COUNTY OF YORK
MEMORANDUM

DATE: March 31, 2005 (PC Mtg. 4/13/05)

TO: York County Planning Commission

FROM: J. Mark Carter, Assistant County Administrator

SUBJECT: Application Nos. ZT-92-05, York County Board of Supervisors

As has been the practice on an annual basis over the past several years, the staff has identified various sections of the Zoning Ordinance that could benefit from relatively minor "housekeeping" amendments. Some of the proposed amendments are needed to keep the Ordinance consistent with State Code changes. Others are proposed because, during the day-to-day administration of the Ordinance, staff continues to discover technical "glitches" in certain provisions that seem to be imposing unintended consequences. Some of the proposals are suggested to address issues that have been discussed either by the Planning Commission or the Board of Supervisors in connection with other zoning applications or that have been brought to staff's attention through various means. Lastly, and going somewhat beyond "housekeeping" changes, some are the result of discussions and recommendations put forth by the Route 17 Revitalization Committee and the Economic Development Authority.

The proposed amendments are contained in the attached pages and are discussed in the following summary:

Article 1 – In General

Section 24.1-104 – Definitions

- *Catering Kitchen*: Definition is proposed in response to questions raised about the intent of the Catering Kitchen/Facilities listing in the Table of Land Uses. The definition clarifies that catering involves transport of food from the premises for off-site consumption. Establishments involving catering and on-site consumption would be categorized as *restaurants* or *reception facilities*.
- *Child Care Center*: Change State Code reference from 63.1-195 to 63.2-1700 et.seq.
- *Dwelling, Modular*: Amend to clarify the distinction between units constructed on a chassis and those that are not. The definition of *Manufactured Home* is also proposed to be changed to clarify that "manufactured homes" will not be deemed to be "modular" dwelling units. These amendments are intended to ensure the integrity of the County's policy that "manufactured homes (mobile homes)" be located either in manufactured home parks or manufactured home subdivisions.
- *Dwelling Unit*: Amend to emphasize that Dwelling Units must be constructed in accordance with all applicable terms of the Virginia Uniform Statewide Building Code.
- *Lot*: Delete the reference to combinations of adjacent lots under the same

ownership for consistency with the recommended requirement for lot consolidations (see proposed section 24.1-201(b)).

- *Mixed Use Development:* Amend to clarify and provide additional explanation regarding the mix of residential and commercial uses.
- *Nightclub:* Amend to ensure that restaurants and reception and banquet halls that have the characteristics of a "nightclub" are encompassed by the definition.
- *Open Space, Common:* Amend to clarify that common open space is intended to be for the benefit and use of all of the property owners within the development and to recognize that common open space can be a component of non-residential development (i.e., by adding the term "property owners").
- *Seasonal Occupancy:* This definition is proposed to clarify the limitations on occupancy of timeshares, interval ownership or similar establishments intended to offer short-term occupancy opportunities to owners/lessees, as opposed to occupancy that would or could establish legal residency.
- *Street:* Amend to ensure that those unimproved but named streets, commonly referred to as "dirt streets," are encompassed by the definition of "private street." This change, in conjunction with the terms of Section 24.1-223, will ensure that setback measurements for development proposals along streets listed in the County's Dirt Street Improvement Program take into account any needs for right-of-way reservations to accommodate future street upgrades and VDOT acceptance.
- *Timeshare/Interval Ownership:* This definition is intended to establish the fact that such facilities are to be occupied on a transient and seasonal basis only.

Section 24.1-108 – Filing Fees

- The proposed fee increases are intended to help cover the costs associated with advertising and processing rezoning, special use permit and various other types of applications. The current application fees have been in place since 1995 and have not been adjusted to account for the increased cost of the legal advertisements required by the State Code. Currently, on average, the advertisement costs for applications requiring hearing by the Planning Commission and Board of Supervisors exceed the specified fee by at least $140 – hence the recommendation to increase the base fees by $150. The "per acre" supplement, which is already in place for rezonings, is proposed to be extended to Special Use Permit cases and is intended to address the additional costs that typically are associated with large parcel applications (greater number of adjacent property notices, more postage costs, greater complexity of the application, etc.). Please notice that the recommended increase for accessory apartment and home occupation special use permit requests is only $100 (i.e., increasing from $300 to $400) in recognition of the relatively routine nature of these requests. Also, please note that an upper limit cap is proposed for the fee structures involving an acreage charge (maximum fee of $2,000 for rezonings and $1,000 for use permits).

  The proposed fee structure would better ensure that the advertising and processing costs for applications are covered by those seeking the benefit of the application while still keeping the County's fees at reasonable levels in comparison to other

area jurisdictions. For example, for two recent applications processed by the County the following table compares the fees under the current and proposed structure and what would have been required in other jurisdictions. The recommended fee structure would position York County's fees at less than the *mean* and *median* of the comparable fees from the five other Peninsula jurisdictions.

	Banbury Village Rezoning Newman Road	**Home Depot SUP** Mooretown Road 17.9 acres
York County (current)	$525	$300
York County (proposed)	$700	$579
Hampton	$2,150	$650
Newport News	$2,450	$400
Poquoson	$225	$300
Williamsburg	$800	$1,295
James City County	$1,950	$1,537
Mean (other jurisdictions)	$1,515	$836
Median (other jurisdictions)	$1,950	$650

Section 24.1-117 – Certain Utilities and Services Exempt

- Subsection (a)(3) is proposed to be amended to clarify that the buffering/screening provisions set out in Section 24.1-262(a) are intended to apply to pump stations and other similar "exempt" utility facilities.

<u>Article 2 – General Regulations</u>

Section 24.1-201 – Subdivision *and Consolidation of Lots*

- Subsection (b) is proposed to be added to require that when development occurs on a combination of individual lots under the same ownership, the lots must be consolidated by vacating the common/interior property lines. This proposal is intended to ensure that properties that are effectively consolidated by virtue of the placement of structures and site improvements are consolidated for parcel identification, addressing and tax assessment as well. Implementing this requirement will assist in the maintenance of property information records.

  The exception to this requirement would be when the structure being proposed on the adjoining lot could stand alone legally (e.g., could be considered a principal structure/use of the property and is not dependent on being "accessory") and meets

all setback requirements for principal uses. For example, a garage with an apartment above could be located on an adjoining lot under the same ownership and could be considered a "principal" use/structure as long as it meets the setback standards for principal uses. In that case, the common lot line would not need to be extinguished since both lots would contain conforming principal uses/structures. If the principal building setback requirements could not be met, the common lot line would be required to be vacated. In this type of case, the proposed requirement will ensure that "accessory" uses do not become illegal uses in the event one of the two adjoining lots is sold to another party.

Section 24.1-203 – Computation of Buildable and Developable Area

- Amendments to the chart in this section are proposed to reference the NGVD 1929 datum (National Geodetic Vertical Datum), rather than USGS, and to change the one-tenth acre jurisdictional wetlands threshold to one-third acre, which is the standard currently in use by the Corps of Engineers.

Section 24.1-222 – Yard Requirements in Built-up Areas

- This section is proposed to be amended to clarify that a front setback for new structures determined through the "averaging" process must be increased by the amount of any right-of-way reservation required due to the property being located on a "substandard" right-of-way. For example, if a property is located on a street with a 30-foot right-of-way (substandard by 20 feet) and the average of the setbacks of nearby structures is 30 feet, the 30-foot "average" would need to be increased by 10 feet (i.e., ½ of the total 20-foot deficiency).

Section 24.1-231 – Exemptions From Height Regulations

- Subsection (a)(2) is proposed to be amended to provide the opportunity for administrative approval of additional building height when the sole purpose is to accommodate a pitched roof design for a structure. This proposal has been prompted by discussions with the developer of the proposed senior housing project on Commons Way (see attached letter dated December 9, 2004 from Elizabeth L. White) and their desire to accommodate a four-story structure with a pitched roof. In this case, the pitched roof will provide enhanced architectural character and reduce the maintenance liability associated with a flat roof, but the number of stories would not increase. In short, the developer has indicated a desire to improve the aesthetics of the building but intends to opt for the flat roof design if that is the only way to achieve the 4-story building design. Staff believes that providing an opportunity to enhance the architectural character of a building without increasing the number of stories (and fire and rescue demands) is worthy of consideration given the desire of the Planning Commission and Board of Supervisors to promote aesthetically superior development. Please note that the proposed height "bonus" would be subject to review by the Fire Chief to ensure that emergency services issues are adequately addressed.

Section 24.1-245 – Greenbelts

- Subsection (a)(3) is proposed to be amended to ensure that the Fort Eustis Boulevard greenbelt requirement is carried across Route 17 along the extension to

Old York-Hampton Highway. This change is intended to avoid any questions that might arise due to the difference in route number (Route 105 vs. Route 1050).

- Subsection (d) is proposed to be amended to indicate that in the case of an approved disturbance to a required greenbelt the Board may require re-landscaping at the ratio specified for un-vegetated buffers, or at such other ratio (greater or lesser) as the Board deems appropriate.

Section 24.1-260 – Site Design Standards

- Subsections (b) and (d) are proposed to be amended to include provisions that are currently in the EMA – Environmental Management Overlay District. These are two of several non-Chesapeake Bay related provisions in the EMA District. That district is proposed to be eliminated (see page 10 of this memorandum) to create a stand-alone Chesapeake Bay Preservation Area section of the County Code, so the non-CBPA provisions need to be relocated within the Zoning Ordinance.

- Subsection (f) is proposed to be amended to establish a policy preference for the use of the amber or "daylight" appearance of the high-pressure sodium or metal halide lights, which provide a softer appearance, and to indicate that mercury vapor lights (which provide the bright "white" light) should be used only in certain limited applications.

Section 24.1-261 – Public Service Facility Standards

- Subsection (a)(2) is proposed to be amended to ensure that dumpsters will not be visible from adjoining public rights of way. This change recognizes that site layout and circulation conditions sometimes dictate placement of a dumpster pad in a location where screening on only three sides would still allow the dumpster to be visible from an adjoining right-of-way. In such cases, it is recommended that full screening, to include a gated fourth side if necessary, be required.

Section 24.1-271 – Accessory Uses (residential)

- Subsection (c) – is proposed to be amended to establish policies for the temporary placement of portable storage boxes (sometimes referred to as portable on-demand storage) on residential property. The proposed standard would define temporary placement as no more than 16 days at a time, but would provide an exception for longer-term placement in the event of a declared natural disaster or other damage beyond the control of the owner that makes the principal building uninhabitable.

- Subsection (h) - Temporary occupancy of motor homes and recreational vehicles: Hurricane Isabel caused extensive damage to many homes in the County and some were so severely damaged that they were uninhabitable. In several cases, property owners requested permission to live in motor homes or recreational trailers placed on their lot while their house was being repaired/rebuilt. By administrative interpretation, these situations were determined to be similar enough to the temporary occupancy of a mobile home while constructing a permanent residence (which is already allowed by the Zoning Ordinance) to be authorized by Temporary Administrative Permit. To memorialize this specific opportunity, and

to extend the opportunity to owners who are displaced by other damaging events beyond their control that cause the dwelling to be uninhabitable, staff recommends additions to paragraph 24.1-271(h)(2).

Additionally, staff proposes that subsection (h) be amended to prevent it from being construed to allow residential properties from being used for take-off or landing operations of aircraft. Over the course of the past few years, staff has received several inquiries concerning the operation of ultra-light helicopters and more recent inquiries have raised the possibility of interest in fixed-wing operations from residential properties. Staff recommends this language to ensure that such activities, which could present serious noise and safety issues, are not introduced into residential areas.

- On several occasions recently, there has been discussion by the Board of Supervisors about deleting the requirement that the "finished" side of fences face outwards toward surrounding properties. Until recent amendments to the Virginia Uniform Statewide Building Code, building permits were required for any fence construction so there was ample opportunity to inform applicants about this requirement and to ensure compliance. However, now that building permits are not required, the enforcement of this standard is more difficult since the County is often not aware that construction is underway and, when staff does become aware of a problem (e.g., during or after construction), the property owner is understandably opposed to changing the design/construction.

  Eliminating the requirement would leave it to the property owner's discretion as to which way to face the "finished" side of a fence and would avoid the unpleasantness of having to require changes after construction for those unaware of a requirement. However, it would also eliminate the aesthetic benefit of the requirement. Eliminating the "finished" side out requirement would relieve property owners from one design standard but they still will need to become knowledgeable about fence height requirements (i.e., maximum allowable heights in front, side and rear yards) and, as such, there will continue to be a need to consult with code enforcement staff and, most likely, situations where after-construction adjustments must be ordered. As staff sees it, this issue boils down to aesthetics and whether the aesthetic benefits of the "finished-side-out" policy are sufficient to retain the requirement.

  As an alternative to complete elimination of this provision, and in support of the goal of improved aesthetics along the County's road corridors, staff recommends that the "finished side out" requirement be retained at least for any fence facing a public right-of-way (which is the way the requirement currently stands for commercial/industrial districts). Subsection (j)(6) has been revised to reflect this recommendation.

Section 24.1-272 –Accessory Uses (commercial / industrial)

- Subsection (a) deals with commercial/industrial property fences and requires the finished side to face out when adjacent to a public right-of-way or a residentially

zoned property. Staff recommends that this provision remain as is, but that the exception clause in subsection (4) be expanded to also cover right-of-way (i.e. so that the Zoning Administrator would have the authority to waive the "finished side out" requirement along rights-of-way also).

Section 24.1-273 – Location requirements – is proposed to be amended to:

- Incorporate (repeat) the accessory building height requirements that are spelled out in Section 24.1-231. This is recommended simply as an effort to minimize the chance that this important standard concerning accessory building construction will be overlooked. However, one new proposal is to require that an accessory structure that exceeds the principal building in height must meet a slightly increased (10 feet, rather than 5 feet) side and rear building setback requirement (see paragraph (g)).

- Paragraph 24.1-273(h) is recommended to memorialize what has been a consistent administrative interpretation – i.e., that in order to be "accessory and subordinate" a structure must not exceed the size of its principal structure. Should the Commission and Board so desire, the relationship of accessory building size to principal building size could be set at something even less than the 99% ratio that this provision would allow.

- Paragraph 24.1-273(i) is proposed as a way of ensuring that an accessory structure cannot be sold separately from its principal structure. This recommendation is a companion to the proposal to require adjacent lots under the same ownership to be combined when certain building proposals are made. As noted previously, if the "accessory" structure also can be deemed a "principal" structure and complies with all principal building setbacks, the common lot line would not have to be vacated.

Section 24.1-282 – Home occupations permitted as a matter of right

- Subsection (b) is proposed to be amended to clarify and document that the listed occupations can involve on-site client contact/services, despite the otherwise applicable restriction.

Section 24.1-283 Home occupations permitted by special use permit

- Subsection (b)(1) is proposed to be modified to exempt food preparation that involves use of the structure's standard residential kitchen from the special use permit requirement. Any catering operation involving the installation of specialized cooking equipment, or, for example, the installation of additional cooking equipment in a garage, would require special use permit review.

<u>Article 3 – Districts</u>

Section 24.1-306 – Table of Land Uses

- Category 1, No. 7b). - Animal Hospital w/ Outside Runs: Proposed amendment would allow outside runs to be considered by Special use Permit in the RC – Resource Conservation District. Since RC areas are the most sparsely developed areas of the County, it seems appropriate to allow outside runs to be considered on a case-by-case basis.
- Category 9, No. 8. – Paintball Gun Firing Range: Although there are no current proposals, the staff has received inquiries concerning establishment of such facilities. This proposal would establish a requirement that such facilities be approved by Special Use Permit and would limit them to the RC and IG districts so as to minimize exposure to developed residential areas.
- Category 11, No 4. – Funeral Home and No. 4a. – Cremation Services (human or pets): The Table of Land Uses currently includes a listing for funeral homes and by administrative interpretation cremation services have been considered to be an authorized part of such facilities (and an authorized part of animal hospitals/vet clinics). However, there is no specific listing for cremation facilities as stand-alone uses and, as evidenced by the attached letter from Mr. Christopher Smith, there is at least one party interested in establishing such a facility. Accordingly, staff recommends that a listing be established (Special Use Permit in GB, IL and IG Districts) and that the existing listing for Funeral Home be supplemented to confirm the administrative practice of allowing cremation services as a part of the funeral home operation.
- Category 12, No. 5b) – Auto/Truck Sales/Service w/ Body Work and Painting: For consistency, since Auto Body Work and Painting is already authorized permitted as a matter-of-right as a stand-alone use in the IL District (see Category 12, No. 4), staff recommends that it also be allowed as a matter-of-right when in conjunction with a Sales/Service establishment in the IL District.
- Category 12, No. 16. – Recreational Vehicle Storage: As the number of streets covered by the Commercial/Recreational Vehicle parking restrictions increases, it is possible that demand for recreational vehicle storage facilities may materialize. Since there is no specific listing for such facilities in the current Table of Land Uses, staff recommends that one be established.
- Category 15, No. 13. – Recycling Plant: Because of the potentially significant adverse impacts that such a facility could have (truck traffic, noise, dust, etc.), staff recommends that such uses be deleted from the GB District listing and changed to a Special Use Permit use in the IL District

Section 24.1-307. Prohibited Uses

- Inquiries have been received concerning the possible establishment of commercial ATV tracks or cross-country circuits. Staff has responded to these by indicating that there is no specific listing covering such uses, nor are there uses listed that are similar enough to allow an administrative interpretation as to acceptability. Considering the potential negative impacts associated with such uses (noise, dust, damage to the natural terrain and environment, erosion and siltation problems, etc,), staff recommends that they be designated as “prohibited” uses.

Section 24.1-327. YVA-Yorktown Village Activity District

- Subsections (b)(2) and (d)(2) are proposed to be amended to clarify that subdivision of land is subject to Board approval and such conditions (e.g., lot size, lot width) as the Board deems appropriate.
- Subsection (g)(1) is proposed to be amended to confirm that any proposal requiring Board of Supervisors' approval under the terms of the YVA regulations must first be processed through any applicable HYDC (Historic Yorktown Design Committee) procedures.

Section 24.1-333. GB-General Business District

- Subsection (c)(3) is proposed for consideration. This provision would establish an opportunity for businesses to use trailers or containerized cargo units for storage purposes provided they are screened from visibility from adjacent rights-of-way or properties by a walled enclosure at least two (2) feet higher than the units and which is an extension of and matches the façade materials of the principal building. Current provisions do not allow the use of cargo units or trailers for storage on commercial properties, although a number of businesses have placed them on sites (in some cases in significant numbers) to handle seasonal merchandise storage needs. This has presented a significant enforcement issue. The County's position to date has been that such units must be removed or must be placed inside a building so as not to be "outdoors." As a way to accommodate the needs of businesses, staff suggests proposed language to allow the use of such units, subject to Board approval, and provided they are screened by a walled structure that is architecturally compatible with, and a complementary extension of, the principal building.

Section 24.1-340. EO-Economic Opportunity District

- Subsection (c)(4) is proposed for consideration to establish opportunities for use of trailers and cargo units for outdoor storage (see previous discussion).

Section 24.1-351. IL-Limited Industrial District

- Subsection (c)(3) is suggested in response to numerous inquiries by business operators located in IL Districts. The provisions are the same as those applicable in the IG-General Industrial District except that staff also recommends that in the IL District such trailers be screened from view from adjacent properties as well as adjacent rights-of-way.

Section 24.1-361. PD-Planned Development District

- Subsection (c) currently requires that at least 50% of the land area of a mixed-use proposal be comprised of uses consistent with the underlying land use designation (i.e., a mixed-use proposal in a commercially designated area would have to have at least 50% of its land area in commercial uses in order to include a residential component). While staff believes this is a good benchmark and appropriate guidance for the planning process, it is recommended that language be added to give the Board of Supervisors the flexibility to approve, on a case-by-case basis, a plan with a lesser percentage if deemed appropriate and acceptable.

- Subsection (c)(2) provides that senior housing can be proposed as part of a planned development but it requires compliance with all of the performance standards established in Section 24.1-411 (senior housing), among which are various dimensional and design standards. By nature, the planned development process is intended to promote design innovation and, to that end, dimensional and design standards are written to allow adjustment by the Board of Supervisors on a case-by-case basis. As written, subsection (c)(2) does not allow that design flexibility and staff recommends the proposed language to allow the Board the flexibility to approve adjustments in the senior housing performance standards as part of a PD-Planned Development approval.

Section 24.1-372. EMA – Environmental Management Area Overlay District

- This section is proposed to be deleted in its entirety. A companion ordinance (see attached Chapter 23.2 Draft) is proposed to establish the Chesapeake Bay Preservation Area requirements as a separate, stand-alone Chapter of the York County Code. This proposed change will emphasize the importance of Chesapeake Bay protection policies and requirements by establishing them as a distinct part of the County Code. It will also establish the York County Wetlands Board as the entity to hear and decide applications for exceptions to the RPA buffer requirements or appeals of administrative decisions, rather than the Board of Zoning Appeals. This change is intended to recognize that the exception and appeal process for Chesapeake Bay issues is one where the primary considerations fall in the environmental realm, rather than under the zoning hardship considerations mandated for Board of Zoning Appeals cases. As noted earlier, the few non-Chesapeake Bay related provisions in the EMA District regulations are proposed to be relocated to other sections of the Zoning Ordinance.

Section 24.1-375. TCM – Tourist Corridor Management Overlay District

- Various sections of the TCM provisions are proposed to be amended to incorporate and mirror recommendations made by the Route 17 Revitalization Committee for the proposed Route 17 TCM District (proposed Section 24.1-378 – see below). Notable among these proposed changes are:
  - the provision to extend the district's coverage to a the depth of a parcel or 500 feet, whichever is less;
  - the proposal to be more specific on adding interest to long facades;
  - the proposal to establish a color palette from which allowable building colors can be selected; and
  - the proposal to consider parking of vehicles licensed as "trucks" to be outdoor storage.

  Please note also that a provision has been added to reduce the allowable size of "shopping center" signs by the same percentage as other freestanding signage (i.e., freestanding sign area in the TCM at 32 square feet represents 64% of the standard 50 square foot allowance; for shopping center signs 96 square feet represents 64% of the standard 150 square foot allowance).

Section 24.1-378 (NEW) Route 17 Corridor Overlay District

- This new overlay district has been recommended for consideration by the Economic Development Authority after having been developed by the Route 17 Revitalization Committee as an element of its strategy to encourage improvements on the corridor. The Committee began discussing this proposal after recognizing that while the Property Improvement Grant Program is facilitating improvements in the appearance of existing properties, there is nothing that addresses the appearance of new development (unless it is in excess of 80,000 square feet, in which case a special use permit is required). The Committee recommended this overlay district, which is an adaptation of the TCM provisions that already apply to various other corridors, as a way of encouraging and/or requiring that certain architectural and site design / use characteristics be addressed for new development along the Route 17 corridor. The provisions are less stringent than those that apply to the existing TCM corridors but, in the opinion of the Revitalization Committee and the EDA, they will help to ensure a more positive appearance for Route 17.

Section 24.1-379 (NEW) Route 17 Commercial Corridor Revitalization Overlay District

- This new overlay district has also been recommended for consideration by the Economic Development Authority after having been developed by the Route 17 Revitalization Committee as an element of its strategy to encourage improvements on the corridor. The premise of the overlay district is that owners of existing "blighted" properties may be discouraged from redeveloping those properties because owner-initiated demolitions would cause vested setbacks to be lost. The resulting requirement to observe current setback standards can be particularly difficult to deal with on small, narrow or shallow properties and, as a result, some properties remain in a blighted condition even though the owner may be interested in investing in redevelopment and improvement. In short, this overlay would allow certain normally applicable dimensional and site design standards to be relaxed for properties meeting the specified criteria and designated as "blighted" by the Economic Development Authority. Staff supports the efforts of the Revitalization Committee and recommends that this proposal be incorporated into the Zoning Ordinance as part of the overall Route 17 improvement strategy.

<u>Article IV – Performance Standards for Uses</u>

Section 24.1-402 Standards for Open Space Development (Cluster Techniques)

- Subsection (c)(2) of the cluster regulations currently requires that lots on the perimeter of the development meet the minimum lot size required for conventional development <u>unless</u> separated from the adjacent property by an open space strip of 45 feet. The purpose of this requirement is to ensure compatibility between adjoining developments (i.e., by having a similar lot size, or a landscape buffer). This requirement applies where the cluster property abuts other properties but, as written, it does not apply along existing street frontages. This can result in developments with significantly different features being across from one another on an existing street (e.g., 7,000 square foot lots across a street from 1-acre lots). In several instances, residents of those adjoining areas have suggested that

compatibility across a relatively narrow right-of-way is as important, if not more so, as compatibility where private properties adjoin. This is particularly so when the cluster development includes narrow lots with driveways spaced significantly closer than the existing development across the street. Accordingly, staff suggests that consideration be given to extending the compatibility clause to include situations where the right-of-way separation is less than 90 feet in width (the same standard used in connection with Transitional Buffers).

- Subsection (c)(4) is proposed to be amended to include a minimum setback of ten feet (10") from internal private streets/drives.
- One of the principal benefits of the cluster development technique is that it provides an opportunity to preserve and protect environmentally sensitive areas through inclusion of those areas in the "common open space" system. Staff recommends that this objective be confirmed by inserting the recommended language in subsection (d)(3) to ensure that such areas are incorporated into the common area of the development.

Section 24.1-404 Standards for multi-family dwellings

- Subsection (e) is proposed to be amended to convert the landscaping standard to the Landscape Credit Unit (LCU) system instituted in the 2003 landscaping amendments. The need for this change was inadvertently overlooked at that time.

Section 24.1-411 Standards for senior housing

- Subsection (e) is proposed to be amended to convert the landscaping standard to the Landscape Credit Unit system instituted in the 2003 landscaping amendments. The need for this change was inadvertently overlooked at that time.

Section 24.1-457 Standards for firing ranges and outdoor paintball ranges

- Amendments are proposed to incorporate references to and performance standards for "paintball ranges."

Section 24.1-470 Standards for business and professional services

- Subsection (a) is proposed to be amended to include the same reference to circulation drives that was incorporated into other commercial performance standards by the March 2, 2004 amendments (Ordinance No. 04-2(R)).

Division 17 Common Open Space and Common Improvement Regulations

- Section 24.1-497(d)(3) is proposed to be clarified to provide references to "facilities" as well as land that is set aside for open space or "common use."
- Subsection (d)(6) is proposed to be amended to require County review of changes to covenants established pursuant to these requirements to ensure there are no conflicts with Zoning Ordinance standards.
- Section 24.1-498(c) is proposed to be amended to require the County Attorney's signature to provide evidence of the compliance of covenants and restrictions involving common areas with County Zoning Ordinance requirements, with the intention of avoiding the recordation of non-compliant documents. Subsection (d) is proposed to be added to cover situations where such documents are proposed to

be amended.

Article VI Off-Street Parking and Loading

Section 24.1-606 Minimum Off-Street Parking and Loading Requirements

- Subsection (a) – Category 1 – Residential and Related Uses: Re-insert the parking standards for senior housing facilities. These standards were inadvertently deleted from the Zoning Ordinance when the December 2003 parking amendments were adopted (Ordinance No. 03-42(R)).
- Subsection (f) – Category 6 – Institutional Uses: The parking standard for churches is proposed to be amended to require parking based only on the largest assembly space, whether that is the sanctuary or some other space, but not the total of those areas. The theory behind this is that all assembly spaces are not likely to be in use at the same time.
- Subsection (f) – Category 9 – Recreation and Amusement Uses: The parking standard for marinas is proposed to be amended to ensure at least a minimal amount of off-street parking for any marina with an accessory restaurant. Under the current standards, any marina with at least 20 slips can establish an accessory restaurant operation (at 20 slips, the restaurant could have 2000 square feet of dining area). However, a 20-slip marina would be required to have only four (4) parking spaces, which in staff's opinion would be totally inadequate if the restaurant happened to attract non-marina patrons. To correct this oversight, staff recommends that a minimum threshold of twenty (20) parking spaces be required for any marina having an accessory restaurant (this is generally equivalent to the normal parking ratio for restaurants – 1 space for every 100 square feet of floor area).

Article VII Signs

Section 24.1-706 Off-premises Directional Signs

- Subsection (4) is proposed to be amended to incorporate area and height limits that were inadvertently omitted in the December 2003 amendments.

Section 24.1-710 Prohibited Signs

- Subsection (e) is proposed to be amended to indicate that the mere removal of wheels and chassis assemblies from a portable message board sign is not sufficient to cause the sign to be permitted. This has occurred in several situations recently and, in staff's opinion is not consistent with the goals for improvement of commercial corridors such as Route 17, among others.

Recommendation

Staff believes that the above-described amendments are consistent with good zoning practice and the effective and efficient application of the County's land use regulations. Accordingly, it is recommended that this application be forwarded to the Board of Supervisors with a recommendation for approval of the amendments as shown in the

attachments to this memorandum. Adoption of proposed Resolution No. PC05-19 will accomplish this.

Carter/3337:jmc
Attachments

(*previously distributed to Planning Commission members*)

- Article 1 – General Provisions
- Article 2 – General Regulations
- Article 3 – Districts
- Article 4 – Performance Standards
- Article 6 – Parking
- Article 7 – Signs
- Proposed Chapter 23.2 to create a stand-alone Code section pertaining to Chesapeake Bay Preservation Area requirements
- Letter from Christopher W. Smith (undated)
- Letter from Elizabeth White, dated December 9, 2004

(*New attachment*)

- Proposed Resolution No. PC05-19