as to create a wake, swell or displacement wave in and on any waterway in York County that has been designated by a "no wake" buoy or other marker pursuant to the authority provided under Section 29.1-744 of the Code of Virginia:

(c) Any person who desires to place "no wake" buoys or other markers relating to safe and efficient operation of vessels shall apply to the county administrator who shall prepare the material necessary for the request to be formally considered and acted on by the board of supervisors. The applicant shall be responsible for paying the costs of a legal advertisement to be published at least 14 days prior to the board of supervisors' consideration of the request. Subsequent to the board of supervisors' action, the county administrator shall forward the request, along with documentation of the board's action, to the director of the Virginia Department of Game and Inland Fisheries who will, within thirty (30) days, approve, disapprove or approve with modifications the placement and type of "no wake" marker to be used. As used in this and the following subsection, the term "person" or "applicant" may include the board of supervisors acting on its own initiative.

(d) Upon authorization by VDGIF, the applicant shall place and maintain the approved regulatory marker(s), at the expense of the applicant. Any marker or buoy which is not in conformance with the VDGIF regulations shall be removed.

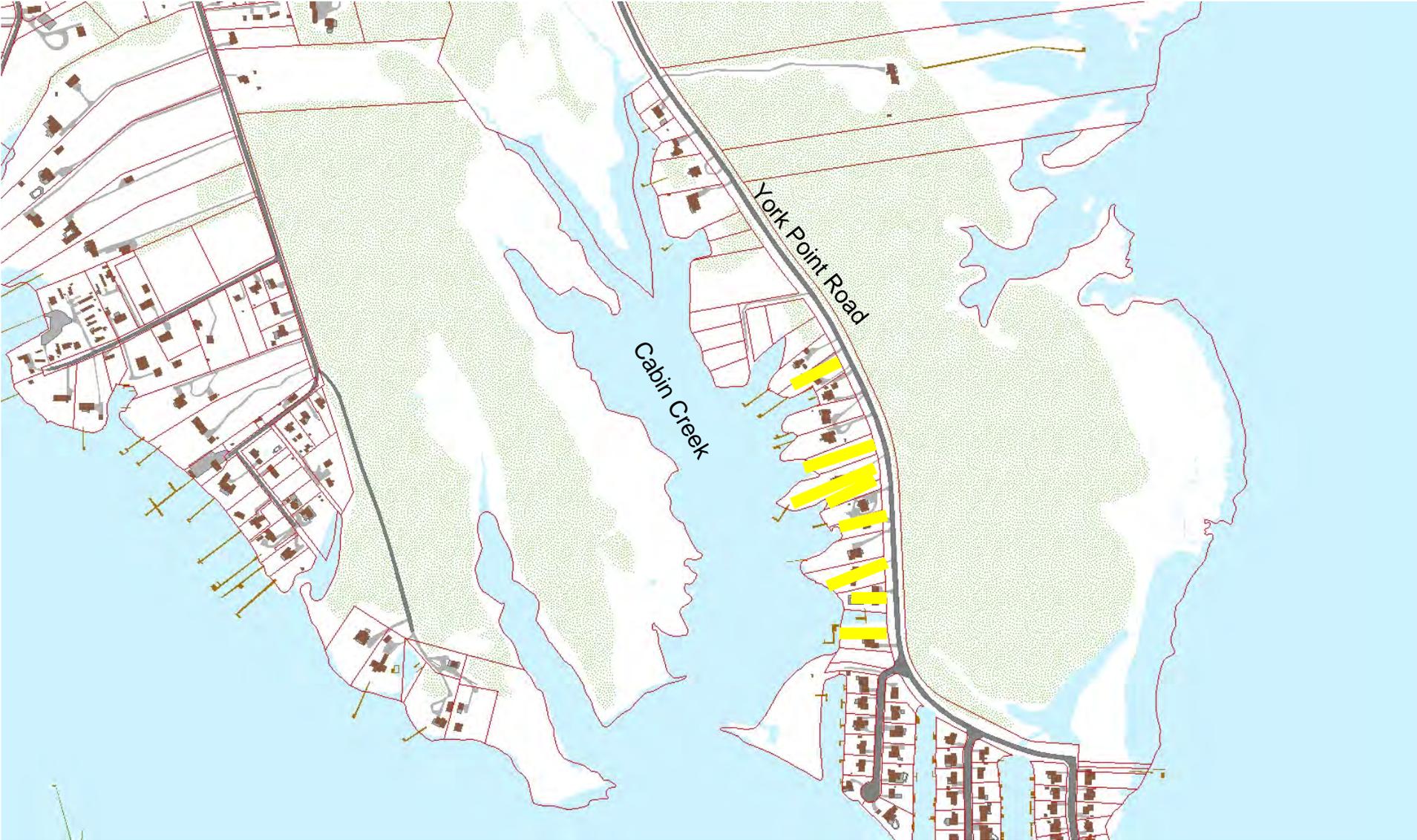
(e) All law enforcement officers may enforce the proper observance by watercraft operators of any marker installed under this article. Violations shall constitute a class 4 misdemeanor.

(Ord. No. 07-11, 6/19/07)





Property owners joining in request for NO WAKE designation



BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO ENDORSE THE REQUEST OF A GROUP OF PROPERTY OWNERS THAT A "NO WAKE" DESIGNATION BE ESTABLISHED FOR CABIN CREEK AND TO FORWARD SAID REQUEST TO THE VIRGINIA DEPARTMENT OF GAME AND INLAND FISHERIES FOR CONSIDERATON AND ACTION

WHEREAS, the Virginia Department of Game and Inland Fisheries (VDGIF) promotes boating safety to minimize interference between various users of public waterways through a system of uniform regulatory markers; and

WHEREAS, the purpose of said regulatory markers is to convey to the operators of small watercraft, without need for reference charts or published regulations, the presence of areas where boating operations are, in some manner, restricted; and

WHEREAS, the York County Board of Supervisors has been requested to support the establishment of a No Wake designation in Cabin Creek in the Seaford/York Point vicinity of the County; and

WHEREAS, the Board has determined that establishment of a No Wake Zone would be an appropriate technique to promote boating safety;

NOW, THERFORE, BE IT RESOLVED by the York County Board of Supervisors, this the ____ day of _____, 2011, that the request for establishment of a "No Wake" designation for Cabin Creek be, and it is hereby, endorsed and forwarded to the Department of Game and Inland Fisheries for review and action as deemed appropriate by

ment of Game and Inland Fisheries for review and action as deemed appropriate by the Department;

BE IT FURTHER RESOLVED that the applicant(s) who submitted this request to the Board of Supervisors shall, pursuant to the terms of Section 16-42 of the York County Code, be responsible for the costs of advertising the required public hearing and for establishing and maintaining such signs or other markers as may be approved by VDGIF.

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
October 4, 2011

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:02 p.m., Tuesday, October 4, 2011, in the East Room, York Hall, by George S. Hrichak.

Attendance. The following members of the Board of Supervisors were present: Walter C. Zarembo, Sheila S. Noll, Donald E. Wiggins, George S. Hrichak, and Thomas G. Shepperd, Jr.

Also in attendance were James O. McReynolds, County Administrator; and James E. Barnett, County Attorney.

WORK SESSION

CHESAPEAKE BAY TOTAL MAXIMUM DAILY LOAD (TMDL) COMPLIANCE PROCESS

Mr. McReynolds noted that for some time now staff had been concerned with the regulations coming down from the federal and state governments regarding TMDLs. He stated there was a lot of uncertainty, and staff felt it should provide the Board with a status report of where the County stands at this time. Staff was trying to find out what the requirements will be for the County, but there was still no definitive information from the state or federal government. Mr. McReynolds stated this issue has the potential to have great impact on the County and the region.

Mr. John Hudgins, Director of Environmental and Development Services, gave a presentation updating the Board on the Chesapeake Bay TMDL compliance process. He agreed there was a lot of uncertainty with this program, but he also pointed out that York County since the early 90s has been good stewards of the Bay by its sewer extension program, implementation of the Chesapeake Bay Act, and its stormwater program. He stated these programs have contributed greatly to reducing the pollution diet in the Bay. Mr. Hudgins then provided a history of the program, beginning with the 1972 Clean Water Act when the Environmental Protection Agency (EPA) granted authority to implement pollution discharges, and the need for planning of stormwater runoff was recognized. In 1987 the Chesapeake Bay Act and Virginia's Chesapeake Bay Act were enacted. In 2010, the 2000 Chesapeake Bay Agreement failed to meet the 10-year voluntary goals. The EPA also reached a settlement with Bay Advocacy Groups in 2009. As a result of these actions, the President signed Executive Order 13508 on the Chesapeake Bay Protection and Restoration which set in motion the current and mandatory EPA generated TMDL Waste Load Allocations to the states in the Bay watershed. These TMDLs were issued in 2010 and involved stricter nutrient and sediment TMDLs. Further Virginia developed and issued the Watershed Implementation Plan (WIP) Phase 1 by the end of 2010. He stated most of York County's efforts will be in water quality measures and, more specifically, in improving the quality of stormwater runoff and septic tank controls. Mr. Hudgins then provided the current status, stating in Virginia loads have been allocated by the EPA against 39 basin segments and have further divided this allocation to its 95 localities. He stated the County was awaiting the federal carve outs of the loads. This is a major issue in York County with federal lands accounting for 38 percent of York County acreage and over 50 percent of coastal exposure. He also noted there has been no guidance regarding any impact on state agencies such as VDOT. Another problem is that localities are dealing with old and flawed models and data, and accuracy in loads was needed to develop strategies, implementation plans, and determine costs. Mr. Hudgins then spoke of proposed strategies to implement the program. Staff recommends using existing programs to the maximum extent possible, establishing a County TMDL working group, and hiring a TMDL consultant to develop a com-

October 4, 2011

pliance plan for retrofit projects. He stated the WIP Phase II draft strategies were supposed to be due to the state next month. Other affected County programs include the sewer program with credit for septic system disconnects and septic pump-outs; the stormwater program with new permits and regulations adopted by 2014 to require higher water quality treatment and retrofits; additional development requirements for the Planning Office; and the Department of General Services with nutrient management on County property. Mr. Hudgins then noted that the following timelines had been set for TMDL compliance:

- Staff was scheduled to provide strategies for Phase II WIP in October of 2011, but has now been moved to February 2012
- The State is scheduled to submit a draft Phase II WIP on December 15, 2011
- EPA will make comments by February 15, 2012
- Final Phase II WIP is due to the EPA on March 30, 2012
- The target is to have 60 percent of the Plan implemented by 2017, and there will be milestones every two years to evaluate progress
- By 2017 progress will be evaluated, and Phase III WIP will be prepared to reach 100 percent of the goal by 2025
 - The draft Phase III WIPs are due to the EPA June 1, 2017
 - The final Phase III WIPs are due to the EPA November 1, 2017
- 100 percent plan implementation by 2025

Discussion followed regarding BMPs and not knowing yet if they will qualify to help reduce the TDML issues, and the fact that the EPA has not come down from its 60 percent by 2017 requirement.

Mr. Hudgins felt the County needed to make sure its past BMP efforts were credited in this model. He noted the County would be close if this happens, and the state was starting to recognize the issues with the federal facilities as well. He acknowledged the state now recognized the fact that the waste loads as they were today were not going to work, and the County should not be spending taxpayer money trying to reach those loads.

Mr. McReynolds stated that staff was going to use what the County already has to try and address the requirements and minimize the cost to the citizens to the extent that it can.

Discussion followed on maintenance agreements on current BMPs.

Mr. Zaremba asked if the State was going to back the localities with funds.

Mr. Shepperd stated it was his understanding there was to be no funding from the State or Federal governments.

Mr. Hudgins indicated there was supposed to be some grant money, but sometimes obtaining grants cost more than they were worth.

Mr. McReynolds stated the Board's legislative program included a request to the State for funding the TMDL process.

Mr. Shepperd stated the Board needs to fight for credit of what the County has. He stated he felt it was important for the Board to understand that the County could be spending money on this subject doing everything the Board and staff felt was right, and then it might have to do it all over again.

Mr. Wiggins stated he felt that starting more sewer projects was the way to go, but it takes years.

Mr. Hudgins indicated the County had a pretty aggressive program now, and more septic tanks should be removed in the next few years.

Discussion followed on establishing a TMDL Working Group.

Mrs. Noll asked how many employees will have to be brought on to meet the TMDL requirements.

Mr. Hudgins stated there was a new project in the Capital Improvements Program to get a consultant to help with the plan. If it is funded, by June or July, staff should know what the consultant needed to do. The Phase II WIP did not require the County to develop an implementation plan; the real timeline for the County is 2017.

Mr. McReynolds stated the staff was doing its best to define the issues and develop the strategies to comply with the requirements placed on the County and include as much known in the upcoming budget process.

CONSENT CALENDAR

Mr. Zaremba asked that the County Administrator provide an explanation for Item No. 3, Proposed Resolution R11-115.

Mr. McReynolds explained that the County was planning to borrow funds for undergrounding utilities. In that borrowing, some expenses will be incurred; and in order to qualify for reimbursement of those expenses, it was required that the Board adopt a resolution stating its intent to reimburse itself out of the funds borrowed.

Mrs. Noll then moved that the Consent Calendar be approved as submitted, Item Nos. 1, 2, and 3, respectively.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Hrichak
Nay: (0)

Thereupon, the following minutes were approved and resolutions adopted:

Item No. 1. APPROVAL OF MINUTES

The minutes of the September 6, 2011, Regular Meeting of the York County Board of Supervisors were approved.

Item No. 2. HIGHWAY SAFETY PROGRAM GRANT AWARD: Resolution R11-109

A RESOLUTION TO ACCEPT AND APPROPRIATE A SUB-GRANT AWARD TO THE YORK COUNTY SHERIFF'S OFFICE FROM THE VIRGINIA DEPARTMENT OF MOTOR VEHICLES' HIGHWAY SAFETY OFFICE FOR TRANSPORTATION SAFETY PROJECTS

WHEREAS, the Virginia Department of Motor Vehicles (DMV) is making funds available from the U.S. Department of Transportation, National Highway Traffic Safety Administration, authorized by the Highway Safety Act of 1966, to localities to support the implementation of highway safety projects to reduce traffic crashes, deaths, injuries, and property damage; and

October 4, 2011

WHEREAS, the York County Sheriff's Office has been awarded \$34,393 in federal funds under the 2011 Virginia Highway Safety Program for Project DUI/Click It or Ticket Selective Enforcement; and

WHEREAS, the funding purchases authorized by this grant are restricted to the pre-approved grant budget, which includes overtime, training and travel, two radar units, three breath testing units and one in-car video system; and

WHEREAS, this grant requires a twenty percent local in-kind match, which may be met using vehicle fuel and maintenance costs;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 4th day of October, 2011, that the County Administrator be, and he is hereby, authorized to accept grant funds in the amount of \$34,393 for the implementation of Project DUI/Click It or Ticket Selective Enforcement, and is authorized to execute any necessary grant applications, agreements, related contracts, or other documents, subject to approval as to form by the County Attorney, to provide such additional information as may be required by the terms of the grant agreement, and to do all things necessary to implement the Virginia Department of Motor Vehicles, 2011 Highway Safety Program Grant.

BE IT FURTHER RESOLVED that the amount of \$34,393 is hereby appropriated in the General Fund for the implementation of Project DUI/Click It or Ticket Selective Enforcement.

Item No. 3. REIMBURSEMENT FROM BOND PROCEEDS: Resolution R11-115

A RESOLUTION OF THE BOARD OF SUPERVISORS OF YORK COUNTY DECLARING ITS INTENT TO REIMBURSE ITSELF FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE UNDERGROUNDING OF UTILITIES DURING THE ROUTE 17 WIDENING PROJECT

WHEREAS, the County of York, Virginia (the "County") is a political subdivision organized and existing under the laws of the Commonwealth of Virginia; and

WHEREAS, the Board of Supervisors of the County (the "Board") expects to pay after the date hereof, certain expenditures (the "expenditures") in connection with the undergrounding of utilities (the "projects"); and

WHEREAS, the Board has determined that any moneys previously advanced no more than sixty (60) days prior to the date hereof, and those moneys to be advanced on and after the date hereof to pay the expenditures, are available only for a temporary period and it is necessary to reimburse the County for the expenditures from the proceeds of one or more issues of tax-exempt bonds ("bonds");

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4th day of October, 2011, as follows:

Section 1. The Board adopts this declaration of official intent under Treasury Regulation Section 1.150-2.

Section 2. The Board reasonably expects to reimburse advances made or to be made by the County on and after that date which is no more than sixty (60) days prior to the date hereof to pay the expenditures with respect to the projects. The maximum principal amount of the bonds expected to be issued for the projects is \$7,000,000.

Section 3. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County's use of proceeds of the bonds to reimburse an expenditure, no later than eighteen (18) months after the later of the date on which the expen-

diture is paid or the project is placed in service or abandoned, but in no event more than three (3) years after the date on which the expenditure itself is paid. The County recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least five (5) years.

Section 4. This resolution shall take effect immediately upon its passage.

NEW BUSINESS

APPROVAL OF THE 2012 LEGISLATIVE PROGRAM

Mr. McReynolds briefly commented on previous work sessions and the changes that were directed by the Board.

Mrs. Noll indicated she was disappointed that the Board pulled transportation out of the plan, and she felt this area needed it desperately. She stated she supported the program aside from the transportation piece.

Mr. Zaremba noted that for each of the items on the Board's program, he would like to find out if there could be co-sponsors for some of the items from the Peninsula or Hampton Roads community. He stated the Board has talked about this possibility for years, but nothing has really happened. Mr. Zaremba stated if one of the County's delegates gets legislation that several localities support, he felt that the delegates would try to get the legislation through.

Chairman Hrichak asked that the mayors and chairs be asked to bring their legislative programs to the October 24 Peninsula Mayors and Chairs meeting in Yorktown.

Mr. Shepperd asked if the County was pushing this program, or was the General Assembly pulling. He stated the General Assembly has 3000 plus bills and 45-60 days to go through all of them, and this Board was providing a wish list summary, but with no proposed amendments written. He stated somebody has to do the drafting for the legislators to digest. He also agreed if Newport News, Hampton, Williamsburg, James City County, and York County were pushing for something, it should carry more weight with the General Assembly.

Mrs. Noll stated she felt the Board ought to seriously consider drafting the bills for items it wants to push. She agreed that the County's program was just a wish list if it did not provide the draft legislation to be considered.

Mr. McReynolds stated there were the specific issues and the broader issues. The broader were such things as state mandates and real property taxes that have more potential for significant impact on the way the County does business. In these matters the Board should ask the General Assembly to be mindful of what they are doing to the localities. Mr. McReynolds stated staff could certainly draft the legislation for the specific items, and the legislators should be more willing to carry them forward.

Mrs. Noll then moved the adoption of proposed Resolution R11-116 that reads:

A RESOLUTION APPROVING THE COUNTY'S 2012 LEGISLATIVE PROGRAM

WHEREAS, because of the applicability of Dillon's Rule in Virginia, York County is dependent upon the General Assembly to adopt specific enabling legislation in many instances in order to enable the County to provide efficient and effective services and government to its citizens; and

WHEREAS, the County has developed a Legislative Program for the consideration of the 2012 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that

October 4, 2011

would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program, and believes that it is in the best interests of the citizens of York County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 4th day of October, 2011, that this Board hereby approves the County's 2012 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that copies of this resolution and the County's 2012 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

On roll call the vote was:

Yea: (5) Noll, Wiggins, Shepperd, Zaremba, Hrichak
Nay: (0)

OPEN DISCUSSION

Mr. Wiggins spoke about the Stormwater Advisory Committee and commended Gary Cusack who was leaving the committee. He noted that Mr. Cusack had done an awesome job, and his absence would be the County's loss. He stated the Stormwater Advisory Committee members were very dedicated to their mission, and Mr. Cusack had been one of the very best.

Mrs. Noll noted Mr. Cusack was from District 2, and she had been very pleased with his representation on the committee. She indicated he had done a lot of the writing for the reports the Board had been given.

Mr. Zaremba spoke of the Housing Partnerships program, which was federally funded but managed locally and targeted to low income families who have houses in certain stages of disrepair. He noted it was a very vibrant program, given the limited nature of its funding. He stated it had become apparent to him as he had been knocking on doors that there were a number of residences in disrepair or have been abandoned to rot. There were a number of neighborhoods that have fallen from the normal standard, and he felt the Board should do something about the increasing number of families and residences that are falling through the cracks and need help to maintain the County's land value. Mr. Zaremba asked the Board to think about whether or not the Board has an inherent responsibility regarding the declining state of affairs in York County.

Mrs. Noll stated this was not a new issue. The question was where did government draw the line. She stated it was a philosophical issue, and the Board could suggest and cheerlead and identify these homes, but they have to be looked at from a safety issue and not from an aesthetic standpoint.

Discussion took place on the current capabilities of the County with respect to residences in disrepair.

Mr. Barnett explained that the Board could take action only when a house was in a certain state of disrepair so that it became a public nuisance or threat of harm to the larger community. He stated that the maintenance provisions of the state code had been discussed by the Board, but they were applicable to all types of structures and not just residential, so there would be costs associated with enforcement. He stated cities have some authority for areas that are deemed blighted, but it may be difficult to find areas in York County that were considered blighted, and the County might need a housing authority to implement such a program.

Mr. Shepperd stated at the Board's last meeting the water plan was approved, and Dwight Farmer of the HRPDC did a review of the plan and HRPDC was satisfied with it. He noted that the HRPDC itself was a staff that collects information and does not force the information on others; their projections come from input from the communities. He then spoke of information

he has received from Hampton Roads Military and Federal Facilities Alliance (HRMFFA) meetings, stating he was staying tuned to what he called the “silent BRAC.” He explained that what was happening was the military was staying fairly stable in numbers, but the military relies heavily on its contract force, and the Department of Defense was now talking about a \$400 billion reduction over the next several years, which will cause the contractor force to shrink dramatically. The large firms are closing down their shops in various areas. The Navy has indicated it was going to retain its GS force, but was now looking at options for early retirements. Mr. Shepperd stated the affect on York County was going to be the resale of property, loss of revenue from taxes, and foreclosures.

Chairman Hrichak stated that today was National Night Out in this region, and he asked the citizens to turn on their porch lights and discuss safety issues with their neighbors and show support for the program.

CLOSED MEETING. At 7:40 p.m. Mr. Shepperd moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions; and Section 2.2-3711(a)(7) pertaining to a legal matter requiring consultation with legal counsel.

On roll call the vote was:

Yea: (5) Wiggins, Shepperd, Zaremba, Noll, Hrichak
Nay: (0)

Meeting Reconvened. At 8:37 p.m. the meeting was reconvened in open session by order of the Chair.

Mrs. Noll moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of October, 2011, hereby certifies that, to the best of each member’s knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (5) Shepperd, Zaremba, Noll, Wiggins, Hrichak
Nay: (0)

APPOINTMENTS TO THE STORMWATER ADVISORY COMMITTEE

Mr. Wiggins moved the adoption of proposed Resolution R11-104(R) that reads:

October 4, 2011

A RESOLUTION TO APPOINT MEMBERS TO THE STORMWATER
ADVISORY COMMITTEE

WHEREAS, District 1 has a vacancy on the Stormwater Advisory Committee due to the resignation of Leslie P. Smith; and

WHEREAS, District 4 has a vacancy due to the resignation of Robert A. Seifert; and

WHEREAS, Johann Davisson was serving as an At-Large member creating a vacancy in the At-Large position;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 4th day of October, 2011, that the following individuals be, and they are hereby, appointed to the Stormwater Advisory Committee as noted:

District 4: Denis Morhiser, with a term beginning immediately and ending June 30, 2012.

At-Large: Jan Briedé, with a term beginning October 1, 2011, and ending September 30, 2013.

On roll call the vote was:

Yea: (5) Zaremba, Noll, Wiggins, Shepperd, Hrichak
Nay: (0)

Meeting Adjourned. At 8:48 p.m. Chairman Hrichak declared the meeting adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

George S. Hrichak, Chairman
York County Board of Supervisors

MINUTES
BOARD OF SUPERVISORS
COUNTY OF YORK

Regular Meeting
October 18, 2011

6:00 p.m.

Meeting Convened. A Regular Meeting of the York County Board of Supervisors was called to order at 6:01 p.m., Tuesday, October 18, 2011, in the Board Room, York Hall, by Chairman George S. Hrichak.

Attendance. The following members of the Board of Supervisors were present: Donald E. Wiggins, George S. Hrichak, and Thomas G. Shepperd, Jr.

Sheila S. Noll and Walter C. Zaremba were absent.

Also in attendance were James O. McReynolds, County Administrator; J. Mark Carter, Assistant County Administrator; and James E. Barnett, County Attorney.

Invocation. Ms. Ashley Gailey, York County Youth Commission, gave the invocation.

Pledge of Allegiance to the Flag of the United States of America. Chairman Hrichak led the Pledge of Allegiance

PRESENTATIONS

EMPLOYEE RECOGNITION PROGRAM

Chairman Hrichak congratulated Michelle P. Lawrence, Department of Community Services, for her 20 years of service with the County, and presented her with her service pin and certificate.

YOUTH COMMISSION QUARTERLY REPORT

Mr. Jake DeWeerd, Chairman of the Youth Commission, made the Commission's first quarterly report. He stated the Commissioners had been scheduled to begin the year with a two-day orientation session to learn about County government, the Commission's mission and operation, and work as a team on various problem solving activities at a local challenge course. Hurricane Irene cancelled those plans but brought nine of the Commissioners together the following week on August 31 to stack approximately 2,700 bricks at Riverwalk Landing that had been dislodged by the hurricane, saving the County several hundred dollars on the reinstallation. The next day the Commissioners had a shortened orientation session at the Tabb Library followed by a tour of the County. At the Commission's first monthly meeting on September 19 the Commissioners were divided into three subcommittees. Mr. DeWeerd noted the Public Relations committee was planning to publish the Commission's activities and initiatives on the Commission's website, school announcements, emails, the County's cable channel, and banners in the schools. The Special Projects committee was focusing on service activities for the Commission and was also looking into sponsoring a County wide high school event in the spring. The Student Relations Committee planned to further develop and use the website survey tool and the in-school suggestion box program to give students the opportunity to express their views and opinions on a wide variety of topics this year. The Commissioners also sponsored the VoteTeam Virginia promotion with a flyer being distributed to high school government classes, and the Commission thanked Mr. Walt Latham for his assistance.

Mr. Shepperd asked if the Commission was planning a big dance in the upcoming activities for the year.

Mr. DeWeerd stated they were not planning a dance but they were planning to have something similar to the first high school bonfire they held in 2010.

Mr. Shepperd asked if the Commission was making plans for the annual ski trip.

Mr. DeWeerd stated the Commission was still discussing the Wintergreen trip, but it was not a scheduled activity at this time.

Mr. Shepperd stated the ski trip had been a big deal for the past several years and that it had seemed to be growing in leaps and bounds. He then thanked Mr. DeWeerd for the presentation.

ZWEIBRÜCKEN STUDENT EXCHANGE PROGRAM

Ms. Sandy Hespe, Coordinator for the Zweibrücken Student Exchange Program, York County School Division, stated this year's exchange program was a huge success. She spoke of how the program provided a wonderful opportunity for the German guests to become a part of the American culture and the wonderful experience the students had while in Zweibrücken. She then introduced Ms. Gina Sidhu from Tabb High School, the 2011 Student Exchange chaperone.

Ms. Sidhu thanked the Board for its continued support of the cultural exchange program. She reported on the benefits the program provided the students, giving them first-hand experience of the German culture. She spoke of the many places they had traveled to and the friendships and lasting bonds that were created between the American and German students. Ms. Sidhu then introduced the participants who were in attendance this evening.

Mr. Andrew Robinson, one of the exchange students, thanked the Board on behalf of the Yorktown-Zweibrücken Student Exchange for allowing him to participate in this experience. He spoke of the historical places they had visited and how Americanized parts of Germany were.

Ms. Megan Richardson, one of the exchange students, spoke of how welcoming the German people were and their shared common interests. She spoke of the many differences between the American and German schools.

Ms. Hespe recognized Ms. Lynn Divito, York County Historical Committee, for all her continued support, and she asked the host parents to stand and be recognized. She also noted that applications for the 2012 exchange were available in the schools and needed to be submitted by November 4.

Mr. Wiggins thanked Ms. Hespe for the opportunity to serve with her and the rest of selection committee. He spoke of the difficult job it was to choose between so many applicants. He stated it was good for the Board to have the opportunity to provide this kind of experience for the students in York County.

Mr. Shepperd asked what drove the limitation for the number of students to ten.

Ms. Hespe stated it was basically funding.

Mr. Shepperd asked Ms. Hespe to pass on to the students how much the Board enjoys the cards and pictures they receive from them. He also asked that the students continue to tell them about their trips as it was important for the Board to receive the feedback.

SHERIFF'S OFFICE ACCREDITATION

Mr. Gary Dillon, Department of Criminal Justice Services, brought greetings to the Board from their Director, Mr. Garth Wheeler, and also Ms. Marla Decker, the Secretary of Public Safety. He stated he was present to recognize the Sheriff's Office for its commitment to law enforcement excellence by participating in Virginia Law Enforcement and Accreditation Programs. He spoke of how all the accreditation programs are designed to measure and confirm compliance of a participating agency with the professional standards in whatever discipline the professionals are involved in. On behalf of the Department of Criminal Justice Services and the Secre-

tary of Public Safety, he congratulated Sheriff Diggs on this achievement, and he also congratulated Captain Jimmy Richardson who recently was awarded Master Assessor status with their program and who maintains the volumes of files for the program. He then introduced Chief Emmett Harmon, James City County Police Department, from their executive board to present the certificate of accreditation.

Chief Harmon presented Sheriff Danny Diggs with the Virginia Law Enforcement Professional Standards Commission's 3rd Accreditation Award.

Chairman Hrichak stated the Board was proud of the Sheriff's Department and the services it provides to the citizens of the County.

Sheriff Diggs stated this was a commitment of the entire department, and it took everyone working together to maintain the reaccreditation. He thanked all of his staff, especially Captain Richardson and Deputy Linda Hollingsworth, for all of their hard work.

CITIZENS COMMENT PERIOD

Ms. Sarah Kathryn O'Hara, 706 Main Street, addressed the Board regarding her concerns with the new replica of the 18th century windmill in Yorktown. She asked the Board to please find a new location for the windmill away from the Colonial National Historical Park.

Ms. Bev Krams, 105 Church Street, appeared before the Board stating that many of the recent changes to Yorktown were wonderful. She felt the windmill of Windmill Point was one of Yorktown's most iconic early 18th century symbols that represented an important chapter in Yorktown's history; but she felt decisions concerning a landmark of this stature should have had an independent feasibility study done to ensure historic accuracy, and placement should have been as close as possible to the original site.

Mr. Walt Akers, 110 Kenneth Drive, addressed the Board stating he had read most of what Mrs. O'Hara had written in virtually every newspaper in Virginia this week. He explained that the design came from a sailor's 1750s drawing, and the director of the Folk Art Museum in Colonial Williamsburg had opined that the windmill was designed as close as anyone could have gotten to the original design based on the information that was on hand. He stated that the dedication of the windmill would be held tomorrow at 4:00 p.m. on Yorktown Day, and he encouraged the Board to attend the dedication.

Mr. Thomas Nelson, 220 Church Street, addressed the Board concerning the Certified Local Government (CLG) program. He asked the Board not to remove the CLG Program as a goal from the Comprehensive Plan.

Mrs. Poppet Nelson, 220 Church Street, appeared before the Board regarding her opposition to the Yorktown windmill and its placement. She noted that Mr. Wiggins had stated at the last Board of Supervisors meeting that Mr. Akers had other ideas about creations for the historic village of Yorktown, and she challenged Mr. Wiggins to let the citizens of the village know what those ideas were that were possibilities to come into their historic village.

Mr. David Bowditch, Hornsby House Inn, stated he had recently seen the windmill and was so impressed with the working and the gears that he had asked Dan Smith for all the documents and read them from cover to cover. He felt the windmill was a wonderful addition to Yorktown.

COUNTY ATTORNEY REPORTS AND REQUESTS

Mr. Barnett reported he would be attending the Local Government Attorneys' Conference in Short Pump on Thursday and Friday. He noted that Melanie Economou, the Assistant County Attorney, would be in the office, and he would be accessible by phone and email.

COUNTY ADMINISTRATOR REPORTS AND REQUESTS

Mr. McReynolds had no report at this time.

MATTERS PRESENTED BY THE BOARD

Mr. Wiggins spoke regarding the Windmill project, stating he had previously served on the Board of Directors of the Watermen's Museum, and one of its goals was to educate both tourists and children on the importance of the preservation of the Chesapeake Bay and the heritage of the watermen. He stated the windmill was as close as possible to the original location; and while it certainly was not an exact replica, the houses in the village today do not all look like they did back during the Revolutionary War. He stated the windmill will help educate children about times past, and he encouraged citizens to attend the dedication ceremony the next day at 4:00 p.m. and see the fine workmanship that had gone into the project.

Mr. Shepperd apprised the Board on the briefing he had received at the Hampton Roads Military Federal Facilities Alliance (HRMFFA) meeting regarding the Department of Defense budget cuts and the impact the cuts would have on the County and the region as 40 to 45 percent of the commercial operations revenue was generated by Department of Defense activities. He also spoke of the potential effects the loss of aircraft carriers would have on the region. Mr. Shepperd indicated his expectation was that a lot of these changes would not be seen until 2013, as next year was a presidential election. He also spoke of how the Department of Defense was affected by transportation congestion and how it affected this community and the lives of its residents. He stated the proposed cuts to the Department of Defense would create a critical problem not only to our region but to the entire country.

Chairman Hrichak reminded the citizens that the next day was Yorktown Day, and the weather was forecast to be unsuitable for outdoor activities. He explained the National Park Service was the entity responsible for providing the Yorktown Day ceremonies, and it had cancelled the parade as well as the ceremonies at the French cemetery, the French memorial, and the demonstration by the Old Guard. The patriotic exercises that were scheduled to be held at the monument would be moved indoors to the Washington Auditorium at the United States Coast Guard Station. Shuttle buses were scheduled to provide transportation from the Victory Center to the Coast Guard Station starting around 10:00 a.m. He stated that the other activities for tomorrow were still scheduled as planned, and he encouraged the citizens to participate in the Yorktown Day celebration.

Meeting Recessed. At 6:58 p.m., Chairman Hrichak declared a short recess.

Mr. Zaremba arrived at 7:03 p.m.

Meeting Reconvened. At 7:08 p.m., the meeting was reconvened in open session by order of the Chair.

PUBLIC HEARINGS**APPLICATION NO. PD-30-11, SUNSET MEADOWS LLC (AMERICAN EASTERN, INC.)**

Mr. Carter made a presentation on Application No. PD-30-11 to amend the conditions of approval for a previously approved Planned Development (Cherry Tree Villas) to increase the maximum house size, reduce minimum building separation, reduce the minimum common area setback, increase the maximum ratio of living space floor area to lot area, reduce minimum corner lot setbacks, reduce minimum setbacks on Lots 1 and 19, and establish \$239,000 as the maximum starting price for all 22 units. The Planning Commission recommended approval 6:0 with the exception of the reduction in building separation, which had since been withdrawn, so now the request was entirely consistent with what the Planning Commission recommended. Staff recommended approval of the application through the adoption of proposed Ordinance No. 11-11.

Discussion followed on the definition of median income and the number of people of low income who might be able to afford these homes.

Mr. Zarembo commented at that there were a number of relatively new subdivisions in the area off Penniman Road, and there were a number of vacant houses because of the housing market and the economy. He stated he realized the developer has the right to build if he can get the loan for the property, but it looked like a pretty risky operation to him. He did not think \$239,000 was pocket change.

Mr. Shepperd asked if the calculations for this program required that York County values be used or could it be other municipalities' values.

Mr. Carter stated there was no requirement under the ordinance that a house sales price be proffered or established. The basic premise of the York County ordinance was that house price would be controlled by controlling the number of square feet that are built. He noted that had been the practice in most of the affordable housing projects that had been approved in York County. The ordinance did not require that the homes be sold to somebody who has a low income. Mr. Carter stated it was a free market situation, so the Board would be providing an opportunity for a developer to build a house that would provide some affordability to those who were in the lower income range, but it did not preclude somebody who could easily afford the property from buying it.

Discussion followed on what constituted affordable housing.

Mr. Shepperd noted Mr. Carter had mentioned some of the other proffers in the package were marginal or of no value.

Mr. Carter stated one proffer that had been dropped from the most recent proffer statement was that the developer was going to work with an organization called Spark because based on information received from the County's Community Services Department, there was little or no value to the proffer; so the recommendation was that the project be approved without that proffer, and that was the most significant difference.

Mr. Shepperd asked how the ratio of the size of the house to the size of the lot looked in terms of what was the norm. He asked if it was pretty close to 30 percent.

Mr. Carter stated it was on the high end of what had been approved in other projects.

Mr. Shepperd asked if it was consistent with safety.

Mr. Carter stated it was consistent with safety, and it was still controlled by the setback requirements, so there was adequate spacing between the buildings and adequate setback from the streets and from other property lines.

Chairman Hrichak asked if he had understood that the median Mr. Carter quoted for this project was the median for Hampton Roads and not for York County.

Mr. Carter stated that was correct, and staff had used the figure which HUD used for the metropolitan statistical area, which was the Norfolk/Virginia Beach/Newport News area.

Chairman Hrichak asked if this median was actually lower than the median for the County.

Mr. Carter stated the County's was a little bit higher.

Discussion followed on the requirement for only one ingress and egress point for the development.

Chairman Hrichak then called to order a public hearing on Application No. PD-30-11 that was duly advertised as required by law. Proposed Ordinance No. 11-11 is entitled:

October 18, 2011

AN ORDINANCE TO AMEND THE CONDITIONS OF APPROVAL
APPLICABLE TO A PREVIOUSLY APPROVED 22-UNIT RESIDEN-
TIAL PLANNED DEVELOPMENT TO BE LOCATED AT THE IN-
TERSECTION OF DUNCAN DRIVE AND FILLMORE DRIVE

Mr. Phillip Doggett, 8405 Beckenham Court, representing the applicant, appeared to answer questions the Board might have.

Mr. Zaremba asked if a perspective buyer could come in and ask for upgraded options and drive the price up or if the sales price of \$239,000 was set in concrete.

Mr. Doggett stated the price was very concrete; and if there were options, it would increase the price, but houses usually in this price point did not have a lot of options from which the buyers could choose.

Mr. Zaremba stated the Board often heard comments from County employees, usually Sheriff's deputies and fire department personnel, that they could not afford to live in the County; and he hoped this would not be the case with these units.

There being no one else present who wished to speak regarding the subject application, Chairman Hrichak closed the public hearing.

Mr. Wiggins stated with the cost of the land and the cost of development in York County, he did not think it would be possible to build a house any cheaper, especially in an area that was associated with Williamsburg. He felt this would be a good price and be good for the community to have houses in the proposed price range. He expressed his approval of the application.

Mr. Shepperd then moved the adoption of proposed Ordinance No. 11-11 that reads:

AN ORDINANCE TO AMEND THE CONDITIONS OF APPROVAL
APPLICABLE TO A PREVIOUSLY APPROVED 22-UNIT RESIDEN-
TIAL PLANNED DEVELOPMENT TO BE LOCATED AT THE IN-
TERSECTION OF DUNCAN DRIVE AND FILLMORE DRIVE

WHEREAS, on October 16, 2007, the York County Board of Supervisors approved Application No. PD-21-07 to amend the York County Zoning Map by reclassifying approximately 7.2 acres of land located at the intersection of Duncan Drive (Route 722) and Fillmore Drive (Route 723), further identified as Assessor's Parcel Nos. 11-14A1, 11-14A2, and 11C-4-96 (GPIN# G13b-3443-3814, G13b-2947-3461, and G13b-3158-3410), from R13 (High-density single-family residential) to PDR (Planned Development Residential) for the purpose of establishing a residential Planned Development utilizing the Affordable Housing Incentive Provisions pursuant to Section 24.1-361 of the York County Zoning Ordinance; and

WHEREAS, the current developer, Sunset Meadows LLC, has submitted Application No. PD-30-11, which seeks to amend the conditions of approval applicable to the approved Planned Development set forth in Ordinance No. 07-13; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of all of the applicant's requested amendments with the exception of the reduction in the minimum building separation; and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has carefully considered the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors this the 18th day of October, 2011, that it does hereby amend the conditions of approval, set forth in Ordinance No. 07-13, applicable to a previously approved residential Planned Development to be located on approximately 7.2 acres of land located at the intersection of Duncan Drive (Route 722) and Fillmore Drive (Route 723), further identified as Assessor's Parcel Nos. 11-14A1, 11-14A2, and 11C-4-96 (GPIN# G13b-3443-3814, G13b-2947-3461, and G13b-3158-3410), to read and provide as follows:

1. General Layout, Design, and Density

- a) A subdivision plan, prepared in accordance with the provisions of Section 20.5 of the York County Code, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site. Said plan shall be in substantial conformance with the overall development master plan titled "Preliminary Subdivision of a Section of York Terrace" prepared by LandTech Resources, Inc., dated March 30, 2007 and revised September 10, 2007, except as modified herein. Substantial deviation, as determined by the Zoning Administrator, shall require resubmission and approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.
- b) Architectural design of all residential structures shall be in substantial conformance with the building elevations submitted by the applicant, copies of which shall be kept on file in the York County Planning Division.
- c) Building envelopes within which can be located structures conforming to the dimensional and spatial requirements incorporated herein and in the Zoning Ordinance shall be shown for each residential lot on the subdivision plan.
- d) The maximum number of residential units shall be 22.
- e) Total living space floor area shall not exceed 1,800 square feet.
- f) The maximum ratio of total living space floor area to lot area, as defined by Section 24.1-361(g)(2) of the Zoning Ordinance, shall be 0.39 for new construction.

2. Residential Area Design Parameters

- a) The minimum lot width for residential lots shall be 45 feet.
- b) The minimum distance between any two principal buildings or structures shall be twenty feet (20').
- c) The minimum distance between any principal building and an accessory building, or between any two accessory buildings, shall be ten feet (10').
- d) The minimum distance between any principal or accessory building and any public or private street right-of-way shall be thirty feet (30'), provided, however, that the minimum rear yard setback for the parcel identified as Lot 19 on the referenced sketch plan shall be twenty feet (20').
- e) The minimum distance between any principal or accessory building and any common area boundary line shall be twenty feet (20').
- f) For all corner lots, the minimum building setback for side yards abutting a public street right-of-way shall be twenty feet (20').
- g) The minimum setback from any external property line, including the former Cheatham Annex Railroad right-of-way boundary, shall be twenty feet (20').

3. Streets and Circulation

- a) Roadway design and construction shall be in substantial conformance with the overall development master plan and shall adhere to the street and roadway standards established for public streets by the County and the Virginia Department of Transportation (VDOT). The applicant shall bear responsibility for installing all roadway improvements.
- b) Prior to development plan approval, the applicant shall submit a traffic operations and safety analysis, including peak-hour capacity analysis of the intersection of Fillmore Drive and Penniman Road, demonstrating that Fillmore Drive can safely accommodate traffic generated by the development while maintaining acceptable Levels of Service at its intersection with Penniman Road.
- c) Except for pedestrian connections to off-road walking trails throughout the development as depicted on the master plan, sidewalks shall not be required along streets in the development.
- d) Street lighting shall be provided at each street intersection and at other such locations determined by the subdivision agent to maximize vehicle and pedestrian safety. The design of the street lighting shall be consistent with the design and character of the development.
- e) All cul-de-sac streets shall be terminated with a turnaround having a minimum pavement radius of 45 feet.
- f) The cul-de-sac to be established at the end of the extension of Duncan Drive shall be platted as a temporary cul-de-sac with a temporary turn-around easement or easements to be vacated upon the further extension of Duncan Drive. The Duncan Drive right-of-way shall be clearly marked on the plats and labeled "Future Public Street" or "Future Public Street Extension" as appropriate. The following notation in, at a minimum, twelve (12) point lettering shall be incorporated into any plat showing a stub or future street:

THIS RIGHT-OF-WAY IS PLATTED WITH THE INTENT OF BEING EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS AND EGRESS TO AND FROM ADJOINING PROPERTIES.

In addition, the following statement shall be included on the conveyance documents for any lot on a stub or future street:

THE RIGHT-OF-WAY UPON WHICH THIS LOT FRONTS HAS BEEN PLATTED WITH THE INTENT OF IT BEING EXTENDED AND CONTINUED IN ORDER TO PROVIDE INGRESS AND EGRESS TO AND FROM ADJOINING PROPERTIES, AS SHOWN ON THE PLAT RECORDED IN PLAT BOOK _____, PAGE _____/INSTRUMENT NO. _____, CIRCUIT COURT FOR YORK COUNTY.

4. Utilities and Drainage

- a) The development shall be served by public sanitary sewer service, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and in accordance with all applicable regulations and specifications. The applicant shall grant to the County all easements deemed necessary by the County for the maintenance of such sewer lines.
- b) The development shall be served by a public water supply and fire protection system, the design of which shall be subject to approval by the County Administrator or his designated agent in consultation with the Department of Environmental and Development Services and the Department of Fire and Life Safety in

accordance with all applicable regulations and specifications. As depicted on the referenced overall development master plan, said water system shall connect to the existing Newport News Waterworks water line along Alexander Lee Parkway. The applicant shall grant to the County or the City of Newport News all easements deemed necessary by the County for maintenance of such water lines.

- c) The development shall be served by a stormwater collection and management system, the design of which shall be approved by the County Administrator or his designated agent in consultation with VDOT and in accordance with applicable regulations and specifications. Any easements deemed necessary by the County for maintenance of the stormwater system shall be dedicated to the County; however, the County shall bear no responsibility for such maintenance.
- d) The property owners' association shall own and be responsible for the perpetual maintenance of all stormwater retention facilities serving the Planned Development.

5. Open Space and Recreation

- a) A minimum of 2.68 acres shall be reserved as common open space designed and improved or maintained for use by those who live within the development. The location and arrangement of open space shall be generally as depicted on the overall development master plan.
- b) A minimum of 200 square feet of recreation space per dwelling unit shall be provided. At a minimum said area(s) shall include a playground, picnic tables/benches, and walking trails. The playground shall be not less than fifty feet (50') from any residential property line external to the development served.
- c) Walking trails shall be at least four feet (4') in width and constructed with a natural surface, mulch/wood chips, or gravel.
- d) All recreational facilities shall be constructed and available for use on or before the occupancy of the seventeenth (17th) unit or by the end of the fifth (5th) year from the start of construction, whichever occurs first.
- e) The location and manner of development for the recreation area(s) shall be fully disclosed in plain language to all home purchasers in this development prior to closing.
- f) All common open space and recreational facilities shall be protected and perpetual maintenance guaranteed by appropriate covenants as required in the York County Zoning Ordinance and submitted with development plans for the project.
- g) All recreational services, facilities, and equipment shall be subject to approval by the Division of Parks and Recreation for their consistency with the applicant's proffered conditions and recreational requirements as listed in the Planned Development regulations in the Zoning Ordinance.
- h) A Type 35 (35-foot) transitional buffer shall be provided along the eastern boundary of the development adjacent to EO-zoned property in the Busch Industrial Park. In accordance with Section 24.1-243(c)(1) of the Zoning Ordinance, the width of this buffer on the respective properties may be modified by mutual agreement of the property owners involved as evidenced by a lawfully executed agreement(s) and easement(s) between the property owners specifying how the buffer is to be shared.

6. Fire and Life Safety

October 18, 2011

The developer shall be responsible for installing two fire hydrants meeting minimum flow requirements within the development, one in the vicinity of Lot 22 and the other between Lots 9 and 10.

7. Restrictive Covenants

Prior to final subdivision approval, the applicant shall submit restrictive covenants for review by the County Attorney for their consistency with the requirements of Section 24.1-497 of the Zoning Ordinance.

8. Proffered Conditions

- a) The reclassification shall be subject to the conditions voluntarily proffered by the property owners in the proffer statement signed by H. R. Ashe, Manager, and dated August 25, 2011, a copy of which shall remain on file in the office of the York County Planning Division. The proffer statement titled "Conditions Voluntarily Proffered for the Reclassification of Property Identified as a 1300 Duncan Drive, 1303 Duncan Drive, and 1305 Duncan Drive," signed by Mark Della-Posta and Cherry Rose and dated September 20, 2007 is hereby rescinded and shall be null and void.
- b) A certified copy of this ordinance, together with a duly signed copy of the proffer statement, shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

On roll call the vote was:

Yea: (4) Zaremba, Wiggins, Shepperd, Hrichak
Nay: (0)

CONCEALED WEAPONS PERMIT

Mr. Barnett made a presentation on proposed Ordinance No. 11-12 to amend the York County Code relating to the renewal of an application for a concealed weapons permit to remove the requirement for fingerprinting.

Chairman Hrichak stated it was his understanding that the requirement to require fingerprinting was up to the locality and was not part of the state code.

Mr. Barnett stated for residents of the Commonwealth it was a requirement.

Chairman Hrichak asked if the Board wanted to completely eliminate the requirement for fingerprinting as a whole, and could it be done under this amendment, or would it require a separate public hearing.

Mr. Barnett stated as it had not been advertised for that purpose, it would require another advertisement for public hearing.

Mr. Shepperd stated it was his understanding that this requirement was unnecessary and that there had not been anything on the books in years that warranted the County having this ordinance as the state already had the requirement.

Mr. Barnett stated the local requirement for fingerprinting had been in the ordinance for a number of years and was in fact in the code twice. He explained what the ordinance did not say was that the fingerprinting requirement only applied on a first application and not for a renewal. He stated this was actually mandatory in the state code.

Chairman Hrichak then called to order a public hearing on proposed Ordinance No. 11-12 that was duly advertised as required by law and is entitled:

AN ORDINANCE TO DELETE YORK COUNTY CODE § 1-17 AND

AMEND COUNTY CODE § 16-8 (C) RELATING TO THE APPLICATION FOR A CONCEALED WEAPONS PERMIT, TO PROVIDE THAT FINGERPRINTING IS NOT REQUIRED FOR THE RENEWAL OF A CONCEALED WEAPONS PERMIT, TO BRING IT INTO CONFORMANCE WITH THE CODE OF VIRGINIA

Sheriff Danny Diggs stated it was his recollection from 2003, when the fingerprinting was first adopted, that he was a fairly new sheriff who wanted to err on the side of caution, so he had been supportive of the action. He noted that as many years have passed, experience had taught him that the fingerprint requirement was no longer needed; so he would recommend the Board re-advertise and delete the fingerprint requirement. He noted as the department had not been fingerprinting subsequent renewals, it was in compliance with state law.

Mr. Shepperd asked if this would reduce the Sheriff's workload.

Sheriff Diggs stated it would save the citizens \$35.

There being no one present who wished to speak concerning the subject ordinance, Chairman Hrichak closed the public hearing.

Mr. Zarembo then moved the adoption of proposed Ordinance No. 11-12 that reads:

AN ORDINANCE TO DELETE YORK COUNTY CODE § 1-17 AND AMEND COUNTY CODE § 16-8 (C) RELATING TO THE APPLICATION FOR A CONCEALED WEAPONS PERMIT, TO PROVIDE THAT FINGERPRINTING IS NOT REQUIRED FOR THE RENEWAL OF A CONCEALED WEAPONS PERMIT, TO BRING IT INTO CONFORMANCE WITH THE CODE OF VIRGINIA

BE IT ORDAINED by the York County Board of Supervisors this the 18th day of October, 2011, that section 1-17 is hereby deleted in its entirety, and that section 16-8 is hereby amended to read and provide as follows:

* * *

Sec. 16-8. Carrying concealed weapons.

- (a) If any person carries about his person, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material, or (ii) any dirk, bowie knife, switchblade knife, ballistic knife, razor, slingshot, spring stick, metal knucks, blackjack, or (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nun-chaku, shuriken, or fighting chain, or (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. Any weapon used in the commission of a violation of this section shall be forfeited to the Commonwealth and may be seized by an officer as forfeited, and such as may be needed for police officers, conservators of the peace, and the Division of Forensic Science shall be devoted to that purpose, subject to any registration requirements of federal law, and the remainder shall be disposed of as provided in § 18.2-310, Code of Virginia. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature.
- (b) This section shall not apply to those individuals exempted from its provisions by Section 18.2-308, B and C, Code of Virginia.
- (c) Any person wishing to obtain a permit to carry a concealed handgun must apply pursuant to Section 18.2-308 (D), Code of Virginia, and shall be required to submit to finger-

printing for the purpose of obtaining the applicant's state or national criminal history record. As a condition for the issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by the York County Sheriff and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant, and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law enforcement agencies. However, no applicant shall be required to submit to fingerprinting if the applicant has an existing concealed handgun permit issued pursuant to Code of Virginia section 18.2-308 and is applying for a new five (5) year permit pursuant to Code of Virginia § 18.2-308 (I). Upon completion of the criminal history records check and return of the fingerprint cards to the York County Sheriff by the Virginia State Police, the York County Sheriff shall promptly notify the applicant that he has 21 days from the date of the notice to request return of the fingerprint cards. All fingerprint cards not claimed by the applicant within 21 days of notification by the York County Sheriff shall be destroyed. Any optically scanned fingerprints shall be destroyed upon completion of the criminal history records check without requiring the applicant to be notified. Fingerprints taken for the purposes described in this section shall not be copied, held, or used for any other purposes.

On roll call the vote was:

Yea: (4) Wiggins, Shepperd, Zarembo, Hrichak
Nay: (0)

CONSENT CALENDAR

Mr. Shepperd addressed Item No. 4, asking why the City of Poquoson was not in the Peninsula Hazard Mitigation Plan 2011 when all its surrounding localities were included.

Mr. McReynolds stated Poquoson was on a different cycle when the plan was originally put into place about six years ago. Staff was not quite sure why the city was on a different cycle, but in order for Poquoson to stay eligible for federal emergency reimbursements from FEMA and such agencies, it has to review and readopt its plan every five years.

Mr. Shepperd stated he felt if the Cities of Hampton, Newport News, and Williamsburg were in the same cycle with York, there might be some advantage to Poquoson being added to their plan. He asked that staff check to see if there was some way to have the City of Poquoson added without it being in violation of its plan.

Mr. McReynolds stated staff would talk with the City of Poquoson.

Mr. Shepperd then addressed Item No. 6, stating the corridor enhancements, which would include undergrounding of utilities on parts of Route 60, would be almost \$4.5 million with 80 percent of the project costs coming from grant funds. He asked who would be providing those grant funds.

Mr. McReynolds stated the 80 percent funding would be from transportation enhancement grants from the federal government primarily, and the 20 percent would come from the three jurisdictions that were participating along the corridor, James City County, Williamsburg, and York County. He stated the funding would also be for streetscaping, sidewalks, and a number of other things in certain areas. He stated if the localities should be successful in getting the grant, the final scope would be determined at that point in time. He explained this action was only for the authorization of the application, and it did not accept the funds nor did it commit the three jurisdictions, but was just the first step in the process.

Chairman Hrichak asked if there would be any costs to the County for required ongoing maintenance for the landscape.

Mr. McReynolds stated he could not provide the exact figure, but York County's costs were mitigated somewhat because of the fact that Busch Gardens had agreed to maintain the por-

tions that front their properties and the Kingsmill properties, which is a significant portion of what is in York County.

Mr. Shepperd then moved that the Consent Calendar be approved as submitted, Item Nos. 3, 4, 5, 6, and 7, respectively.

On roll call the vote was:

Yea: (4) Shepperd, Zaremba, Wiggins, Hrichak
Nay: (0)

Item No. 3. APPROVAL OF MINUTES

The minutes of the September 20, 2011, Regular Meeting, were approved.

Item No. 4. PENINSULA MITIGATION PLAN: Resolution R11-118

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO TAKE ALL ACTIONS NECESSARY TO CONTINUE TO IMPLEMENT THE EMERGENCY HOME REPAIR PROGRAM AND TO ACCEPT ANY GRANT FUNDS AWARDED TO THE COUNTY BY THE VIRGINIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

WHEREAS, the York County Board of Supervisors has a long standing commitment to assisting the County's low income citizens in meeting essential housing needs; and

WHEREAS, the County has administered an Emergency Home Repair Program since 1989 and this program represents a valuable resource for the County's citizens; and

WHEREAS, the requirement for matching funds can be achieved through program and resources currently budgeted or administered by the County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of October, 2011, that the County Administrator be, and he is hereby, authorized to accept funding in the amounts offered the County by the Virginia Department of Housing and Community Development, execute any necessary grant agreements, related contracts, or other documents, subject to approval as to form by the County Attorney, and to do all things necessary to implement the Emergency Home Repair Program.

BE IT FURTHER RESOLVED that the County Administrator is authorized to accept any subsequent offer of funding that would not exceed available resources for any required matches and to increase amounts appropriated in the FY2012 budget if and when funds become available and to advise the Board of all such actions in writing.

Item No. 5. PURCHASE AUTHORIZATION: Resolution R11-119

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO CONTRACT FOR A STUDY/DESIGN OF DRAINAGE IMPROVEMENTS FOR DARE ELEMENTARY SCHOOL

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, they involve the expenditure of \$30,000 or more, and comply with all applicable laws, ordinances, and regulations;

October 18, 2011

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this 18th day of October, 2011, that the County Administrator be, and hereby is, authorized to contract with Williamsburg Environmental Group (WEG) to conduct a study/design of Drainage Improvements at Dare Elementary School, as follows:

	<u>AMOUNT</u>
School Drainage Improvement Project	\$154,532

Item No. 6. TRANSPORTATION ENHANCEMENT GRANT ENDORSEMENT: Resolution R11-120

A RESOLUTION TO ENDORSE AND REQUEST APPROVAL OF THE ROUTE 60 EAST CORRIDOR TRANSPORTATION ENHANCEMENT PROGRAM GRANT APPLICATION BEING SUBMITTED JOINTLY BY THE CITY OF WILLIAMSBURG, JAMES CITY COUNTY, AND YORK COUNTY, TO COMMIT TO PROVIDING A PROPORTIONAL SHARE OF THE REQUIRED 20 PERCENT LOCAL MATCHING FUNDS, AND TO COMMIT TO PROVIDING NECESSARY FUTURE MAINTENANCE OF THE YORK COUNTY PORTION OF THE PROJECT

WHEREAS, the localities of Virginia's Historic Triangle – the City of Williamsburg, James City County, and York County – have collaborated in the development of a conceptual plan for landscaping and other corridor enhancement improvements along Route 60 – Pocahontas Trail – as it passes through the three jurisdictions between Capitol Landing Road and the Grove Interchange; and

WHEREAS, the three localities have agreed to seek funding for implementation of the proposed plan through the Transportation Enhancement Program administered by the Virginia Department of Transportation; and

WHEREAS, the City of Williamsburg has agreed to be the sponsoring local jurisdiction for the grant application in accordance with Commonwealth Transportation Board procedures and requirements; and

WHEREAS, the City Council of the City of Williamsburg has scheduled a properly noticed public hearing on behalf of the Historic Triangle communities on October 13, 2011, to receive public comment on the proposed Virginia Transportation Enhancement Grant for improvements to the Route 60 East corridor in the three jurisdictions; and

WHEREAS, the York County Board of Supervisors wishes to document its support and endorsement of the grant application and provide assurances relative to its participation should the application be successful.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 18th day of October, 2011, that the it does hereby endorse the Route 60 East Corridor Enhancement Grant application to be submitted by the City of Williamsburg on behalf of Virginia's Historic Triangle jurisdictions in accordance with the Transportation Enhancement Program procedures established by the Commonwealth Transportation Board.

BE IT FURTHER RESOLVED that the County of York pledges to provide the minimum 20 percent local-funding match for the portion of the project located in York County and the associated design, engineering and inspection fees, with the total amount of County funds not to exceed \$150,000.

BE IT STILL FURTHER RESOLVED that York County authorizes the City of Williamsburg to act as the local sponsoring jurisdiction for the application and subsequent agreements and documentation necessary to ensure that the project is developed in accordance with all state and federal requirements for design, right-of-way acquisition, and construction of a federally funded transportation project.

BE IT STILL FURTHER RESOLVED that York County will be responsible for maintenance of any improvements constructed with Enhancement Program funds and located within the portion of the corridor in York County.

BE IT FURTHER RESOLVED that if York County subsequently elects to cancel its participation in this project the County hereby agrees to reimburse the Virginia Department of Transportation for the total amount of costs properly attributed to the York County portion of the project and expended by the Department through the date the Department is notified of such cancellation and further to repay any funds previously reimbursed that are later deemed to be ineligible.

Item No. 7. REVENUE SHARING: Resolution R11-121

A RESOLUTION TO APPROVE AND ENDORSE YORK COUNTY'S REQUEST FOR FUNDING UNDER THE FY2013 REVENUE SHARING PROGRAM ADMINISTERED BY THE VIRGINIA DEPARTMENT OF TRANSPORTATION

WHEREAS, the Virginia Department of Transportation has established guidelines for the FY 2013 Revenue Sharing Program and has solicited applications for funding; and

WHEREAS, the York County Board of Supervisors desires to participate in this program in order to facilitate improvements to the County's transportation system; and

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of October, 2011, that it does hereby approve the submission of a request to the Virginia Department of Transportation for an allocation of up to \$100,000 in funds through the FY 2013 Revenue Sharing Program for the following project, as described in the County Administrator's report to the Board dated October 6, 2011:

- North Constitution Drive (Route 1710) Outfall Drainage Improvements

BE IT FURTHER RESOLVED that York County does hereby pledge and commit funding in the amount of \$100,000 to match the \$100,000 in state Revenue Sharing Program funds requested.

BE IT STILL FURTHER RESOLVED that the Board hereby grants authority for the County Administrator to execute such project administration agreements and other documents as may be required in the event this request is approved by the Virginia Department of Transportation.

CLOSED MEETING. At 7:53 p.m. Mr. Shepperd moved that the meeting be convened in Closed Meeting pursuant to Section 2.2-3711(a)(1) of the Code of Virginia pertaining to appointments to Boards and Commissions.

On roll call the vote was:

Yea: (4) Zaremba, Wiggins, Shepperd, Hrichak
Nay: (0)

Meeting Reconvened. At 8:10 p.m. the meeting was reconvened in open session by order of the Chair.

Mr. Zaremba moved the adoption of proposed Resolution SR-1 that reads:

A RESOLUTION TO CERTIFY COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT REGARDING MEETING IN CLOSED MEETING

October 18, 2011

WHEREAS, the York County Board of Supervisors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711.1 of the Code of Virginia requires a certification by the York County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of October, 2011, hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed, or considered by the York County Board of Supervisors.

On roll call the vote was:

Yea: (4) Wiggins, Shepperd, Zaremba, Hrichak
Nay: (0)

APPOINTMENT TO THE TRANSPORTATION SAFETY COMMISSION

Mr. Zaremba moved adoption of proposed Resolution R11-117 that reads:

A RESOLUTION TO APPOINT A MEMBER TO THE YORK COUNTY TRANSPORTATION SAFETY COMMISSION

WHEREAS, Mr. William Cooper has resigned from the York County Transportation Safety Commission after more than six years of service, including three years as chairman; and

WHEREAS, Mr. Cooper's term does not expire until December 31, 2011; and

WHEREAS, the Board has carefully considered the qualifications of candidates who have expressed interest in serving on the Transportation Safety Commission;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of October, 2011, that the following individual be, and is hereby, appointed to serve on the York County Transportation Safety Commission for an unexpired term to begin immediately and expire December 31, 2011, and to a new term to begin January 1, 2012, and expire December 31, 2014:

Kathleen Rose

On roll call the vote was:

Yea: (4) Shepperd, Zaremba, Wiggins, Hrichak
Nay: (0)

CHANGE IN REGULAR MEETING DATE (Not on Agenda)

After a brief discussion regarding the Virginia Association of Counties annual meeting being held November 12-15, the Board unanimously agreed that the November 15 Regular Meeting of the Board of Supervisors be rescheduled for Wednesday, November 16. Thereupon, the following Resolution R11-128 was adopted unanimously upon motion by Mr. Shepperd:

A RESOLUTION TO RESCHEDULE THE NOVEMBER 15, 2011, REGULAR MEETING OF THE YORK COUNTY BOARD OF SUPERVISORS TO NOVEMBER 16, 2011

WHEREAS, the York County Board of Supervisors will be attending the Virginia Association of Counties' annual meeting November 12-15, 2011; and

WHEREAS, a regular meeting of the Board of Supervisors is scheduled for Tuesday, November 15, 2011; and

WHEREAS, the Board members wish to reschedule the November 15 Regular Meeting to be held on Wednesday, November 16, 2011; and

WHEREAS, Section 15.2-1416 of the Code of Virginia permits the governing body to changes its date, time, or place of meeting, provided that it adopts an appropriate resolution and properly posts and advertises said resolution;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors, this the 18th day of October, 2011, that the regular meeting of the York County Board of Supervisors scheduled to be held Tuesday, November 15, 2011, be, and it is hereby, rescheduled to be held Wednesday, November 16, 2011, in the Board Room of York Hall, at 6:00 p.m.

BE IT FURTHER RESOLVED that the County Administrator be, and he is hereby, directed to post and advertise this resolution in accordance with Section 15.2-1416 of the Code of Virginia.

Meeting Adjourned. At 8:13 p.m. Chairman Hrichak declared the meeting adjourned sine die.

James O. McReynolds, Clerk
York County Board of Supervisors

George S. Hrichak, Chairman
York County Board of Supervisor

COUNTY OF YORK

MEMORANDUM

DATE: October 18, 2011 (BOS Mtg. 11/16/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Drug Enforcement Administration State and Local Task Force Agreement

The Norfolk Resident Office Task Force performs a number of activities intended to disrupt illicit drug trafficking in the Tidewater area. This program has been ongoing in York County since 2004.

An agreement between the Department of Justice, Drug Enforcement Administration and the York Poquoson Sheriff's Office provides for \$47,779 in funding to support officer overtime efforts and one administrative assistant position for the Norfolk Resident Office Task Force.

If adopted Resolution R11-125 will accept and appropriate \$47,779 in the General Fund from the U.S. Department of Justice, Drug Enforcement Administration. The grant requires no local match and I recommend approval of proposed Resolution R11-125.

Bergman/3704
Attachment

- Proposed Resolution R11-125

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO ACCEPT AND APPROPRIATE \$47,779 IN UNITED STATES DEPARTMENT OF JUSTICE, DRUG ENFORCEMENT ADMINISTRATION (DEA) FUNDS TO BE USED FOR OVERTIME PAYMENTS AND ONE ADMINISTRATIVE ASSISTANT FOR THE NORFOLK RESIDENT OFFICE TASK FORCE

WHEREAS, the DEA has determined that trafficking in narcotics and dangerous drugs exists in the Tidewater area and that such illegal activity has a substantial and detrimental effect on the health and general welfare of the citizens; and

WHEREAS, the DEA has established a Norfolk Resident Office Task Force to disrupt illicit drug activities and provides up to \$17,202 in funding to support the overtime payments of the York Poquoson Sheriff's Officer assigned to the task force; and

WHEREAS, the DEA is desirous for the York County Sheriff's Office to provide administrative support to the task force, and will provide up to \$30,577, to reimburse York County for the employee's salary and benefits; and

WHEREAS, there is no local match or funding required to support the Administrative Assistant position; and

WHEREAS, it is the policy of the Board of Supervisors that all funding exceeding \$30,000 be submitted to the Board for its review and approval;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this ____ day of _____, 2011, that the County Administrator be, and he is hereby, authorized to accept and appropriate \$47,779 in the General Fund for overtime and clerical expenses relating to York County employees working with the Norfolk Resident Office Task Force.

COUNTY OF YORK

MEMORANDUM

DATE: October 20, 2011 (BOS Mtg. 11/16/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

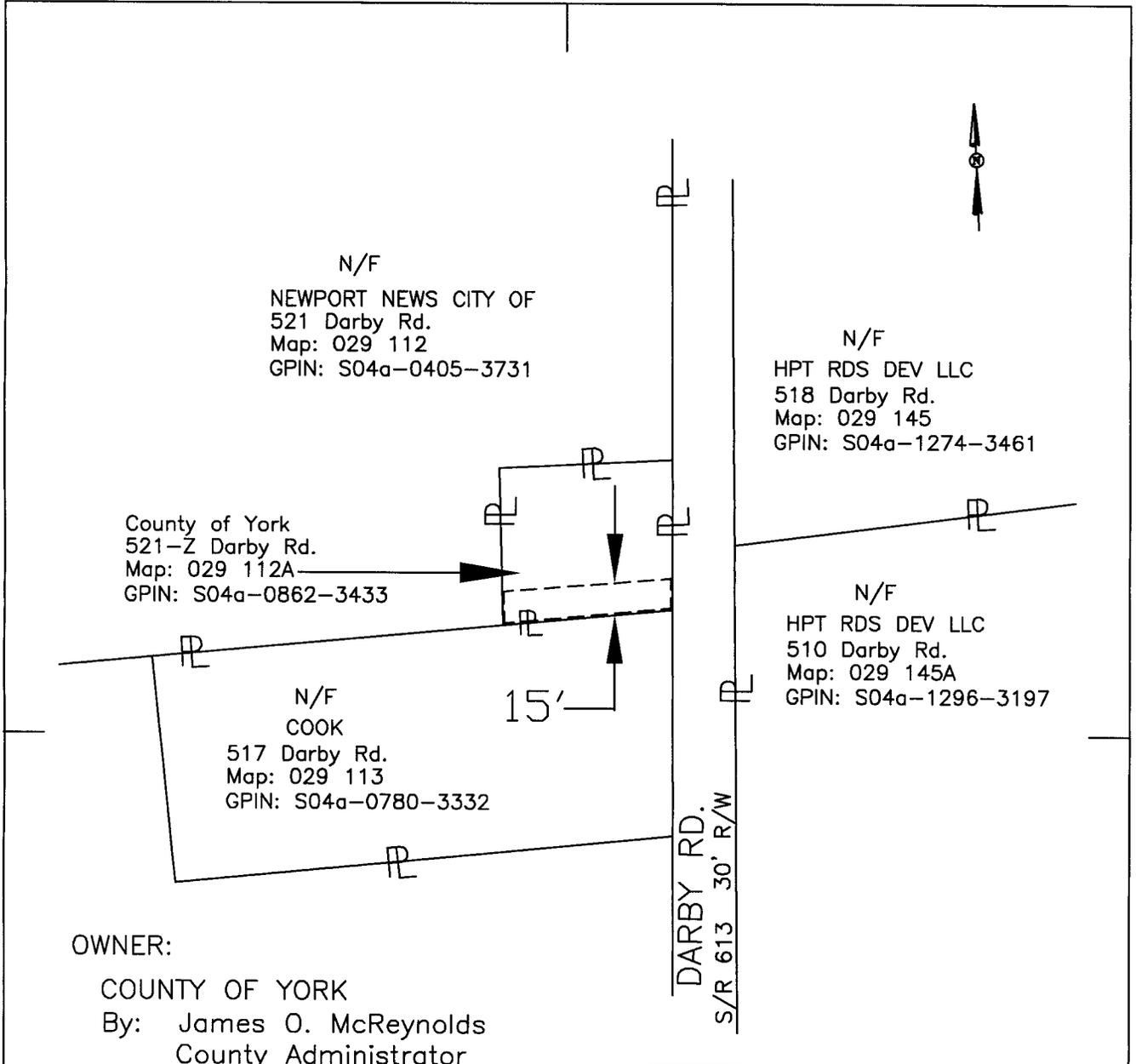
SUBJECT: Grant of easement to Dominion Virginia Power, Darby Road Sewer Pump Station

In order to provide electricity to the new Darby Road sewer pump station, a power line easement needs to be granted to Dominion Virginia Power. Attached is a plat entitled "Plat to Accompany Right-of-Way Agreement" dated September 27, 2011, provided by Dominion Virginia Power showing the location of the proposed easement. Because this easement is for the improvement of property which the County owns and will use for its own purposes, Code of Virginia § 15.2-1800 does not require a public hearing, but merely the adoption of an appropriate resolution by the Board of Supervisors.

If adopted, the attached proposed resolution will authorize the County Administrator to execute an appropriate deed of easement to Virginia Dominion Power, such document to be approved as to form by the County Attorney. I recommend its adoption.

Barnett/3440:sw
Attachments

- Plat entitled "Plat to Accompany Right-of-Way Agreement"
- Proposed Resolution R11-129



OWNER:
 COUNTY OF YORK
 By: James O. McReynolds
 County Administrator

INITIALS

Legend

- Location of Boundary Lines of Right-of-Way 15' in width
- ====P==== Indicates Property Line is Right-of-Way Boundary 15' in width

Plat to Accompany Right-of-Way Agreement		
VIRGINIA ELECTRIC AND POWER COMPANY doing business as Dominion Virginia Power UNDERGROUND		
District HAMPTON		
District BETHEL	County YORK	State VA
Office PENINSULA	Plat Number 22-11-0071	
Work Request # 7356835	Grid Number N0030	
Date 9/27/11	By <i>James A. McReynolds</i>	

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A DEED CONVEYING AN ELECTRIC UTILITY EASEMENT TO DOMINION VIRGINIA POWER AT THE SITE OF A PUMP STATION LOCATED AT 521-Z DARBY ROAD

WHEREAS, in order to provide electricity to the new Darby Road pump station, it is necessary to convey a power line easement to Dominion Virginia Power; and

WHEREAS, this Board has determined that it is in the public interest that such easement be granted.

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the ____ day of _____, 2011, that the County Administrator is authorized to execute a deed conveying an electric power utility easement to Dominion Virginia Power in the location shown on the "Plat to Accompany Right-of-Way Agreement" dated September 27, 2011, attached to the County Administrator's memorandum of October 20, 2011, such deed to be approved as to form by the County Attorney.

COUNTY OF YORK

MEMORANDUM

DATE: November 4, 2011 (BOS Mtg. 11/16/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Approval of Procurement Action

The attached resolution provides for the approval of County purchases by the Board of Supervisors in accordance with its policy for procurements of over \$30,000. The Board's approval is requested for procurement of the following:

Oaktree/Rochambeau Drive Water and Sewer Extension – An Invitation for Bid was issued and advertised to extend water main and force main from Rochambeau Drive along Oaktree Road and along Red Dirt Road. Twelve (12) firms submitted bids in response to the solicitation with the lowest bidder being Peters & White Construction in the amount of \$1,048,945. Sufficient funds are available in the Utility budget to complete these services. This project will help sustain existing businesses and provide opportunities for business growth in this corridor. The project is supported by contributions from three businesses and the Economic Development Authority totaling \$200,000.

Maintenance/Inspection: Riverwalk Piers (3-year contract renewal) – A three-year inspection and maintenance requirement was included as a part of the Invitation for Bid in 2004 for the construction of the floating piers at the waterfront. Coastal Design and Construction, Inc., of Gloucester, Virginia, was the successful bidder for the project and has provided the maintenance and inspection services for the piers since then. The second three-year renewal period is expiring, and a new service agreement is required. Coastal Design and Construction has provided a proposal in the amount of \$19,500 per year (holding the same price for the last two, 3-year periods), to continue the inspection and maintenance for an additional three years. The inspections required to maintain the floating pier system are unique and somewhat complicated. The adjustment of the anchorage system which consists of over 40 anchors weighing up to 13 tons each and nearly 70 anchor lines requires a thorough knowledge of the system and its intricacies in order to maintain the proper alignment and level of each floating pier section. Coastal Design and Construction installed the floating pier system and is the only business partner of the manufacturer of the floats (SF Marina of Göteborg, Sweden) on the east coast. Because they installed the piers, have a strong relationship with the manufacturer, and have six years of successful inspection and maintenance experience with this particular floating pier system, staff recommends that Coastal Design and Construction be considered a 'Sole Source' for the inspection and maintenance services. Sufficient funds are available in the budget to complete the purchase.

Digital Studio Cameras – The current studio cameras are well beyond their useful life of seven years (purchased in 2003) and are in need of replacement. One of the three current units is in need of repair to the Camera Control Unit (CCU), which is equal to the replacement cost of the entire camera. These cameras are used daily for both classroom and studio production use. The two existing, functioning cameras would be transferred to remote production use to replace remote cameras that are well beyond their useful life. Pricing is available on a State Contract, from Digital Video Group, in the amount of \$70,210. Sufficient funds are available in the County Capital Improvement Plan (CIP).

These procurements have been conducted in accordance with State procurement laws and/or County procurement policy, and I recommend they be approved through the adoption of proposed Resolution R11-130.

Sawyer/3681
Attachment

- Proposed Resolution R11-130

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO AUTHORIZE THE COUNTY ADMINISTRATOR TO CONTRACT FOR OAKTREE/ROCHAMBEAU DRIVE WATER AND SEWER EXTENSION, MAINTENANCE/INSPECTION OF THE RIVERWALK FLOATING PIERS (RENEWAL) AND REPLACE VIDEO CAMERAS

WHEREAS, it is the policy of the Board of Supervisors that all procurements of goods and services by the County involving the expenditure of \$30,000 or more be submitted to the Board for its review and approval; and

WHEREAS, the County Administrator has determined that the following procurements are necessary and desirable, they involve the expenditure of \$30,000 or more, and comply with all applicable laws, ordinances, and regulations;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this ____ day of _____, 2011, that the County Administrator be, and hereby is, authorized to contract with Peters & White Construction to construct the Oaktree/Rochambeau Drive Water and Sewer Extension; and with Coastal Design and Construction, Inc., to provide inspection and maintenance services to the Riverwalk floating piers; and Digital Video Group to replace video cameras, as follows:

	<u>AMOUNT</u>
Oaktree/Rochambeau Drive Water and Sewer Extension	\$1,048,945
Inspection/Maintenance: Riverwalk Floating Piers	58,500
Digital Studio Cameras	70,210

COUNTY OF YORK

MEMORANDUM

DATE: October 25, 2011 (BOS Mtg. 11/16/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Carr's Hill Water Agreement

For a number of years Colonial Williamsburg Foundation (CWF) has attempted to develop their Carr's Hill Tract which is located mostly in York County. Centex Homes, submitted a development plan in August 2007 called "Powell Plantation" which would have required an extension of water to the tract. The plan was later withdrawn due to poor economic conditions, but Centex did provide CWF the preliminary design for the water extension to the site. The tract is located near Waller Mill and Carr's Hill roads, and near, where the County and the City of Newport News previously agreed to share the costs equally of a water extension from Hubbard's Lane to the Lightfoot area. The proposed Hubbard's Lane to Lightfoot extension would come by the Carr's Hill tract, regardless.

CWF has recently approached both the County and the City of Newport News to proceed with the water extension to the Carr's Hill tract. The timing coincided with the start of the proposed extension of water from Hubbard Lane to the Lightfoot area. As a result, the three parties have negotiated an agreement (attached) which requires CWF to provide the preliminary design drawings to Newport News Waterworks (NNWW) and pay up to \$125,000 towards the final design for an extension to the Carr's Hill tract, and the City and the County will share the balance of the costs. The agreement requires York County to obtain and fund all necessary easements and pay 50% of the construction costs of the extension. Lastly the agreement requires that NNWW complete the extension design, perform the construction, and pay for 50% of the construction costs necessary to complete the extension project from Hubbard's Lane to the CWF property near Carr's Hill Road. The costs of both the County and the City will be partially offset by CWF's contribution. The agreement states that the City shall "use its best efforts" to start the construction by January 1, 2015.

The advantages of this agreement to CWF are that it makes the Carr's Hill Tract more attractive to developers. With CWF paying for the design and donating the necessary easements on their property for the extension, some of which will be useful for the Hubbard's Lane to Lightfoot extension, the cost savings to both the City and County exceed \$200,000 of a multi-million dollar Lightfoot Extension Capital project already funded for in York County. The Carr's Hill water extension project is on the same route and completes almost 50% of the Lightfoot extension capital project.

As a result, I recommend the Board adopt the attached proposed Resolution R11-122.

York County Board of Supervisors

October 25, 2011

Page 2

Attachments:

- Draft Agreement
- Exhibit A
- Proposed Resolution R11-112

DRAFT 2-1-11 Mod
April 26, 2011
July 20, 2011
September 30, 2011
CW Comments Oct. 4, 2011

TRANSMISSION LINE EXTENSION AGREEMENT
Among
THE CITY OF NEWPORT NEWS, THE COUNTY OF YORK and THE
COLONIAL WILLIAMSBURG FOUNDATION

This Agreement, made and effective this ____ day of _____, 2011, by and among the **City of Newport News**, a Municipal Corporation of the Commonwealth of Virginia (“CITY”); the **County of York, Virginia**, a political subdivision of the Commonwealth of Virginia (“COUNTY”); and **The Colonial Williamsburg Foundation**, a Virginia non-stock corporation (“CWF”).

WHEREAS, CITY’S Department of Public Utilities (“Waterworks”) operates a water utility serving COUNTY and the lower Virginia Peninsula; and

WHEREAS, CITY and COUNTY have determined it to be in their mutual and best interest to extend a Waterworks Transmission Line from Hubbards Lane in COUNTY to the Lightfoot area of COUNTY and to agree upon funding for the property acquisition, design, and construction of the Transmission Line and related facilities (“the Project”); and

WHEREAS, CWF has also expressed strong interest in having CITY extend a segment of the above Transmission Line (such segment referred to as the “Water Line”) through its property as shown on **Exhibit “A”**, attached hereto and made a part of this Agreement (the “Property”); and

WHEREAS, the Transmission Line, in addition to serving other needs and objectives of CITY and COUNTY, will provide water availability to the Property; and

WHEREAS, to facilitate the parties' objective of constructing the Project, (the term "Project" hereinafter to include the construction of the Water Line), CWF has proposed to (i) relinquish ownership to CITY, at its sole cost and expense, of the partially completed engineering design for the Water Line prepared by AES Consulting Engineers, and (ii) contribute to the cost of developing the Water Line, as hereafter set forth.

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained the parties hereto agree as follows:

ARTICLE I

Obligations of CWF

1. **Transfer of Design Plans.** Upon full execution of this Agreement, CWF, at its own cost and expense, shall transfer to CITY all of CWF's rights and interests in the partially completed engineering design for the Water Line previously prepared by AES Consulting Engineers and identified as "Site Plan for Powell Plantation Off-Site 24" Potable Water Line, Bruton District, York COUNTY, Virginia, Project Number: 9654-01a."

2. **Payment by CWF.** As partial consideration for CITY'S early commencement of work on the Project, and the placement of the Water Line through the Property when constructed, and for other good and valuable consideration, CWF agrees to reimburse CITY for a portion of CITY's costs directly related to the design and construction of the Water Line in the fixed amount of one hundred and twenty-five thousand (\$125,000.00) dollars within sixty (60) days of execution of this Agreement. The CITY will use its best efforts to begin Project Water Line design-related work as soon as practicable and to award a construction contract for the Water Line no later than January 1, 2015. In the event that the

construction contract has not been awarded by January 2, 2015, in the absence of good cause shown by CITY, CITY shall return the above sum to CWF unless otherwise mutually agreed.

3. **Easements.** CWF shall grant, at no cost to CITY, a permanent easement under and across property of CWF necessary to permit the construction, operation, repair, alteration, and maintenance of the Project. The permanent easement shall also provide that CITY shall have the right to inspect, rebuild, repair, improve, change and install such additional or substitute lines or facilities within the permanent easement as CITY may from time to time deem advisable or expedient and shall have such rights and privileges as may be reasonably necessary for the full enjoyment or use for any of the aforesaid purposes of the permanent easement and rights granted therein. The permanent easement shall be exclusive and will prohibit permanent structures, fences, and deep-rooted trees or shrubs, but will allow utility crossings, pavement, road crossings, sidewalks, and limited landscaping. Prior to excavation for utility crossings, reasonable notice shall be given to Waterworks. CITY recognizes that a portion of the Property is encumbered by a conservation easement. Where applicable, both the temporary and permanent easements will conform to the requirements of the Deeds of Open Space Conservation Easement recorded in York County-Poquoson Circuit Court on October 2, 2006, pages 000000772-000000796 and pages 000000797-000000823. CITY and CWF agree to work together to reroute the line if current pipeline routing layouts are not feasible. COUNTY shall be responsible for preparing and recording the easement documents.

CWF shall grant, at no cost to CITY, a temporary easement under and across other property of CWF necessary for the construction of the Project as specified in the attached

Exhibit “A”. The temporary easement will expire when the construction has been completed.

ARTICLE II

Obligations of COUNTY and CITY

1. **Access, Easements, Rights-of-Way, Licenses.** Except for the above easements conveyed by CWF to CITY for the Project, COUNTY shall furnish, purchase, obtain, or otherwise secure all necessary access, temporary and permanent easements, rights-of-way and licenses necessary for the construction, operation, repair, alteration, and maintenance of the Project, including, without limitation, license(s) for encroachment into existing Dominion Virginia Power Rights-of-Way, and temporary construction easements. COUNTY shall exercise all reasonable efforts to acquire the access, easements, rights-of-way, and licenses in a timely manner so as to not delay the construction of the Project.

2. The easements secured by COUNTY for conveyance to CITY shall provide that CITY will have the right to inspect, rebuild, repair, improve, change and install such additional or substitute lines or facilities within the easements as CITY may from time to time deem advisable or expedient and shall have such rights and privileges as may be reasonably necessary for the full enjoyment or use for any of the aforesaid purposes of the easements and rights granted therein. All such easements shall be exclusive unless otherwise agreed by CITY, and shall identify CITY as sole grantee. COUNTY shall be responsible for recording the access, easements, Rights-of Way, and License Documents.

3. **CITY’s Obligations.** CITY shall (i) enter into the necessary contracts to design and construct the Transmission Line, (ii) complete the construction of the Transmission Line, and

(iii) obtain appropriate Virginia Department of Health approvals for the completed Transmission Line. CITY shall use all reasonable efforts to complete construction in a timely manner.

4. **Cost Sharing.** CITY and COUNTY shall share equally the cost of design and construction of the Project, including acquiring access, easements, rights-of-way, and licenses in furtherance of the Project. Cost will be adjusted to reflect payment by CWF as described in Article I.2.

5. **Time of Payments, etc.** Payments by COUNTY to CITY pursuant to the above section 4 shall be made monthly upon receipt by COUNTY from CITY of an invoice reflecting payments made by CITY to engineering firm(s), contractor(s), and payments for other Project expenses such as property acquisition. COUNTY shall pay to CITY a sum equal to one-half of such sums paid by CITY. All sums payable under this Agreement unless otherwise agreed, shall be made payable to the City of Newport News, and delivered to CITY's Director of Public Utilities at its business office. All payments shall be received by CITY within (30) days of receipt by COUNTY of the invoice, except where a specific due date for payment is provided for in this Agreement, which date shall not be less than 30 days after COUNTY's receipt of the invoice. CITY will provide to COUNTY accounting records sufficient for COUNTY to ascertain amount of payments made by CITY.

6. **Future Water Service.** CITY shall provide water service to lots to be developed on the Property and in COUNTY pursuant to standard Waterworks extension agreements ("Water Main Extension Agreements"), and the applicable laws, ordinances, policies, and regulations, and the applicable provisions of the "Transfer of Assets and Water Agreement" between the CITY and COUNTY dated July 13, 2004.

7. **CITY Ownership of Constructed Project.** All Transmission Lines and related facilities and appurtenances installed by or on behalf of CITY for the Project shall be the property of CITY, its successors, and assigns.

8. **Future Water Service Extensions.** CITY will have the right to make further extensions of the Transmission Line for the future operation and expansion of the Waterworks system.

9. **System Development Fee.** Current System Development Fees will be payable to CITY by CITY's customers for connection to the Waterworks system in accordance with CITY's standard fees and charges as set forth in the Newport News City Code.

ARTICLE III

Miscellaneous

1. **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of the respective parties, their successors and assigns.

2. **Late Fees.** All sums payable under this Agreement not received by CITY thirty (30) days after the due date, will be subject to a late charge of one and one-half percent per month of the overdue amount. Any late payments shall be first applied towards any late charges.

3. **Right of Inspection.** COUNTY, CWF, and their duly authorized agents have such rights of access to the Project as may be reasonably necessary. Upon request, CITY shall provide to COUNTY copies of records pertaining to the actual cost of construction of the Project.

4. **Severability.** If any provision of this Agreement is held invalid by any court of competent jurisdiction, the holding will not invalidate any other provision of this Agreement.

5. **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Virginia.

6. **Amendments.** The parties may amend this Agreement by written instrument signed by the parties herein. Notwithstanding the above, any amendment not affecting CWF's rights and obligations hereunder may be signed by COUNTY and CITY provided, however, that CWF has no objection thereto and a copy of such amendment shall be provided to CWF. The City Manager is authorized to sign amendments to this Agreement on behalf of CITY. The COUNTY Administrator is authorized to sign amendments to this Agreement on behalf COUNTY. The Senior Vice President for Finance and Administration of CWF is authorized to sign amendments to this Agreement on behalf of CWF.

7. **Counterparts.** Triplicate originals of the Agreement shall be executed by each party, with each party retaining one fully executed original.

8. **Headings.** The title and article headings are inserted only for convenience and in no way are to be construed as a limitation on the scope of the provision to which they refer.

9. **Entire Agreement.** This Agreement constitutes the entire agreement among the parties, and there are no other contemporaneous agreements, oral or written, and this Agreement may not be supplemented, altered, modified or otherwise amended in any way except in writing, and approved by the governing bodies or their duly authorized agents.

10. **No Additional Waiver.** If any requirement or obligation under this Agreement should be breached by any party and thereafter waived by the other party or parties, the waiver will be limited to the particular breach so waived and will not be deemed to waive any other breach under this Agreement.

11. **Authority to Execute.** The parties to this Agreement mutually represent and warrant that they are fully authorized to enter into this Agreement, and the person executing this Agreement has full authority to do so.

12. **Bypass Road Service Area.** The parties acknowledge that the City of Williamsburg provides water service to the Bypass Road Service Area of COUNTY which is adjacent to the Property and this Agreement is not in conflict with such service.

13. **Water Agreement.** CITY and COUNTY acknowledge that they have previously entered into a “Transfer of Assets and Water Agreement” dated July 13, 2004 which involves the transfer of water system assets from COUNTY to CITY and provides for the current and future provision of water service in COUNTY by CITY. The parties agree that construction of the Project is not governed by the provisions of the Transfer of Assets and Water Agreement dated July 13, 2004.

14. **Term.** This Agreement may be terminated by mutual written consent of all the parties on such terms and conditions as mutually agreed upon in writing.

[Continued on following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

CITY OF NEWPORT NEWS

By: _____
City Manager

COUNTY OF YORK

By: _____
County Administrator

THE COLONIAL WILLIAMSBURG
FOUNDATION

By: _____
Senior Vice President, Finance and
Administration

Federal Tax I.D. Number

ATTEST:

(to be used only when corporation is CWF)

If corporation, must be signed by officer having authority to execute contracts and attested and seal affixed by secretary of corporation.

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION THAT DIRECTS THE COUNTY ADMINISTRATOR TO EXECUTE A WATER AGREEMENT WITH THE CITY OF NEWPORT NEWS AND THE COLONIAL WILLIAMSBURG FOUNDATION TO EXTEND A WATER SUPPLY LINE FROM HUBBARDS LANE TO THE COLONIAL WILLIAMSBURG FOUNDATION PROPERTY NEAR CARRS HILL ROAD

WHEREAS, the County of York has previously partnered with the City of Newport News and has funded a capital project with the City to construct a water extension from Hubbard’s Lane to the Lightfoot Area via Moorestown Road; and

WHEREAS, an Agreement has been proposed with Colonial Williamsburg Foundation (CWF) by which CWF will provide the preliminary design drawings in their possession to the City for a extension of the proposed water line to property owned by CWF and located near Carr’s Hill Road, and to provide up to \$125,000 to complete the design of that extension; and

WHEREAS, York County will fund and obtain all necessary easements and fund fifty per cent (50%) of the construction costs administered by the City to complete the water extension to the CWF property near Carr’s Hill Road as a part of the project to extend water from Hubbard’s lane to the Lightfoot area, such costs to the City and the County to be partially offset by the contribution of CWF; and

WHEREAS, this agreement involves almost 50% of the Lightfoot extension and saves York County design costs estimated at \$100,000

NOW, THEREFORE, BE IT RESOLVED that the County Administrator execute the three party water line extension agreement from Hubbard's Lane to Carr's Hill Road

BE IT STILL FURTHER RESOLVED that sufficient funds are available in the Lightfoot Extension capital improvement project to fund York County's portion of this water extension project.

COUNTY OF YORK

MEMORANDUM

DATE: October 27, 2011 (BOS Mtg. 11/16/11)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Application No. UP-799-11, Patricia J. W. Block

ISSUE

This application is a request to amend the conditions of approval for a previously approved Special Use Permit by extending to December 18, 2015 the term of authorization for a non-resident employee in connection with a legally conforming home occupation with on-premises customer/client contact on a 0.89-acre parcel located at 102 Kay Circle (Route 1538) and further identified as Assessor's Parcel No. 30-17-2-34.

BACKGROUND

On December 18, 2007, the Board approved a Special Use Permit application (Application No. UP-731-07) to authorize nutritional counseling as a home occupation with on-premises customer/client contact and one part-time non-resident employee on a 0.89-acre parcel located at 102 Kay Circle. Conditions of approval are set forth in Resolution No. R07-157, which specifies that authorization of the non-resident employee shall expire four (4) years from the date of approval but that the operator of the home occupation can apply for a new use permit to authorize non-resident employees for additional periods. Since then, the Zoning Ordinance has been amended to allow requests for an extension of the non-resident employee term to be processed as a minor amendment that only requires review and authorization by Board resolution (i.e., with no Planning Commission review or public hearings) provided that the request is accompanied by written statements from the owners of each of the properties abutting the subject property indicating that they have no objection to continuation of the non-resident employee authorization. The applicant has requested an extension and submitted letters from all adjacent property owners stating that they do not object to the non-resident employee authorization.

It should be noted that this extension request applies only to the non-resident employee aspect of the home occupation. No renewal is required for the nutritional counseling business, and the applicant will be able to continue to operate the business in her home in the event that this application is not approved.

CONSIDERATIONS/CONCLUSIONS

1. As stated in the 2007 staff memorandum on the original use permit application, a non-resident employee is needed to perform various clerical duties. I do not believe the two vehicle trips that could potentially be generated by a part-time employee on any given day would significantly alter the residential character of the

neighborhood and, with a 735-square foot garage and a 480-foot horseshoe driveway, the home has more than enough on-site parking to accommodate the employee as well as the residents and clients.

2. As noted previously, this request applies only to the non-resident employee authorization and not to the home occupation itself, which can continue to operate whether or not this application is approved. The home occupation will continue to be subject to the original conditions of approval listed below:

- The home occupation must be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance.
- The days and hours of operation are limited to Monday through Saturday as listed below:

Monday:	10:30 AM to 4:30 PM
Tuesday:	1:00 PM to 4:00 PM
Wednesday:	9:00 AM to 4:30 PM
Thursday:	9:00 AM to 4:30 PM, 7:00 PM to 9:00 PM
Friday:	9:00 AM to 4:30 PM
Saturday:	1:30 PM to 4:00 PM

- No more than one (1) customer at a time can be served within the applicant's home, provided, however, that classes for small groups (not to exceed 12 persons) shall be permitted in compliance with all other conditions of this resolution and applicable performance standards.
- Retail sales of nutritional supplements are permitted on the premises.
- No signs or other forms of on-premises advertisement or business identification visible from outside the home are permitted.
- Off-street parking spaces must be provided on the premises to accommodate clients and employees. These spaces are in addition to the two (2) spaces that are otherwise required for the single-family home.

RECOMMENDATION

The home occupation is a small-scale operation that has had no adverse impacts on the surrounding area as evidenced by the fact that after years of operation, no complaints about the home business have been reported to the County and the neighbors have submitted signed letters expressing their support for continuation of the non-resident employee authorization. Therefore, based on the considerations and conclusions as noted, I

recommend that the Board approve a four-year extension of the non-resident employee authorization through the adoption of proposed Resolution R11-126.

Carter.3337/tcc

Attachments:

- Zoning Map
- Letter from the applicant
- Letters from adjacent property owners
- Resolution R07-157
- Proposed Resolution R11-126

APPLICANT

Pat Block

Extend term of authorization for non-resident employee
102 KAY CIR

ZONING MAP

APPLICATION NUMBER: UP-799-11



★ = Conditional Zoning



Printed on October 20, 2011



SOURCE: YORK COUNTY GIS PARCEL DATA and ZONING COVERAGE

THIS IS NOT A LEGAL PLAT. This map should be used for information purposes only. It is not suitable for detailed site planning.

Pat Block, N.D., D.A.Hom.
Health Parameters Research
102 Kay Circle
Yorktown, VA 23693
October 18, 2011

Timothy Cross, AICP, Principal Planner
York County Planning Division
224 Ballard Street
Yorktown, VA 23690-0532

Dear Mr. Cross,

Please consider this letter as a re-application for a Special Use Permit to continue a home business with a non-resident employee.

The **signatures** required by the revised Zoning Ordinance and the filing fee are enclosed.

Please let me know if this packet of information is lacking any of the information that you need. PatBlockND@yahoo.com or PatBlockND@aol.com

Sincerely,

Pat Block ND
757 867 8633

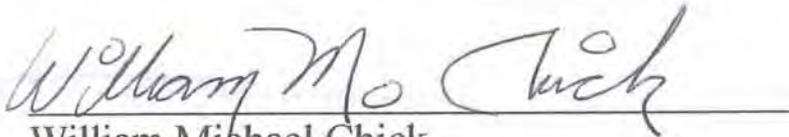
RECEIVED
York County

OCT 20 2011

Planning Division

October 5, 2011

I understand that Pat Block ND operates a business in her home at 102 Kay Circle and I have no objection to her having a part-time non-resident employee at her residence.

 (signature)

William Michael Chick
104 Kay Circle
Yorktown, VA 23693

RECEIVED
York County

OCT 20 2011

Planning Division

October 5, 2011

I understand that Pat Block ND operates a business in her home at 102 Kay Circle and I have no objection to her having a part-time non-resident employee at her residence.

 (signature)

Gregory L & Anita D Smith
105 Pageland Drive
Yorktown, VA 23693

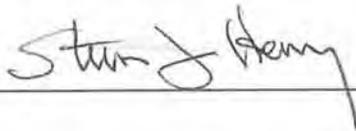
RECEIVED
York County

OCT 20 2011

Planning Division

October 5, 2011

I understand that Pat Block ND operates a business in her home at 102 Kay Circle and I have no objection to her having a part-time non-resident employee at her residence.

A handwritten signature in black ink that reads "Steven J Henry". The signature is written in a cursive style and is positioned above a horizontal line.

(signature)

Steven J Henry
203 Pageland Drive
Yorktown, VA 23693

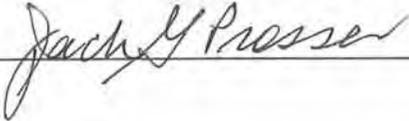
RECEIVED
York County

OCT 20 2011

Planning Division

October 5, 2011

I understand that Pat Block ND operates a business in her home at 102 Kay Circle and I have no objection to her having a part-time non-resident employee at her residence.

 _____ (signature)

Jack G Prosser
103 Kay Circle
Yorktown, VA 23693

RECEIVED
York County

OCT 20 2011

Planning Division

October 5, 2011

I understand that Pat Block ND operates a business in her home at 102 Kay Circle and I have no objection to her having a part-time non-resident employee at her residence.

 (signature)

Humberto S Maltos
201 Pageland Drive
Yorktown, VA 23693

RECEIVED
York County

OCT 20 2011

Planning Division

October 5, 2011

I understand that Pat Block ND operates a business in her home at 102 Kay Circle and I have no objection to her having a part-time non-resident employee at her residence.

Burnell T. McKissick (signature)

Burnell T McKissick
215 Denise Drive
Yorktown, VA 23693

RECEIVED
York County

OCT 20 2011

Planning Division

October 5, 2011

I understand that Pat Block ND operates a business in her home at 102 Kay Circle and I have no objection to her having a part-time non-resident employee at her residence.



(signature)

Frank V Migliore
213 Denise Drive
Yorktown, VA 23693

RECEIVED
York County

OCT 20 2011

Planning Division

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall,
Yorktown, Virginia, on the 18th day of December, 2007:

<u>Present</u>	<u>Vote</u>
Kenneth L. Bowman, Chairman	Yea
Thomas G. Shepperd, Jr., Vice Chairman	Yea
Sheila S. Noll	Yea
George S. Hrichak	Yea
 <u>Absent</u>	
Walter C. Zaremba	

On motion of Mr. Hrichak, which carried 4:0, the following resolution was adopted:

A RESOLUTION TO APPROVE AN APPLICATION FOR A SPECIAL
USE PERMIT TO AUTHORIZE NUTRITIONAL COUNSELING AS A
HOME OCCUPATION WITH ON-PREMISES CUSTOMER/CLIENT
AND ONE NON-RESIDENT EMPLOYEE AT 102 KAY CIRCLE

WHEREAS, Patricia J. W. Block has submitted Application No. UP-731-07 requesting a Special Use Permit, pursuant to Sections 24.1-283(b)(1) and 24.1-283(e) of the York County Zoning Ordinance, to authorize nutritional counseling as a home occupation with on-premises customer/client contact and one non-resident employee on a 0.89-acre parcel of land located at 102 Kay Circle (Route 1538) and further identified as Assessor's Parcel No. 30-17-2-34 (GPIN# U04c-1421-2157); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission recommends approval of this application;
and

WHEREAS, the York County Board of Supervisors has conducted a duly advertised public hearing on this application; and

WHEREAS, the Board has given careful consideration to the public comments and Planning Commission recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the 18th day of December, 2007, that Application No. UP-731-07 be, and it is hereby, approved to authorize nutritional counseling as a home occupation with on-premises customer/client contact and one non-resident employee on a 0.89-acre parcel of land located at 102 Kay Circle (Route 1265) and further identified as Assessor's Parcel No. 30-17-2-34 (GPIN# U04c-1421-2157), subject to the following conditions:

1. This use permit shall authorize nutritional counseling as a home occupation with on-premises customer/client contact and one non-resident employee on a 0.89-acre parcel located at 102 Kay Circle (Route 1265) and further identified as Assessor's Parcel No. 30-17-2-34 (GPIN# U04c-1421-2157).
2. The home occupation shall be conducted in accordance with the provisions of Sections 24.1-281 and 24.1-283(b) of the York County Zoning Ordinance, except as modified herein.
3. One non-resident employee shall be permitted to be engaged on the premises in the home occupation. Pursuant to Section 24.1-283(e)(3) of the Zoning Ordinance, this authorization of non-resident employees shall expire four (4) years from the date of approval of this application. Nothing in this approval shall be construed to prevent the operator of the home occupation from applying for a new use permit to authorize a non-resident employee for additional periods.
4. The days and hours of operation shall be limited to Monday through Saturday as listed below:

Monday:	10:30 AM to 4:30 PM
Tuesday:	1:00 PM to 4:00 PM
Wednesday:	9:00 AM to 4:30 PM
Thursday:	9:00 AM to 4:30 PM, 7:00 PM to 9:00 PM
Friday:	9:00 AM to 4:30 PM
Saturday:	1:30 PM to 4:00 PM
5. No more than one (1) customer at any one time shall be served within the applicant's home, provided, however, that classes for small groups (not to exceed 12 persons) shall be permitted in compliance with all other conditions of this resolution and applicable performance standards.

6. Retail sales of nutritional supplements shall be permitted on the premises.
7. No signs or other forms of on-premises advertisement or business identification visible from outside the home shall be permitted.
8. Off-street parking spaces, in accordance with all applicable Zoning Ordinance standards and limitations, shall be provided on the premises to accommodate clients and employees. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.
9. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of this resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

BE IT FURTHER RESOLVED that this Special Use Permit is severable, and invalidation of any word, phrase, clause, sentence, or paragraph shall not invalidate the remainder.

A Copy Teste:


Mary E. Simmons
Deputy Clerk

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2011:

Present

Vote

George S. Hrichak, Chairman
Thomas G. Shepperd, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
Donald E. Wiggins

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION TO APPROVE A MINOR AMENDMENT TO A PREVIOUSLY APPROVED SPECIAL USE PERMIT BY EXTENDING THE FOUR-YEAR TERM OF AUTHORIZATION FOR A NON-RESIDENT EMPLOYEE IN CONNECTION WITH AN EXISTING HOME OCCUPATION WITH ON-PREMISES CUSTOMER/CLIENT CONTACT LOCATED AT 102 KAY CIRCLE

WHEREAS, on December 18, 2007, the York County Board of Supervisors approved Application No. UP-731-07 to authorize nutritional counseling as a home occupation with on-premises customer/client contact and one non-resident employee on a 0.89-acre parcel of land located at 102 Kay Circle (Route 1538) and further identified as Assessor’s Parcel No. 30-17-2-34 (GPIN U04c-1421-2157), subject to conditions set forth in Resolution No. R07-157; and

WHEREAS, the above-referenced conditions of approval specify that the authorization of a non-resident employee shall expire four (4) years from the date of approval of the application; and

WHEREAS, pursuant to Section 283(e)(3) of the Zoning Ordinance, a request for an extension of the non-resident employee term shall be processed as a minor amendment that requires only review and authorization by Board resolution, provided that the request is accompanied by written statements from the owners of each of the properties abutting the subject property indicating that they have no objection to continuation of the non-resident employee authorization; and

WHEREAS, the operator of the home occupation, Patricia J. W. Block, has requested that the term be extended for an additional four (4) years and has submitted the required letters from each owner of property adjacent to the site of the approved home occupation;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this the ___ day of _____, 2011, that Application No. UP-799-11 be, and it is hereby, approved to amend the conditions of approval set forth in Resolution No. R07-157 by extending to December 18, 2015 the term of authorization for one non-resident employee in connection with a legally conforming home occupation with on-premises customer/client contact on a 0.89-acre parcel located at 102 Kay Circle (Route 1538) and further identified as Assessor's Parcel No. 30-17-2-34 (GPIN U04c-1421-2157).

BE IT FURTHER RESOLVED that the remaining conditions of approval set forth in Resolution No. R07-157 shall remain in full force and effect.

BE IT STILL FURTHER RESOLVED that in accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of this resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.