

**MINUTES**  
**YORK COUNTY PLANNING COMMISSION**

Regular Meeting  
York Hall, 301, Main Street  
August 9, 2017

**MEMBERS**

Montgoussaint E. Jons  
Glen D. Titus  
Donald H. Phillips  
Michael S. King  
Richard M. Myer, Jr.  
Robert W. Peterman  
Bruce R. Sturk

**CALL TO ORDER**

**Chair Jons** called the meeting to order at 7:00 p.m.

**ROLL CALL**

The roll was called and all members were present with the exception of Mr. Myer and Mr. Sturk. Staff members present were Timothy C. Cross, Principal Planner; James E. Barnett, County Attorney; Amy Parker, Senior Planner; and Earl W. Anderson, Senior Planner. Also in attendance was J. Mark Carter, Deputy County Administrator.

**REMARKS**

**Chair Jons** 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. He explained that this responsibility is exercised through recommendations conveyed by resolutions or other official means, all of which are matters of public record. He stated that the Commission is comprised of seven citizen volunteers appointed by the Board, including one representative from each voting district and two at-large members.

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

**Chair Jons** led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

**Mr. King** moved to adopt the minutes of the regular meeting of July 12, 2017 and the motion was approved (5:0).

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARINGS**

**Application No. PD-45-17, Lightfoot Development, LLC:** Request to amend the York County Zoning Map by reclassifying from EO (Economic Opportunity)

to PDMU (Planned Development Mixed Use) approximately 22.4 acres for the purpose of establishing a mixed-use development consisting of 276 apartment units (maximum density of approximately 12.3 dwelling units per acre) and approximately 20,000 square feet of commercial space. The property consists of five parcels located in the southeast quadrant of the intersection of Lightfoot Road (Route 646) and Old Mooretown Road (Route 1408) and is further identified as 206, 212, 216, 220 and 304 Lightfoot Road (Assessor's Parcel Nos. 1-4, 2-14-1, 1-3, 1-2, and 2-22). The Comprehensive Plan designates this area as Economic Opportunity with a Mixed Use overlay. The Economic Opportunity designation is intended to guide a mix of office, light industrial, commercial, and tourist-related uses to certain portions of the County that have or are planned to have the access and infrastructure necessary to support both capital- and labor-intensive uses, while the Mixed Use overlay designation is intended to provide opportunities for a mix of retail, office, and residential uses-and different types of residential uses (i.e., detached, attached, and apartments)-within a single, relatively compact development under a unified, coherent master plan. The Comprehensive Plan does not set forth a specific density range for the Mixed Use overlay designation.

**Amy M. Parker**, Senior Planner, summarized the staff report dated August 1, 2017, stating that staff does not believe the proposed application is consistent with the Comprehensive Plan and the intent of PDMU zoning district provisions and recommends the Commission forward the application to the Board of Supervisors with a recommendation of denial. She added that should the Commission choose to recommend approval, staff recommends that it be subject to the conditions set forth in proposed Resolution No. PC17-12(R).

**Mr. Peterman** asked if the proposed 200-foot taper lanes would require widening of Lightfoot Road and if VDOT could stop or delay the project until the widening is completed.

**Ms. Parker** stated that more information would be required during site plan review and noted that if widening of Lightfoot Road is needed for the 200-foot taper lanes, it would be addressed prior to site plan approval.

**Chair Jons** opened the public hearing.

**Vernon Geddy**, 1177 Jamestown Road, Williamsburg, spoke as the applicant's representative. He stated that the applicant disagrees with staff's recommendation and believes that the project is consistent with the Comprehensive Plan and would be a much needed addition to the Lightfoot area. He noted that the property has been marketed as commercial property for nearly thirteen years without success since it is not in a prime commercial area.

**Denise LaCour**, 1430-301 Rolkin Court, Charlottesville, spoke as a representative from Denstock Real Estate Investments, and provided a video presentation demonstrating the quality of the proposed apartments and emphasized the developer's strong commitment to creating a successful community. She noted that they have been building apartments since 1992 and have a vested interest in making sure they are of the highest quality. She listed the various amenities that would be provided, including a pool, clubhouse, fire pits, grills, 24-hour fitness center, recreation room, and media room. Ms. LaCour stated that they believe 276 units would significantly help to bolster the flagging retail economy in the northern part of York County. She added that they believe rental apartments will be important to make the project viable since the homeownership rate is trending down with baby boomers and millennials who make up the two

largest segments of the population.

**Mr. Geddy** added that the applicant believes that with the attractive design and layout, the project would be a landmark place that makes sense for the area in a way that would make it successful. He said that the Sentara Williamsburg Regional Medical Center and other nearby business and property owners have expressed support for the project. He stated that the applicants have made reasonable cash proffers to address the staff's concerns regarding school system capacity.

**Mr. King** noted that the staff report states that the project does not meet the minimum guidelines for commercial space spelled out in the Zoning Ordinance, and he asked how the applicant expects to meet those guidelines given the already high commercial vacancy rate in the area. He stated it does not appear that 276 units would be enough to support both.

**Mr. Geddy** responded that the project actually does meet the guidelines in terms of the amount of commercial space but not in terms of phasing. He stated that the applicant recognizes the struggling commercial businesses in the area but does believe the project would create enough demand for the amount of commercial development proposed as part of the mixed-use project. He added that continued development in the area, such as the approved Arbordale project, would also help to generate retail demand in the area that will ultimately fill the commercial space but this will not likely occur until the apartments are completed.

**Mr. Peterman** noted that VDOT recommended that the entrance to the development be on Old Mooretown Road instead of Lightfoot Road. He noted that Lightfoot Road is heavily traveled already without the development and asked why the entrance was not moved to Old Mooretown Road.

**Ms. LaCour** responded that there are several reasons, including the presence of a Dominion power easement on Old Mooretown Road which restricts what can be done in that area, sight distance at the entrance, and the need for the commercial buildings to front on Lightfoot Road, which has much higher traffic volumes.

**Steve Romeo**, design consultant with VHB, said that there are some simple improvements that could easily be made to that area. He suggested flashing yellow lights at the intersection of Mooretown Road and Lightfoot Road, which he said would improve traffic flow. He also suggested that the County ask VDOT to complete a speed study of Lightfoot Road since the speed of traffic is slower than the posted speed limit.

There being no one else wishing to address the Commission regarding the application, **Chair Jons** closed the public hearing.

**Dr. Phillips** said that he agrees with staff's recommendation and does not believe the proposal fits the description of the PDMU provisions of the Zoning Ordinance and is not consistent with the Comprehensive Plan. He expressed concerns about the proposed density and the fact that there is not a schedule for completing the commercial component. He expressed skepticism about the applicant's fiscal impact analysis, which he believes is overly favorable and does not accurately account for infrastructure costs associated with the development. He said he could not support the application.

**Mr. Titus** said he agrees with staff recommendation and does not think the applicant made a

case to justify an exception to the PDMU guidelines.

**Mr. Peterman** expressed concerns about adding commercial development to the already struggling area. He said he could not support the application because it does not meet the mixed use guidelines. He expressed concerns about traffic and impacts to schools.

**Chair Jons** said that while he sees positives and negatives to the application, he still was struggling to support it without the necessary commitment to the commercial component. He stated that in his opinion it does not meet the guidelines.

**Mr. King** said that he agreed with his fellow commissioners. He also agreed with the applicant that additional residential development is needed in the area but felt it did not meet the spirit and intent of the Zoning Ordinance, so he would be voting against it.

**Dr. Phillips** moved adoption of Resolution No. PC17-12(R).

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO REZONE APPROXIMATELY 22.4 ACRES LOCATED AT THE SOUTHEAST QUADRANT OF THE INTERSECTION OF LIGHTFOOT ROAD AND OLD MOORETOWN ROAD FROM ECONOMIC OPPORTUNITY TO PLANNED DEVELOPMENT MIXED USE

WHEREAS, Lightfoot Development LLC has submitted Application No. PD-45-17, which is a request to amend the York County Zoning Map by reclassifying approximately 22.4 acres of land consisting of five parcels located in the southeast quadrant of the intersection of Lightfoot Road (Route 646) and Old Mooretown Road (Route 1408) and further identified as 206, 212, 216, 220 and 304 Lightfoot Road [Assessor's Parcel Nos. 1-4 (GPIN B19c-1633-2018), 2-14-1 (GPIN B19c-1826-2212), 1-3 (GPIN B19a-1598-2634), 1-2 (GPIN B19a-1733-2670), and 2-22 (GPIN B19c-2064-2445)] from Economic Opportunity (EO) to Planned Development Mixed Use (PDMU) for the purpose of establishing a mixed-used development consisting of 276 rental apartment units and approximately 20,000 square feet of commercial space.

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 9<sup>th</sup> day of August, 2017, that Application No. PD-45-17 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying approximately 22.4 acres of land consisting of five parcels located in the southeast quadrant of the intersection of Lightfoot Road (Route 646) and Old Mooretown Road (Route 1408) and further identified as 206, 212, 216, 220 and 304 Lightfoot Road [Assessor's Parcel Nos. 1-4 (GPIN B19c-1633-2018), 2-14-1 (GPIN B19c-1826-2212), 1-3 (GPIN B19a-1598-2634), 1-2 (GPIN B19a-1733-2670), and 2-22 (GPIN B19c-2064-2445)]

from Economic Opportunity (EO) to Planned Development Mixed Use (PDMU) for the purpose of establishing a mixed-used development consisting of 276 rental apartment units and approximately 20,000 square feet of commercial space, subject to the following conditions:

1. General Layout, Design, and Density

- a) The development shall be designed and constructed in accordance with the provisions of 24.1-361.1, Planned Development Mixed Use district, except as modified herein.
- b) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Development Services Division prior to the commencement of any land clearing or construction activities on the site. Except as modified herein, said site plan shall be in substantial conformance with the sketch plan titled "Lightfoot Apartments, Conceptual Site Improvement Plan," prepared by VHB, dated July 14, 2017, and the sketch plan titled "Lightfoot Apartments, Bruton District, York County, Virginia" prepared by Gaines Group Architects, dated June 22, 2017, copies of which shall be kept on file in the office of the York County Planning Division.
- c) The maximum number of residential apartment units shall be 276.
- d) The development shall include a minimum of 20,000 square feet of commercial/office/civic/institutional (i.e., non-residential) floor area.
- e) Architectural design of all buildings shall be in substantial conformance with the building elevations contained in the applicant's narrative document titled "Lightfoot Mixed Use" and received by the Planning Division on July 24, 2017 (a copy of which shall be kept on file in the office of the York County Planning Division), and with the standards set forth in Zoning Ordinance Section 24.1-361.1(f), *Planned Development Mixed Use District, Architectural considerations*.

2. Signs

- a) Freestanding signage design shall be in substantial conformance with the sign elevation rendering contained in the narrative document referenced in Condition No. 1(e) above. Such signage shall be limited to one community identification sign for each entrance to the project. Said signs shall be monument-style and shall not exceed forty (40) square feet in area and six feet (6') in height. Materials and colors shall be compatible with overall development architecture.
- b) In accordance with the Zoning Ordinance standards applicable to development in the LB (Limited Business) district, wall and marquee/canopy signs having a maximum cumulative area of 1.25 square feet for each linear foot of principal building width shall be permitted on non-residential buildings.

3. Streets and Roads

Subject to approval by the Virginia Department of Transportation (VDOT), the developer shall install a 200-foot westbound left-turn lane with 200-foot turn taper and a 200-foot eastbound right-turn taper on Lightfoot Road (Route 646) at the entrance to the project. All

public road improvements shall be constructed in accordance with all applicable VDOT standards.

4. Fire and Life Safety

- a) In accordance with Section 503.1.1 of the 2009 International Fire Code, approved fire apparatus access roads shall be provided for every facility, building or portion of a building. The fire apparatus access road shall comply with the requirements of this section and shall extend to within one hundred fifty (150) feet of all portions of the facility and all portions of the exterior walls of the first story of the buildings as measured by an approved route around the exterior of the building or facility.
- b) Fire lanes shall be a minimum of twenty (20) feet in width, exclusive of shoulders, hard surfaced, and engineered to support 80,000 pounds. Fire lanes shall be located as shown on the sketch plan titled "Fire Lane Locations Per York County Fire and Life Safety Department," dated July 24, 2017 (a copy of which shall be kept on file in the office of the York County Planning Division), or as otherwise specified by the York County Fire Chief.
- c) All roundabouts, sidewalks, inside and outside curbs, traffic islands, parking lot islands, etc. shall be designed to accommodate the minimum turning radius (33' inside) of large fire and rescue apparatus.
- d) A water supply, to include necessary fire hydrants as required by the Fire Chief, shall be established with a minimum of 2500 GPM (gallons per minute) in accordance with Newport News Waterworks requirements.
- e) Apartment buildings shall be protected by both sprinkler and manual fire alarm systems.
- f) Standpipe systems shall be installed in all enclosed stairwells.
- g) If elevators are installed, they shall be sized to accommodate ambulance stretchers twenty four (24) inches by eighty four (84) inches with five-inch radius corners in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life) in accordance with the 2012 Virginia Construction Code, Section 3002.4.
- h) Landscaping and/or tree canopies (as initially planted and at maturity) shall not inhibit emergency vehicles and Fire Department access to the buildings. Tree canopies adjacent to drive aisles and fire lanes shall be maintained to provide a minimum unobstructed vertical clearance of not less than thirteen feet and six inches (13'6").

5. Open Space and Recreation

- a) A minimum of 2.5 acres of common open space shall be provided as depicted on the overall development plan referenced in Condition No. 1(b) above and in accordance with the provisions set forth in Section 24.1-361.1(g), *Planned Development Mixed Use District, Open space and recreation area requirements* of the Zoning Ordinance.

- b) Indoor recreational amenities shall consist of, at a minimum, a 5,000-square foot clubhouse containing a fitness center, media room, recreation room, and restrooms. Said facility shall be available without additional charges or fees (i.e., in addition to normal rental fees) to all residents of the development and their guests and shall be completed prior to the issuance of a Certificate of Occupancy for the first apartment building.

6. Utilities

The development shall be served by public water and public sanitary sewer services.

7. Environment

Development of the property shall be in accordance with York County Zoning Ordinance Section 24.1-376, *Watershed Management and Protection Overlay District* and County Code Chapters 23.1, *Wetlands*, 23.2, *Chesapeake Bay Preservation Areas*, and 23.3, *Stormwater Management*.

8. Proffers

The reclassification shall be subject to the conditions listed in the proffer statement titled "Proffered Conditions, Lightfoot Development, LLC," dated July 25, 2017 and signed by Lightfoot Development, LLC, Laura Clark Levorsen, and Julie Anne Feeser.

9. A certified copy of the ordinance approving this application 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 prior to application for site plan approval.

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

On roll call the vote was:

Yea: (0)  
Nay: (5) King, Phillips, Titus, Peterman, Jons

**Application No. UP-893-17, H. J. Coxton:** Request for a Special Use Permit to establish approval status under a uniform set of conditions for an existing auto body and paint shop on 12.2 acres of land consisting of six parcels located at 1601, 1603, 1609, 1611, and 1623 George Washington Memorial Highway (Route 17) and 223 Apple Lane (private road) and further identified as Assessor's Parcel Nos. 37-13, 37-27-4, 37-27-1, 37-27-2, 37-11, and 37-27-3. The Route 17 parcels are zoned GB (General Business) and designated General Business in the Comprehensive Plan, and the Apple Lane parcel is zoned EO (Economic Opportunity) and designated Economic Opportunity in the Comprehensive Plan.

**Timothy C. Cross**, Principal Planner, summarized the staff report dated July 21, 2017, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No.

PC17-21.

**Mr. King** said that he felt the application would improve and enhance the existing situation. He asked what the status of Jeanette Drive is.

**Mr. Cross** said that he believed the developers of Commonwealth Green are waiting for final wetlands permit approval, which they are close to receiving. He noted that the Board of Supervisors recently approved a proffer amendment for Commonwealth Green that effectively extended the developer's deadline for building that road by about two years.

**Mr. Titus** asked if there is any concern about the need for screening on the north side of Jeanette Drive.

**Mr. Cross** responded that the condition of approval would also apply to any development on the north side of Jeanette Drive.

**Chair Jons** opened the public hearing.

**Harmon Coxtton**, 409 Old Wormley Creek Road, spoke as the applicant and offered to answer questions. He stated that he was aware of and agrees to the landscaping requirements and the financial costs to do so and acknowledged the possibility that Jeanette Drive could present security problems with increased traffic. He said that he believed that as the County grows so should businesses.

There being no one else wishing to address the Commission regarding the application, **Chair Jons** closed the public hearing.

**Mr. King** moved adoption of Resolution No. PC17-21.

**A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO FORMALIZE THE APPROVAL STATUS OF AN EXISTING AUTO BODY WORK AND PAINTING ESTABLISHMENT ON ROUTE 17**

WHEREAS, H. J. Coxtton has submitted Application No. UP-893-17 to request a Special Use Permit to establish and formalize the approval status, under a uniform set of conditions, of an existing auto body work and painting establishment on approximately 12.2 acres of land consisting of six parcels located at 1601, 1603, 1609, 1611, and 1623 George Washington Memorial Highway (Route 17) and 223 Apple Lane (private road) and further identified as Assessor's Parcel Nos. 37-13, 37-27-4, 37-27-1, 37-27-2, 37-11, and 37-27-3 (GPINS S02b-3568-3873, S02b-3149-3953, S02b-3571-4017, S02b-3238-4104, S02b-3602-4143, S02b-3096-4278); 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 this the 9<sup>th</sup> day of August, 2017 that Application No. UP-893-17 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize an existing auto body work and painting establishment on approximately 12.2 acres of land consisting of six parcels located at 1601, 1603, 1609, 1611, and 1623 George Washington Memorial Highway (Route 17) and 223 Apple Lane (private road) and further identified as Assessor's Parcel Nos. 37-13, 37-27-4, 37-27-1, 37-27-2, 37-11, and 37-27-3 (GPINS S02b-3568-3873, S02b-3149-3953, S02b-3571-4017, S02b-3238-4104, S02b-3602-4143, S02b-3096-4278) subject to the following conditions:

1. This Special Use Permit shall authorize an existing auto body work and painting establishment on 12.2 acres of land consisting of six parcels located at 1601, 1603, 1609, 1611, and 1623 George Washington Memorial Highway (Route 17) and 223 Apple Lane (private road) and further identified as Assessor's Parcel Nos. 37-13, 37-27-4, 37-27-1, 37-27-2, 37-11, and 37-27-3 (GPINS S02b-3568-3873, S02b-3149-3953, S02b-3571-4017, S02b-3238-4104, S02b-3602-4143, S02b-3096-4278).
2. The auto body work and painting establishment shall be operated in accordance with the applicable performance standards for motor vehicle and transportation-related uses, auto repair garages, and vehicle body work and painting set forth in Sections 24.1-475, 24.1-477, and 24.1-479 of the York County Zoning Ordinance as well as all other applicable Zoning Ordinance standards and requirements.
3. A site plan prepared in accordance with the provisions of Article V of the Zoning Ordinance shall be submitted to and approved by the Development Services Division prior to the commencement of any land disturbing or development activities on the property.
4. Any new development on the subject property shall be subject to the provisions of Section 24.1-115(d) of the Zoning Ordinance pertaining to the amendment of Special Use Permits.
5. Landscaping, supplemented by fencing if necessary, shall be utilized to fully screen vehicle storage areas from adjacent properties and street rights-of-way. This shall specifically include the installation of additional landscaping and/or fencing to screen views of existing vehicle storage areas from the new road extending from Commonwealth Drive to Route 17. The plan to accomplish this shall be prepared and certified by a certified landscape architect. Said screening shall be in place no later than six months after the opening of the road.
6. A Type 35 (35') transitional buffer shall be maintained along the western boundary of the parcel located at 223 Apple Lane (Assessor's Parcel No. 37-27-3).
7. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit 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 within thirty (30) days of the approval of this application.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

BE IT STILL FURTHER RESOLVED that the conditions set forth herein shall supersede the conditions set forth in Resolution No. R84-363, adopted by the York County Board of Supervisors December 6, 1984.

On roll call the vote was:

Yea: (5) Titus, Phillips, Peterman, King, Jons  
Nay: (0)

**Application No. UP-894-17, Janice C. Evans:** Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 1, No. 6) of the York County Zoning Ordinance, to authorize a tourist home on a 1.3-acre parcel of land located at 125 Horseshoe Drive (Route 745) and further identified as Assessor's Parcel No. 7A1-2-8. The property is zoned RR (Rural Residential) and is designated Low Density Residential in the Comprehensive Plan.

**Earl W. Anderson**, Senior Planner, summarized the staff report dated July 26, 2017, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of denial. He noted, however, that if the Commission wishes to recommend approval, staff recommends that it be subject to the conditions set forth in proposed Resolution No. PC17-22.

**Mr. King** asked for clarification that the applicant has no intent to operate beyond September 5, 2017.

**Mr. Anderson** said that is what the applicant has indicated.

**Mr. King** noted that the application would not go before the Board of Supervisors until September 19<sup>th</sup>, which is after the date they stated they would cease use.

**Mr. Anderson** said that was correct.

**Mr. King** asked if it is correct that there is no guarantee that the applicant will cease the tourist home use on September 5<sup>th</sup>.

**Mr. Anderson** said that is correct. He added if the Board of Supervisors were to approve the application, the use would be permitted on the property.

**Mr. King** asked if it is correct that the applicant does not currently live in the residence.

**Mr. Anderson** said that is correct.

**Dr. Phillips** stated that an online review of the tourist home mentioned that the lower level of the property is also being rented out but that it was not noted in the application or staff report.

**Mr. Anderson** said that in phone conversations with the applicant it was mentioned there is a woman living in lower level of the property but that this was not noted in the application

**Mr. Titus** asked if there is any evidence that a tourist home has a higher rate of crime than any other rental property.

**Mr. Anderson** responded that staff has found no empirical evidence to suggest that there is a higher rate of crime with tourist homes.

**Mr. Titus** asked why the walking distance to tourist and historical destinations was emphasized in the staff's review of this application but not the previous application for a tourist home at 111 Plantation Drive.

**Mr. Anderson** responded that it was mentioned in the previous application and explained that it has been emphasized because most of the previously approved bed and breakfast inns and tourist homes were within walking distance of tourist destinations.

**Mr. Titus** asked if conditions of approval can be added to prohibit pets and limit guests to one family at a time.

**Mr. Anderson** said that the Commission can add reasonable conditions of approval.

**Chair Jons** asked for clarification that the proposed resolution would require the owner to reside in the home.

**Mr. Anderson** confirmed that this condition is included in the proposed resolution.

**Chair Jons** asked if the owner can appoint someone to live in the residence on her behalf.

**Mr. Anderson** responded that the Commission can revise the condition to state that an operator or caretaker must live on the property. He added that staff's concern is that someone lives in the residence to monitor the guests and maintain the property.

**Chair Jons** asked if the tourist home would be the secondary use of the property.

**Mr. Anderson** responded that the tourist home use would be the principal use of the property if approved while it would have to maintain the appearance of a single-family detached home.

**Chair Jons** opened the public hearing.

**Katherine Williams**, 4428 Eaglebrook Drive, Williamsburg, spoke as the applicant's representative. She said that Ms. Evans' medical condition has left her hospitalized and/or in convalescent rehab facilities since May. She explained that Ms. Evans had been living in Williamsburg with her mother, and when her mother died, she happened to see the subject property and fell in love with it. She said that Ms. Evans began the process of selling the home she was living in but when she was unsuccessful, it was suggested to her that she rent out the Queens Lake home on Airbnb to recoup some of the costs of two mortgages as well as the cost of renovations necessary to the Queens Lake home. Ms. Williams stated that the home was not purchased to be a rental property. She explained the strict vetting process that is done on renters and noted a large deposit that renters risk losing if they do not comply with house rules. She said animals that are up-to-date on their shots and properly licensed are allowed, but only in the front yard, and she noted that the dogs in the backyard belong to Ms. Evans. She said there is currently a young woman living in the basement who was responsible for a recent party that resulted

complaints from neighbors, but stated it was a lapse in judgement and will not happen again. She addressed concerns that have been expressed about trash being adequately maintained and added that most renters come with one car, but at most there would be three cars, including the tenant's, on the premises at one time. She pointed out that these renters would be spending money at local businesses, and said she did not believe it was fair to assume that renters would cause an increase in crime. She commented that there are fire alarms and extinguishers on both levels of the home.

**Mr. King** asked if the applicant's intent is to cease the operation by September 5<sup>th</sup>.

**Ms. Williams** said that Ms. Evans' intent has always been to live in the subject home as her primary residence and she began renting it on Airbnb until she was able to sell or rent her current residence in order to defray some of the costs of carrying two mortgages. She said bookings for the Queens Lake home were no longer accepted once Ms. Evans' received a long term rental agreement on her current home. She said the last booking for the home ends on September 5<sup>th</sup>.

**Mr. King** asked how many more guests have rented the property through September 5<sup>th</sup>.

**Ms. Williams** said there are three more bookings.

**Mr. King** asked if there are guests in the home today.

**Ms. Williams** responded in the affirmative.

**Mr. Titus** asked her to address the concerns from the Queens Lake Community Association about guests who had been kayaking on the lake and using the pool without the owner present.

**Ms. Williams** said that guests are not allowed to use the pool but that there are kayaks available on the property. She stated that her brother lives in Queens Lake and has allowed their sister to use his kayak when he was not present, so she did not think it would be an issue.

**Mr. Titus** asked if she would be willing to approach the Association to address these concerns and work together.

**Ms. Williams** said she could.

**Mr. Titus** asked what the occupancy rate has been thus far.

**Ms. Williams** said it was high since it is a very nice house. She stated that check-out time is 11:00 AM and check-in time is 3:00 PM and that there have been several times when check-out and check-in occur on the same day. She said most guests are families that come to the area to spend time together.

**Chair Jons** asked Ms. Williams if she was aware that a Special Use Permit is required for the operation.

**Ms. Williams** responded that she is not. She stated that Ms. Evans is a retired attorney and had looked into the restrictive covenants as well as the law and had believed that since the covenants do not specifically prohibit the use then it would be okay. She added that since Ms. Evans was in the hospital, she was unable to pick up the certified letters that had been mailed to her by the County. She stated that Mr. Anderson sent her the information about applying for Special Use

Permit process, which she filed right away.

**Ron Kirkland**, 1915 Pocahontas Trail, spoke as the executive director of the Williamsburg Hotel Motel Association (WHMA). He said he felt it was outrageous that the applicant has illegally operated for so long and continues to do so. He suggested that the Commission not consider the application until the operation ceases and goes through the appropriate process for approval. He stated that this community is 100% residential and noted that all the homes are single-family detached dwellings. He said he did not believe this is an appropriate place for this operation since there are plenty of hotels and motels in the vicinity that operate legally and pay taxes. He opined that this would be a business operation in the middle of a single-family neighborhood. On behalf of the WHMA he asked that the Commission recommend denial of this application.

**Christian Pascale**, 102 Horseshoe Drive, said his two main concerns with the application are security and the applicant's disingenuous approach. He stated that he is informally responsible for taking care of the property across the street from his own, which belongs to an absentee owner. He said with unfamiliar people in the neighborhood, he would not know who does and does not belong, which he said would create a security concern for both him and the vacant house. He stated that there have already been security problems, including a wild party by the resident of the basement which is still not a traditional occupant, a missing UPS package from a porch, and a garage that was broken into, all of which he said is unusual for the community. He stated that in his opinion Airbnb does not sufficiently vet its guests. He said the applicant was disingenuous when stating in her letter to the Commission that guests have been kind and appreciative. He referenced a negative online review of the property by a dissatisfied guest who had not been told that a person would be living in the basement until shortly before their scheduled check-in. Mr. Pascale said he was not notified of the property's use until a complaint was made about guests who were using the Queens Lake Community Associations property without authorization.

**Dianne Howell**, 104 Horseshoe Drive, said that she noticed earlier this year that there were cars frequently unloading at the subject property and numerous unfamiliar people walking the neighborhood. She said initially she thought the new owner had moved in and was hosting out-of-town visitors, but different groups kept arriving and trash cans would stay on the street for days. She stated that she learned from other concerned neighbors and an online search that the home was being operated as a short-term rental. She said her primary concern is the potential risk to neighbors and children of the neighborhood posed by transient occupants. She stated there have already been problems with an all-night party, increased traffic, and unleashed pets. In addition to safety concerns, Ms. Howell expressed concern about the effect the short-term rental could have on property values, as well as the negative impacts on the community. She stated that she and her husband had purchased their home in Queens Lake instead of in a coastal community to avoid short-term rentals. She asked the Commission to recommend denial.

**Milton Holt**, 107 Point Laurel Place, said that he does not believe the proposed tourist home is a reasonable use of the property. He said Queens Lake is a single-family community with many young children. He encouraged the Commission to recommend denial.

**Frances Holt**, 105 Point Laurel Place, said the Commission had received her letter expressing her opposition to the application. She expressed empathy for Ms. Evans' medical condition but felt that the proposed use would be a drastic misuse of property in the community. She expressed concerns about safety with the increase of unfamiliar people in the neighborhood. She said that

Queens Lake does not have very strict covenants and believed that Ms. Evans as a lawyer saw a loophole and took advantage of it. She asked the Commission to recommend denial.

**Nesim Halyo**, 127 Horseshoe Drive, spoke as an adjacent property owner. He said he became aware of the operation when he found the advertisement on Airbnb and complained to the County. He stated that he has used Airbnbs and that there is no vetting of guests as long as payment is made. He said he has lived in Queens Lake for forty years and raised his three children there. He said it is a community of families with children who play in the streets and feel secure because they know one another. He opined that a tourist home would be incompatible with single-family homes, would change the character of the community, and would negatively affect property values. He said that while the Airbnb has been rented for months, no one has come to speak with him about the operation. In addition, he stated that he has since had a package disappear from his front porch, which has never happened before. He asked the Commission to recommend denial.

**Tom Rooks**, 109 Little John Road, said he serves on the Queens Lake Community Association Board. He said the issue of Airbnbs should not be conflated with the issue of this particular situation. He said there is a lack of clarity as to how the County should treat Airbnbs in general, which he felt has led to confusion and concerns on the part of residents. He noted the positive aspects of Airbnbs in terms of enabling homeowners to generate income and providing lodging options for vacationers who would rather stay in a nice home than in a motel. With regard to this specific case, he said he was not sure why the application was being applied for since the intended use would cease before Ms. Evans' would be able to get approval from the Board of Supervisors. Mr. Rooks added that he does not feel that residents are entitled to know who is visiting their neighbor's house, adding that his son has been yelled at and nearly been run off the road by longtime residents of the neighborhood while riding his skateboard. He stated that the applicant probably made an honest mistake by renting out her home without authorization, and he did not think it would be fair to question her intent or impugn her motives.

**Mark Sowers**, 122 Horseshoe Drive, asked the Commission not to recommend approval of any Airbnbs in Queens Lake. He said he agreed with Mr. Kirkland and noted that there are many motels and hotels in the area to accommodate visitors to Williamsburg. He said he has owned three different businesses in his home and was always aware that customers cannot come to the house to transact business. He also expressed concern about the increased traffic. He said he does not believe York County should permit Airbnbs in established residential neighborhoods.

**Elliot Sowers**, 122 Horseshoe Drive, said that he felt Queens Lake has lost its feeling of security since the Airbnb opened. He said there are many adults in the community that he looks up to and felt that by bringing an Airbnb, the sense of community and trust in each other is lost.

**Richard Toth**, 241 East Queens Drive, said he built his home in Queens Lake four years ago and that if he had known there was any possibility of short-term rentals in the neighborhood, he would never have moved to York County. He expressed empathy towards the applicant's medical conditions but said the proposed tourist home would be a mini-hotel in a residential area and did not think it was a good idea. He said if one tourist home is granted approval then more would follow. He encouraged the Commission to stop the current application. He said Queens Lake is a quiet community without street lights. He added that he is not opposed to long-term rentals since there are provisions for them in the bylaws and the renters become part of the community. He stated that only dues-paying, shareholding members are permitted to use the lake and any guests using the lake have to be with a member. He urged the Commission to

recommend denial.

**Jeff Otterstein**, 142 Horseshoe Drive, urged the Commission to recommend denial of the application. He noted that Queens Lake is a quiet residential community with a lot of children and that this application does not provide him any comfort or satisfaction as a parent to know who is coming and going in the neighborhood. He expressed his displeasure that the owner is still operating without authorization. He asked the Commission to recommend denial of the application.

**Stephen Alberts**, 123 Horseshoe Drive, spoke in support of the application. He said he has been aware of the operation since its inception and that all the guests he has seen have been nice families who were kind and considerate. He stated that on the night of the party that other residents complained about, there were extra cars parked on the street but added this occurs whenever a homeowner hosts a party. He said that his family recently stayed in an Airbnb in New York state that was in a similar neighborhood and that it made the vacation more affordable and enjoyable than if they had stayed in a hotel room with four people. Regarding concerns expressed about crime and security, he noted that with the sewer extension project, there are a lot of contractors in the neighborhood that he does not know, and he pointed out that the streets are public. Mr. Alberts also noted that homes in the neighborhood have been increasing in price over the past nine months with shorter times on the market, so there is no evidence that the Airbnb is harming the neighborhood and property values. He said he has not seen any problems and that he supports the application.

**Laura Nanartowich**, 211 West Queens Drive, expressed concerns about the uses of the Community Association's amenities such as tennis courts, ball fields, marina, lake, and other common areas that are paid for and kept up with the membership dues and are not supposed to be used without a member present for liability reasons. She said that transient guests are not likely to have the same regard for property as permanent residents. She said that the mistake of not knowing that a use permit was required is not an excuse and that it is unfair that the tourist home continues to operate. She was also concerned about the lack of supervision of the operation, and she asked the Commission to recommend denial of the application.

There being no one else wishing to address the Commission regarding the application, **Chair Jons** closed the public hearing.

**Mr. Peterman** said that the wishes of the community are his main concern. He said it is a quiet neighborhood and does not believe a short-term rental tourist home would be consistent with Queens Lake.

**Mr. Titus** stated that he has been struggling with the application for some time. He said he saw there are good arguments on both sides of the issue. He said he believed that an Airbnb could meet the criteria and also fit into the community. He said he did agree that a caretaker should live on the property and that the applicant should abide by the Queens Lake rules and work with the community. He stated that he supported the application.

**Dr. Phillips** said he understood the concerns of many of the residents. He said that the County has tourist areas where a tourist home like this would be appropriate, but he does not think a residential neighborhood with a lot of children is the appropriate place. He said he could not support this application.

**Mr. King** said he was empathetic with Ms. Evans' situation but was concerned that she did not live in the house and had not gotten to know the neighbors. He said he did not feel that the neighborhood should have to deal with the impacts in order to help her financial situation. He stated he did not have much confidence that the operation would cease on September 5<sup>th</sup> and did not think it was appropriate for the neighborhood, so he would be voting against it.

**Chair Jons** said that the operation does not currently have a Special Use Permit and the request is really to allow the operation more time to continue operating outside of regulations. He said it is operating illegally and that he does not think the applicant should be given any more time and that the operation should have ceased when the owner was informed of the violation. He said he could not support the application for these reasons.

**Mr. Peterman** moved the adoption of Resolution No. PC17-22.

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE A TOURIST HOME IN AN EXISTING SINGLE-FAMILY DETACHED DWELLING AT 125 HORSESHOE DRIVE

WHEREAS, Janice C. Evans has submitted Application No. UP-894-17, requesting a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 1, No. 6), to authorize the establishment of a tourist home in an existing single-family detached dwelling located at 125 Horseshoe Drive and further identified as Assessor's Parcel No. 7A1-2-8 (GPIN G16d-3294-0876); 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 9<sup>th</sup> day of August, 2017 that Application No. UP-894-17 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit for the establishment of a tourist home in an existing single-family detached dwelling located at 125 Horseshoe Drive and further identified as Assessor's Parcel No. 7A1-2-8 (GPIN G16d-3294-0876), subject to the following conditions:

1. This use permit shall authorize the establishment of a tourist home in an existing single-family detached dwelling located at 125 Horseshoe Drive and further identified as Assessor's Parcel No. 7A1-2-8 (GPIN G16d-3294-0876). The tourist home shall be operated in accordance with the narrative description, sketch plan, and floor plans provided by the applicant, received by the York County Planning Division June 21, July 5, and July 7, 2017, respectively, copies of which shall remain on file in the office of the Planning Division, except as modified herein.

2. The applicant shall be responsible for obtaining all applicable permits and/or approvals required in accordance with regulations of the Virginia Uniform Statewide Building Code prior to use of the dwelling as a tourist home.
3. The authorization to offer accommodations to transient guests shall be dependent on the applicant's continued use and occupancy of the property as her permanent residence. No more than six (6) guests shall occupy the tourist home at any one time.
4. The off-street parking area for guest vehicles shall be maintained on the property in the existing driveway. A screening buffer of evergreen plantings (e.g., trees and shrubs) shall be maintained between the driveway and the adjacent property.
5. The following emergency / life safety requirements shall apply to the operation of the tourist home:
  - a) An Emergency Action Plan identifying exit routes, fire extinguisher locations, and other life safety procedures shall be prepared, approved by the Fire Marshal, and posted conspicuously for guests' review.
  - b) Fire extinguishers with a minimum rating of 3A40BC per the 2012 Virginia Fire Prevention Code, Section 906, shall be installed at locations to be determined and approved by the Fire Marshal.
  - c) The tourist home shall be maintained in accordance with the State and Local Fire Prevention Code and have a fire inspection conducted annually by the Department of Fire and Life Safety.
  - d) All smoke detectors shall be interconnected and installed in accordance with the 2012 Virginia Residential Code, Section R314.
6. Approval of this Special Use Permit shall not be construed to supersede or negate the effect and application of any private covenants that may be applicable to the proposed use/activity nor the authority of any property owners association to enforce compliance with any applicable covenants.
7. The term of this Special Use Permit shall be one year from the date of approval. A request for extension of the term, if submitted prior to the current term expiration, may be processed as a minor amendment with review and authorization by Board resolution, and 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 tourist home use. In the event the request is not received before the end of the current term, or if 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.
8. A certified copy of the resolution authorizing this Special Use Permit 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 prior the issuance of a Certificate of Use and Occupancy for the tourist home.

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

On roll call the vote was:

Yea: (1) Titus  
Nay: (4) Phillips, King, Peterman, Jons

**Chair Jons** called a recess at 9:23 PM.

At 9:28 PM, the meeting was reconvened in open session by order of the chair.

**Application Nos. ST-23-17 and ZT-175-17, 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-**

- **4.** General rules of interpretation-add new subsection (g) incorporating amendments, re-printings and updates of referenced documents;
- **5.** Definitions-Chesapeake Bay Preservation Area-insert updated references to various sections of the Virginia Administrative Code;
- **28, 29, 30 and 30.1.** Preliminary, Development, Final Plans and Plats-revise to stipulate that plans/plats valid as of January 1, 2017 remain valid until July 1, 2020.
- **28, 29, 30, 47, 52 and 57.** Submittal requirements – delete requirement for one rolled-copy of plans;
- **52(l)** and **75(a).** Submittal requirements and drainage-insert correct Virginia Administrative Code reference;
- **53 and 58.** Contents-insert correct section number reference;
- **69.** change outdated reference from *department of environmental services* to *development services division*;

**Zoning – Chapter 24.1-**

- **104.** Definitions-revise *Manufactured Home* definition per State Code so as not to include *park model RV*; revise *Principal Use* definition to delete the term *secondary*;
- **114.** Conditional zoning-add reference to new COVA Section 15.2-2303.4 regarding limitations and requirements on voluntary proffers; add requirement for applicant to document reasonableness for proffers related to new residential development; revise term of validity language to reflect COV-mandated July 1, 2020 date;
- **115.** Special use permits-revise term of validity to reflect COV-mandated July 1, 2020 date for SUPs related to new residential or commercial development;
- **200.** Separate lots required-clarify that a principal residence can co-exist with a principal agricultural use;
- **203.** Computation of buildable and developable area – revise to refer to *NAVD 1988* as the official vertical datum;
- **225.** Special yard regulations-delete conflicting wording regarding screening of mechanical equipment;

- **260.** General site design standards-delete subsection (d) regarding Natural Areas; amend subsection (f) to better define procedure for reviewing requests to disturb slopes in excess of 30%;
- **271.** Accessory uses permitted in conjunction with residential uses-amend subsection (f) to correct inadvertent omission; amend subsection (g) to indicate that separation distance requirement does not apply to structures on a beekeeper's property;
- **273.** Location, height, and size requirements-insert missing cross-reference;
- **282, 283.** Home occupations – matter-of-right and special use permit – modify day care provisions to reflect State Code mandate that care for not more than 4 children must be considered equivalent to a “family” arrangement;
- **306.** Table of land uses-amend to allow *Auto Repair Garages* by Special Use Permit in the EO District;
- **362, 414.1, 428, 502, 505** – revise department and division references to reflect current names;
- **379.** Route 17 commercial corridor revitalization overlay district-expand scope of the overlay to also apply to Routes 143 (Merrimac Trail) and 60 (Bypass Rd/Richmond Rd);
- **414.2.** Standards for agriculture uses involving livestock-insert missing phrase “involving livestock” to match section title and legislative intent;
- **419.** Standards for forestry operations-delete incorrect percentage reference;
- **505.** Review and approval procedures for site plans-add reference to the special validity provisions established in COV Section 15.2-2209.1.

**J. Mark Carter**, Deputy County Administrator, summarized the proposed amendments as described in the staff report dated July 26, 2017, stating that staff recommends the Commission forward both applications to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution Nos. PC17-23 and PC17-24.

**Chair Jons** asked if the proposed application of the Commercial corridor overlay district to Merrimac Trail would help with the marketing of the Phillip Morris building.

**Mr. Carter** responded that it would not because the Phillip Morris property is much larger than these guidelines in terms of both area and width. He explained it would apply only to lots that are smaller than 20,000 square feet or narrower than 80 feet.

**Mr. Peterman** asked if there have been any comments about the revitalization district from businesses owners on Route 60 or Merrimac Trail.

**Mr. Carter** said there have not.

**Chair Jons** opened the public hearing for Application No. ST-23-17.

There being no one wishing to address the Commission regarding the application, **Chair Jons** closed the public hearing.

**Mr. King** moved the adoption of Resolution No. PC17-23.

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ST-23-17 TO AMEND THE YORK COUNTY SUBDIVISION ORDINANCE (CHAPTER 20.5, YORK COUNTY CODE) TO REVISE VARIOUS PROVISIONS AND TO INCLUDE CERTAIN CHANGES TO REFLECT REVISIONS TO THE CODE OF VIRGINIA

WHEREAS, Application No. ST-23-17 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 changes adopted in the 2017 General Assembly session and to incorporate various other corrections, clarifications and revisions; 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 9th day of August, 2017, that Application No. ST-19-12 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 incorporate and reflect the following changes:

SUBDIVISIONS

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Sec. 20.5-4. General rules of interpretation.

For the purpose of this chapter, certain words and terms shall be interpreted as follows:

- (a) Words used in the present tense include the future tense; words in the singular include the plural, and the plural includes the singular unless the obvious construction and context indicates otherwise.
- (b) The word "SHALL" is a mandatory requirement; the words "MAY" and "SHOULD" are permissive requirements.
- (c) The term "PERSON" includes individuals, partnerships, corporations, clubs and associations.
- (d) The word "INCLUDES" and its various forms does not limit a term to the specified examples, but is intended to extend the term's meaning to all instances or circumstances of a similar kind, character, or class.
- (e) Any reference to "THIS CHAPTER" or "THIS ORDINANCE" shall mean the Subdivision Ordinance of York County, Virginia and all amendments hereto; any

reference to "THIS CODE" shall mean the Code of the County of York, Virginia and all amendments thereto.

- (f) References to sections of the Code of Virginia are applicable as to the effective date of this chapter. Subsequent changes to those sections, including renumbering, which do not result in a change in content or effect, shall be deemed to be incorporated herein, *mutatis mutandis*.
- (g) References to supplementary documents, publications or regulatory materials shall be deemed to include any subsequent amendments, re-printings, updates or replacement volumes.

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Sec. 20.5-5. Definitions.

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*Chesapeake Bay Preservation Area.* Any land designated by the county pursuant to the Chesapeake Bay Preservation Area Designation and Management Regulations (~~9 VAC 10-20-70~~ 4 VAC 50-90, et seq.) and sections ~~40.1-2107~~ 62.1-44.15:67, et seq., Code of Virginia of the Chesapeake Preservation Act, as they may be amended from time to time. The Chesapeake Bay Preservation Area consists of a Resource Management Area (RMA) and a Resource Protection Area (RPA).

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Sec. 20.5-28. Preliminary plan.

Any person desiring to subdivide land shall, unless exempted under the provisions of section 20.5-27 or 20.5-27.1, prepare and submit thirteen (13) folded copies (~~12 folded, 1 rolled~~) of a preliminary plan to the agent together with a completed application and the appropriate fee.

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- (b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposal with all applicable requirements of this chapter and other applicable ordinances, requirements, and regulations.

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- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the preliminary plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) folded copies (~~12 folded, 1 rolled~~) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding how each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original. In the review of a resubmitted preliminary plan solely involving a parcel or parcels of commercial real estate (which, for the purposes of this section, shall be deemed to include "industrial"), the agent shall consider only the deficiencies identified in the review of the initial

plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. Failure to approve or disapprove a resubmitted plan for commercial real estate within the specified time periods shall cause the plan to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plan for commercial real estate, any deficiency in any proposed plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent's review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

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(d) *Term of validity.*

The subdivider shall have one (1) year from the date of official notification of approval of the preliminary plan within which to file a development plan meeting all of the submittal requirements established in article IV of this chapter for the subdivision or section thereof. Failure to do so shall make the preliminary plan approval null and void. The agent may, on written request of the subdivider received no fewer than ten (10) working days prior to expiration of validity and for good cause shown, grant one (1) six-month extension of preliminary plan approval. However, notwithstanding the foregoing, any preliminary subdivision plan valid and outstanding as of January 1, ~~2017~~~~2014~~, shall not become null and void prior to July 1, ~~2020~~~~2017~~. Any other plan or permit associated with such plan extended by the preceding sentence shall likewise be extended for the same time period. Such extension shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

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Sec. 20.5-29. Development plan.

The subdivider shall, unless otherwise provided by section 20.5-27 of this chapter, after receiving approval of the preliminary plan and within the time specified in section 20.5-28(d), submit thirteen (13) folded copies (~~12 folded, 1 rolled~~) of a development plan for the subdivision or section thereof prepared in accordance with article IV of this chapter to the agent together with the appropriate application and fee.

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- (b) *Review process.* Upon determining that all submittal requirements have been met, the agent shall coordinate a review process to determine conformity of the proposed design elements and physical improvements with all applicable requirements of this chapter and all other applicable ordinances, requirements, and regulations.

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- (4) Where the agent has required that revisions or other actions, changes, conditions, or additional information be incorporated into the development plan prior to approval, the subdivider shall resubmit, without additional fee, thirteen (13) folded copies (~~12 folded, 1 rolled~~) of the revised plan together with the original or a copy of any marked plans returned to the subdivider by the agent. In addition, a narrative description shall be submitted regarding each of the actions, changes, conditions, or additional information required has been addressed on the revised plan. The revised plan shall then be reviewed in the same manner and within the same time elements as was the original. In the review of a resubmitted development plan solely involving a parcel or parcels of commercial real estate, the agent shall consider only the deficiencies identified in the review of the initial plan that have not been corrected in such resubmission and any deficiencies that arise as a result of the corrections made to address deficiencies identified in the initial submission. Failure to approve or disapprove a resubmitted plan for commercial real estate within the specified time periods shall cause the plan to be deemed approved. Notwithstanding the approval or deemed approval of any proposed plan for commercial real estate, any deficiency in any proposed plan, that if left uncorrected, would violate local, state or federal law, regulations, mandatory Department of Transportation engineering and safety requirements, and other mandatory engineering and safety requirements, shall not be considered, treated, or deemed as having been approved. Should any resubmission include a material revision of infrastructure or physical improvements from the earlier submission, or if a material revision in the resubmission creates a new required review by the Virginia Department of Transportation or by a state agency or public authority authorized by state law, then the agent's review shall not be limited to only the previously identified deficiencies of prior submittals and may consider deficiencies initially appearing in the resubmission because of such material revision.

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- (d) *Term of validity.* The subdivider shall have one (1) year from the date of official notification of approval of the development plan within which to file a final plat for those sections contained in said plan meeting all of the submittal requirements established in article V of this chapter. Failure to do so shall make the development plan approval null and void. The agent may, on written request of the sub-divider received no fewer than ten (10) working days prior to expiration of validity and for good cause shown, grant one (1) one-year extension of development plan approval. However, notwithstanding the foregoing, any development plan valid as of January 1, ~~2017~~~~2014~~, shall remain valid and not become null and void prior to July 1, ~~2020~~~~2017~~. Any other plan or permit associated with such plan extended by the preceding sentence shall likewise be extended for the same time period. Such extension shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

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The subdivider shall, unless otherwise prescribed in section 20.5-27 of this chapter, after approval of the development plan and within the time specified in section 20.5-29(d), submit thirteen folded (13) copies (12 folded, 1 rolled) of the final plat for those sections contained on the approved development plan to the agent for review and approval. The final plat shall be prepared in accordance with article V of this chapter and shall be submitted together with the applicable application and fee. The agent may, upon written request and for good cause shown, accept for review final plats before approval has been granted to development plans, however approval of a final plat requires that it fully conform with the approved development plan, if such a plan is required.

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- (d) *Term of validity.* The subdivider shall have six (6) months from the date of official notification of approval of the final plat within which to have the record plat filed and recorded by the clerk of the circuit court. Failure to do so shall make approval null and void, and the subdivider shall be required to return the approved copy of the final plat to the agent in order that it may be so marked. Reapproval shall require resubmission in full compliance with the regulations then in effect. Where the subdivision involves the construction of facilities to be dedicated for public use and the subdivider has commenced the construction of such facilities with surety approved by the agent, or where the subdivider has furnished surety in accordance with Section 20.5-108 of this chapter, the time for plat recordation shall be extended to one year after final approval or to the time limit specified in the surety agreement covering construction of required public improvements, whichever is greater. However, notwithstanding the foregoing, any final subdivision plat valid and outstanding as of January 1, ~~2017~~<sup>2011</sup>, shall not become null and void prior to July 1, ~~2020~~<sup>2017</sup>. Any other plan or permit associated with such plat extended by the preceding sentence shall likewise be extended for the same time period. Such extension shall not be effective unless any performance bonds and agreement or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

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Sec. 20.5-31.1. Terms of Validity.

- (a) Except in the case of the extended terms of validity required by Section 15.2-2209.1 of the Code of Virginia and set forth in ~~Notwithstanding the provisions of Section Nos. s~~ 20.5-28(d), ~~and~~ 29(d) ~~and~~ 30(d), if at the end of three (3) years from the date of approval of a preliminary plan, or from the date of approval of a development plan if no preliminary plan is required, a subdivider has not submitted a final subdivision plat, or has not diligently pursued approval of a submitted final plat, then the agent may, upon ninety (90) days written notice by certified mail to the subdivider, revoke the preliminary plan or development plan approval. Diligent pursuit of approval of the final subdivision plat shall mean that the subdivider has incurred extensive obligations and substantial expenses relating to the submitted final subdivision plat or modifications thereto. The agent's written notice shall cite the specific facts upon which the revocation is based. In any event, when a final subdivision plat has been timely submitted but not approved the maximum term of validity for the associated preliminary plan shall be five years, except as may be provided below.

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Sec. 20.5-47. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) folded copies ~~(12 folded, 1 rolled)~~ of the preliminary plan on twenty-four inch by thirty-six inch (24" x 36") 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 to facilitate showing the entire development on a single sheet. Where more than one (1) sheet is used, sheets shall be numbered in sequence and match-lines shall be provided and labeled.

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Sec. 20.5-52. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) folded copies ~~(12 folded, 1 rolled)~~ of the development plan on twenty-four inch by thirty-six inch (24" x 36") blue-line or black-line prints at a horizontal scale no smaller than five feet (5') to the inch and a vertical scale of five feet (5') 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.

\*\*\*

- (l) A drainage plan showing the proposed drainage system including all existing and proposed culverts, drains, open ditches, storm drain pipes, watercourses, lakes and other stormwater management facilities proposed to convey the subdivision drainage to an adequate channel, pipe or stormwater system. Stormwater management criteria consistent with the provisions of the Virginia Stormwater Management Regulations (9 VAC 25-870-104 VAC 3-20), as they may be amended from time to time shall be satisfied. The development plan shall include detailed information about the sizing of all pipes and ditches, types of pipes, ditch linings, location and extent of drainage easements, and the location and extent of all existing or proposed stormwater management facilities, their depths, slopes, invert elevations, lining, and other pertinent data. Drainage calculations shall be submitted with drainage area maps showing the pre and post development conditions and the route of the travel used to determine the time of concentration to verify the design of the drainage system including the downstream adequacy of the channel, pipe or stormwater system receiving run-off from the subdivision. Positive drainage off of each lot must be demonstrated and the direction of drainage flows shall be shown on the plan.

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Sec. 20.5-53. Contents.

In addition to the information required to be shown on the development plan, the following materials shall be submitted to the agent to supplement the plan sheets:

\*\*\*

- (c) A disclosure statement as required by section 20.5-48~~(b)~~ (c)(2) of this chapter, except that if no change has occurred since its previous submission, a new statement shall not be required.

\*\*\*

Sec. 20.5-57. Submittal requirements.

The subdivider shall submit to the agent thirteen (13) folded 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").

\*\*\*

Sec. 20.5-58. Contents.

In addition to the information required to be shown on the face of the final plat, the following materials shall be submitted to the agent provided, however, that any document previously submitted, and which has not substantially changed, shall not be required to be resubmitted unless expressly requested by the agent in writing:

\*\*\*

- (c) A disclosure statement as required by section 20.5-48(~~b~~)(c)(2) of this chapter, except that if no change has occurred since its previous submission, a new statement shall not be required.

\*\*\*

Sec. 20.5-69. Underground utilities.

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- (d) All utilities shall be placed within easements or public street rights-of-way in accordance with "Typical Curb and Gutter Details CGD-1, CGD-2, CGD-3, or CGD-4" (see Appendix A) as published by the ~~department of environmental and~~ development services division or as may be otherwise approved by the agent.

\*\*\*

Sec. 20.5-75. Drainage.

Standards for drainage within subdivisions are as follows:

- (a) Improvements. Drainage and stormwater management facilities shall be provided, either on-site or off-site, to reduce drainage flows, pollutants, and sediment loading from the subdivision to levels in accordance with the requirements of the Virginia Stormwater Management Regulations (~~9 VAC 25-870-104 VAC 3-20~~), as they may be amended from time to time, or to a lesser level if deemed necessary to comply with other provisions of this Code. The agent shall approve, or approve with modifications, only those stormwater management facilities which comply with the Virginia Stormwater Management Regulations and adopted overall drainage plans and policies, if any. In this regard, the agent shall not generally approve, except as a temporary measure, on-site stormwater management facilities as an alternative to contributing (in accordance with the provisions of paragraph (b) of this section) to planned regional stormwater management systems. All management facilities shall be designed and constructed in accordance with the Erosion and Sediment Control Ordinance (chapter 10 of this Code) as supplemented by the latest editions of the Virginia Erosion and Sediment Control Handbook, Virginia

Stormwater Management Handbook and the Virginia Department of Transportation Drainage Manual as well as those laws, ordinances, criteria, regulations, or policies adopted by the Commonwealth or the county.

\*\*\*

On roll call the vote was:

Yea: (5) Titus, Phillips, Peterman, King, Jons  
Nay: (0)

**Chair Jons** opened the public hearing for Application No. ZT-175-17.

There being no one wishing to address the Commission regarding the application, **Chair Jons** closed the public hearing.

**Mr. Peterman** moved the adoption of Resolution No. PC17-24.

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-175-17 TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO REVISE VARIOUS PROVISIONS AND TO INCLUDE CERTAIN CHANGES TO REFLECT REVISIONS TO THE CODE OF VIRGINIA

WHEREAS, Application No. ZT-175-17 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 changes adopted in the 2017 General Assembly session and to incorporate various other corrections, clarifications and revisions; 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 9th day of August, 2017, that Application No. ZT-175-17 be, and 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 incorporate and reflect the following changes:

ZONING

Sec. 24.1-104. Definitions.

\*\*\*

*Manufactured home.* A structure subject to federal regulatory standards (42 U.S.C. section 5401, the National Manufactured Home Construction and Safety Standards Act), which is transportable

in one (1) or more sections; is eight feet (8') or more in width with a body forty feet (40') or more in length in traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. For the purposes of this chapter, a manufactured home shall not be deemed a single-family detached dwelling or a modular dwelling unit nor shall the term be construed as including "park model recreational vehicles" with such vehicles being defined as: (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard. Any transportable factory-built dwelling unit constructed prior to the enactment of Home Construction and Safety Standards Act of 1974 or which does not meet such standards together with any manufactured home which has been modified to the extent that it is no longer capable of use for residential occupancy purposes or which has had factory installed appliances removed rendering the unit uninhabitable, shall be deemed a trailer for the purposes of this chapter.

\*\*\*

*Principal use.* The primary or main use of land or structures, as distinguished from an secondary ~~or~~ accessory use.

\*\*\*

#### Sec. 24.1-114. Conditional zoning.

- (a) *Statement of intent.* It is the general policy of the county, in accordance with the laws of the Commonwealth of Virginia, specifically section 15.2-2283, Code of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently, where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize the effects of change. It is the purpose of this section to provide a more flexible and adaptable zoning method to cope with situations found in such zones through conditional zoning, whereby an amendment to the zoning map may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned. The provisions of this section shall not be used for the purpose of discrimination in housing.
- (b) *Proffer of conditions.*
- (1) The owner or owners of property for which an application is being made for an amendment to the zoning map may, as part of the application, voluntarily proffer, in writing, reasonable conditions which shall be in addition to the regulations of the zoning district classification sought by the application.
  - (2) Conditions so proffered may be made prior to the public hearing before the commission. Alternatively, or in addition, in consideration of comments expressed during the commission deliberations on an application, the property owner(s) may, prior to the final public hearing conducted by the board, choose to proffer original conditions or revised conditions. In addition, the board may

accept amended proffers during the course of its public hearing on the application provided that the amended proffers do not materially affect the overall proposal.

- (3) The board as part of an amendment to the zoning map, may accept such reasonable conditions in addition to the regulations provided by this chapter for the zoning district to which the amendment is requested provided that:
  - a. the rezoning itself gives rise to the need for the conditions;
  - b. such conditions have a reasonable relation to the rezoning; and
  - c. all such conditions are in conformity with the adopted comprehensive plan; and
  - d. if proffered conditions include the dedication of real property or the payment of cash, the proffered conditions shall provide for the disposition of such property or cash payment in the event the property or cash payment is not used for the purpose for which proffered. All cash proffers shall be accepted and held in accordance with the terms of sections 15.2-2303.2, ~~and 2303.3,~~ and 2303.4 of the Code of Virginia.

Reasonable conditions shall not include, however, conditions that impose upon the applicant the requirement to create a property owners' association under Chapter 26 (sec. 55-508 et seq) of Title 55, Code of Virginia, which includes an express further condition that members of a property owners' association pay an assessment for the maintenance of public facilities owned in fee by a public entity, including open space, parks, schools, fire departments, and other public facilities not otherwise provided for in section 15.2-2241, Code of Virginia; however, such facilities shall not include sidewalks, special street signs or markers, or special street lighting in public rights-of-way not maintained by the Virginia Department of Transportation.

- (4) Proffers or proffer amendments submitted for consideration in conjunction with an application for rezoning to facilitate a new residential development or residential use shall comply with the requirements of Section 15.2-2303.4 of the Code of Virginia. Any such application that includes proffers shall be accompanied by documentation provided by the applicant to:
  - a. identify the manner in which the proffer(s) address an impact that is specifically attributable to the proposed residential development or use;
  - b. identify the specific projected impacts to off-site public facilities created by the proposed residential development or residential use based on the existing capacity at the time of application; and,
  - c. identify the direct and material benefit(s) provided to the proposed residential development or residential use from proffers addressing public facility improvements.

\*\*\*

- (i) In accordance with Section 15.2-2209.1 of the Code of Virginia, and notwithstanding any other provision of this chapter, for any rezoning action approved, valid and

outstanding as of January 1, ~~2017~~~~2011~~, and related to a new residential or commercial development, any proffered condition that requires the landowner or developer to incur significant expenses upon an event related to a stage or level of development shall be extended until July 1, ~~2020~~~~2017~~, or longer as agreed to by the county. However, the extensions in this subsection shall not apply (i) to land or right-of-way dedications, (ii) when completion of the event related to the stage or level of development has occurred, or (iii) to events required to occur on a specified date certain or within a specified time period.

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Sec. 24.1-115. Special use permits.

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(c) *Procedures applicable to permits.*

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(6) As provided in Code of Virginia sections 15.2-2209.1:

- a. In the case of any special use permit outstanding as of January 1, ~~2011~~~~2017~~, and related to new residential or commercial development, any deadline in such special use permit or in this chapter that requires the commencement of a project or that requires the landowner or developer to incur significant expenses related to improvements for a project within a certain time, shall be extended to July 1, ~~2017~~~~2020~~. This provision shall not apply to any requirement that a use authorized by a special use permit or other zoning action shall be terminated by a certain date as within a set number of years. This extension of time shall not be effective unless any performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force.

\*\*\*

Sec. 24.1-200. Separate lots required.

- (a) Except as may be specifically authorized by other provisions of this chapter, only one (1) principal dwelling unit shall be permitted on any individual lot located in the RC, RR, R33, R20, R13, and R7 districts.

(b) Except as may be specifically authorized by other provisions of this chapter, a principal residential use shall not occupy the same lot with any use other than a lawful residential accessory principal use as permitted by Section 24.1-271, or in the RC or RR Districts with a use qualifying as agriculture as defined in this chapter.

- (c) No building permit shall be issued for a parcel which is not a lot of record.

\*\*\*

Sec. 24.1-203. Computation of buildable or developable area.

In accordance with the comprehensive plan, certain land areas shall not be developed at all and others may only be credited partially toward buildable or developable area. These shall be determined on a case-by-case basis utilizing the percentages shown in the table below where:

The "*Density*" column contains the percentage of the specified land type which may be included in calculations of net developable density;

The "*Lot size*" column contains the percentage of the specific land type which may be included to meet minimum lot size requirements; and

The "*Platted*" column contains the percentage of the specified land type which may be platted as part of individual lots for transfer to a party other than a property owners' association or similar entity such as a land conservation trust.

In all cases, the zoning administrator shall be satisfied that each and every lot platted contains a sufficient building site for the future use of the property based on its zoning classification at the time the plat is submitted.

Land Area Type	Density	Lot Size	Platted
***			
(f) Areas four feet (4') and less above mean sea level as determined by <del>NGVD 1929</del> <u>NAVD 1988</u> datum ( <del>National Geodetic</del> <u>North American</u> Vertical Datum)	0%	0%	100%
***			

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Sec. 24.1-225. Special yard regulations.

The following special yard regulations shall apply to the development of property:

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- (c) Mechanical or HVAC equipment may be located in a required ~~side or~~ rear yard, or in required front or side yards if screened from view from public streets and adjacent properties.

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Sec. 24.1-260. General site design standards.

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- ~~(d) Natural areas with a biodiversity ranking of B1 (outstanding significance), B2 (very high significance), or B3 (high significance), shall be protected through a conservation easement or other development restriction encompassing the area within the secondary ecological boundary as defined by Technical Report 93-4, by the Division of Natural Heritage, Virginia Department of Conservation and Recreation, as may be amended from time to time. Biodiversity rankings between B1 and B3 indicate natural resources of global or state significance. For areas with a B4 or B5 ranking, necessary federal and state permit approvals required under the Federal Clean Water Act, Endangered Species~~

~~Act, Chesapeake Bay Preservation Ordinance, or state and county wetlands laws and regulations shall suffice as proper environmental authorization.~~

- (e) Land development proposals shall be designed to minimize impervious cover consistent with the particular use proposed.
- ~~(f) New construction on existing slopes in excess of thirty percent (30%) shall be prohibited unless the zoning administrator, after reviewing and evaluation of the erosion and sediment control plan by the Department of Public Works, a detailed soils, geology, and hydrology survey prepared in accordance with acceptable engineering standards and submitted by the applicant, determines that such construction can be accommodated without creating or exacerbating erosion, seepage, or nutrient transport problems. Such plans survey shall include cross-sections of existing and proposed slopes and detailed plans of details of drainage devices and erosion control measures. Grading such slopes to less than thirty percent (30%) shall also be prohibited unless the zoning administrator determines that such grading is necessary to the overall development; however, in no case shall such grading be used to permit new construction which otherwise would have been prohibited.~~

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

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- (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 household pets. The keeping of more than four (4) canines or felines over the age of six (6) months in such a structure or enclosure shall be deemed a private kennel and shall be permitted in accordance with Section No. 24.1-417, Standards for Private Kennels, of this chapter. Special Use Permit approval shall be required for any private kennel proposed in conjunction with a single-family detached residence existing as a lawful nonconforming use in a nonresidential district.

\*\*\*

- (g) Beekeeping provided no beehive is closer than fifty feet (50') to any dwelling on an adjacent property, or any school or place of worship. ~~church establishment and that~~ the owner shall provides a supply of water for the bees within fifty feet (50') of the hive. Nothing in this subsection shall be construed to prohibit the sharing of honey with friends or its sale, either on or off the premises.

\*\*\*

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

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- (g) Except as authorized by section Nos. 24.1-231, 24.1-272 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 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.

\*\*\*

Sec. 24.1-282. Home occupations permitted as a matter of right.

(a) Permitted home occupations in all residential districts shall include the following:

(1) Artists and sculptors.

(2) Authors and composers.

(2.1) Day care for not more than four (4) children under the age of thirteen (13), exclusive of the provider's own children and any children who reside in the home as residential occupancy by a single family.

(3) Dressmakers, seamstresses, tailors.

(4) Home crafts such as model making, rug weaving, cabinet making, furniture refinishing, or ceramics.

(5) Office facility of a member of the clergy.

(6) Office facility of a resident salesperson, sales representative or manufacturer's representative.

(7) Home office facility for resident accountants, architects, artists, photographers, brokers, computer programmers, consultants, counselors, dentists, physicians, engineers, lawyers, insurance agents, real estate agents or similar professionals provided, however, that clients or patients may not be seen at the home office facility.

(8) Telephone answering service.

(b) Permitted home occupations which may only be conducted in the RC, RR, R33, R20, and R13 districts include the following:

(1) Photography studios.

(2) ~~Day care or babysitters for not more than six (6) children, other than those of the provider, at any single time or in any 24-hour period.~~

(23) Tutoring, music or voice lessons or similar services for not more than four (4) persons other than the family members of the provider at any single time.

(34) Other activities and uses which the zoning administrator determines can be operated in complete accordance with section 24.1-281 of this chapter and which are not otherwise regulated or prohibited by this chapter or any other provision of law.

The activities specifically authorized under this subsection shall be permitted to have on-site client contact notwithstanding the provisions of Section 24.1-281 to the contrary.

\*\*\*

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

The board may authorize, by special use permit issued in accordance with all applicable procedural requirements as set forth in article I, the following and materially similar types of home occupations subject to the specified conditions:

- (a) Home occupations permitted under section 24.1-282 which generate a parking demand for three (3) or more parking spaces, and those occupations permitted under section 24.1-282(b) in residential districts other than those specified.
- (b) Home occupations with on-premises retail sales, or personal services, or customer/client contact.
  - (1) Uses which may be authorized under this section shall include barber and beauty shops, antique shops, bicycle rental, rental of rooms for nontransient use, day care for more than four (4) six (6) children, in-home professional offices with customer or client contact, firearms sales, and other materially similar activities and land uses involving on-premises retail sales, customer contact, and personal services. These provisions shall also apply to catering operations conducted in accordance with section 29.5 of the Rules and Regulations of the Board of Health of the Commonwealth of Virginia provided, however, that food preparation that is conducted from the structure's standard residential kitchen for off-premises sale and consumption and that does not involve any on-site customer contact or non-resident employees shall not be deemed to require a special use permit.

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Sec. 24.1-306. Table of land uses.

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P=PERMITTED USE S=PERMITTED BY SPECIAL USE PERMIT	RESIDENTIAL DISTRICTS							COMMERCIAL AND INDUSTRIAL DISTRICTS						
	RC	RR	R33	R20	R13	R7	RMF	NB	LB	GB	WCI	EO	IL	IG
	CATEGORY 12 – MOTOR VEHICLE / TRANSPORTATION													
1. Car Wash									S	S		S		
2. Automobile Fuel Dispensing Establishment/ Service Station (May include accessory convenience store and/or car wash)										S		S	S	
3. Auto Repair Garage										S		S	P	P
4. Auto Body Work & Painting										S		S	P	P
5. Auto or Light Truck Sales, Rental, Service (New or used vehicles sales) (Including Motorcycles or R.V.'s)														
a) Without Auto Body Work & Painting										S		S	P	P
b) With Body Work & Painting										S		S	P	P

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Sec. 24.1-362. Procedure for establishment of the planned development districts.

Planned development districts may be established only through an amendment of the zoning map in accordance with the procedures for amendment prescribed in article I and as follows:

\*\*\*

- (b) *Phase I - Overall development master plan and petition for reclassification of property.* The purpose of the overall development master plan is to allow consideration and establishment of the general arrangement of land uses within a proposed planned development as well as the maximum allowable development density and other design parameters and to allow evaluation of the probable impacts, both on-site and off-site, of the proposed development.

\*\*\*

- (2) Twenty (20) paper copies (plus legible 11" x 17" reductions of each sheet) of an overall development master plan prepared in accordance with good planning practice, shall be submitted. In addition to an overall site layout plan, the Master Plan submission shall include conceptual information on streets, circulation and parking, open space and recreation amenities, utilities, particularly any stormwater management ponds, landscaping and pedestrian circulation, and, renderings of all major buildings or building types. Prior to formal preparation of an overall development master plan, the owner or developer is encouraged to meet with the zoning administrator to discuss the project proposal and to become familiar with the policies of the board and the procedures and requirements established herein. Depending upon the nature and scope of the development proposal, such meeting should also include representatives from other appropriate review agencies and departments such as, but not limited to, the Virginia Department of Transportation, planning division, economic development office, department of [public works, division of environmental and](#) development services, department of fire and life safety and the department of community services.

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Sec. 24.1-379. [Route 17 C](#)commercial corridor revitalization overlay district.

- (a) Statement of Intent: The [Route 17](#) Commercial Corridor Revitalization Overlay District is established to encourage re-use and redevelopment of physically constrained properties, as defined herein, in a manner that is beneficial for the corridor and economically viable for the property owner. The district is designed to provide additional flexibilities for development and redevelopment situations on such properties with the objective of restoring those properties to an economically viable and attractive component of the commercial corridor.
- (b) Permitted Uses: All uses permitted as a matter of right and by special use permit shall remain as established in the underlying zoning district regulations, unless specifically noted in this section.
- (c) ~~Special Performance Standards: The following special performance standards shall apply to such~~ physically constrained properties [as may be located along Routes 17, 60 \(Bypass](#)

Road/Richmond Road) and 143 (Merrimac Trail) within the Route 17 Revitalization Overlay District. Where the overlay district provisions impose a lesser standard than the provisions established elsewhere in the Zoning Ordinance, the less restrictive standards shall apply. Physically constrained properties shall be those which have the following characteristics:

- lot width is less than 80 feet or lot depth is less than 100 feet; or
  - lot size is less than 20,000 square feet; and
  - buildings or site improvements are situated so as not to comply with applicable setback or other dimensional standards prescribed for the underlying district (the applicable setback dimension shall take into account any right-of-way reservation requirement that would apply to the property based on programmed road improvements); and
  - the property has been designated as blighted by resolution of the Economic Development Authority. For the purposes of this section, blighted properties shall be deemed to be those with buildings or improvements which, by reason of dilapidation, obsolescence, over-crowding, faulty arrangement of design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health or welfare of the community and the appearance and economic vitality of the subject Route 17 corridor:
- (1) **Damage or Destruction:** The provisions of Section 24.1-802(b) notwithstanding, where a nonconforming building or structure located on a property meeting the above criteria is demolished on the owner's initiative, a new building or structure may be constructed on the site meeting the same setbacks as previously existed, provided however, that for the new structure no front setback shall be less than thirty (30) feet and no side or rear setback shall be less than five (5) feet and provided further that the new structure is architecturally compatible with its surroundings and will contribute positively to the surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. Such 30-foot setback shall be measurable from the existing front property line and the normal requirement to measure setback dimensions from the boundary of any right-of-way reserve area shall not apply, provided however, that no structure shall be placed less than ten (10) feet from any right-of-way reservation line.
- (2) **Additions:** The provisions of Sections 24.1-802(a) and 24.1-804 notwithstanding, additions to a building with nonconforming setbacks on a property meeting the above criteria may be constructed in line with any existing nonconforming front setback dimension of thirty (30) feet or more, provided that no side or rear setback shall be less ~~than~~ that five (5) feet, and provided further that the exterior of the blighted structure shall be renovated or repaired so that the existing structure and the addition are architecturally compatible and contribute positively to their surroundings, as determined by the zoning administrator in consultation with the Economic Development Authority. In no event shall an addition be permitted if it

would have a setback of less than ten (10) feet from any right-of-way reservation line.

- (3) Landscaping: The provisions of Section 24.1-244 notwithstanding, the front landscape yard dimension on a property meeting the above criteria may be reduced by one (1) foot for every one (1) foot in depth of public right-of-way adjoining the property that is suitable for installation of landscaping (e.g., those areas which are located outside and behind ditches or behind curb lines, and which are not encumbered by utilities, needed for future road widening, or otherwise unsuitable for the establishment and maintenance of landscape plantings), and which the property owner agrees in writing to landscape and maintain, provided that the Virginia Department of Transportation shall consent to the establishment of the landscaping. The maximum reduction in the depth of the landscape yard available under this provision shall be ten (10) feet. The property owner shall be responsible for landscaping and maintaining the subject area, both the private and public property areas, in accordance with the front yard landscape planting ratios and requirements specified in this Chapter.
- (4) Parking:
  - a. Paving: The provisions of Section 24.1-607 notwithstanding, the Zoning Administrator may authorize the continued use or expansion of an existing gravel parking lot for a reuse or redevelopment proposal on a property meeting the above criteria where paving would be the sole cause for installation of stormwater management facilities to address water quality issues. Such authorization shall be contingent on the following:
    1. the property owner shall install appropriate timber-bordered landscape islands and other delineators to define circulation aisles and parking spaces;
    2. the parking lot shall be surfaced in a brown river stone aggregate mix with sufficient variation in stone sizes to ensure proper compaction and maneuverability; and
    3. the parking lot shall be screened from view from [the subject corridor](#)~~Route 17~~ or other abutting roads by landforms and/or an evergreen hedgerow or similar landscape treatment approved by the Zoning Administrator.
- (5) Impervious Surface: The provisions of Section 24.1-376 notwithstanding, the zoning administrator may authorize, after such consultation with the director of Newport News Waterworks [or City of Williamsburg waterworks](#) as the zoning administrator may deem advisable, the reuse or redevelopment of a property meeting the above criteria and including a stormwater management system that addresses the pre-development/post-development runoff quality requirements specified in Section 24.1-376(f)(1)d. of this chapter in an alternative and equivalent manner.

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

Keeping and housing domestic chickens as an accessory activity on residentially-zoned and occupied property in the R33, R20, R13 and WCI Districts, and as an accessory activity on properties less than two (2) usable acres in area in the RC and RR Districts, shall be permitted 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.

\*\*\*

- (j) In the case of proposals for accessory backyard chicken-keeping in the RC, RR, R33, R20, R13 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.

\*\*\*

Sec. 24.1-414.2 Standards for Agriculture Uses Involving Livestock

- (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 involving livestock, as defined in section 24.1-1-104, shall be two (2) usable acres. In determining usable acreage, the following portions of the property shall be excluded from the minimum usable acreage calculation:

\*\*\*

Sec. 24.1-428. Standards for pre-school, day care centers and nursery schools.

- (a) Pre-school, day care centers and nursery schools shall be licensed by the Virginia Department of Family Services in accordance with the standards appropriate to the particular facility and intended use.
- (b) Outdoor recreation area shall be provided in accordance with the standards established or recommended by the department of family services and the York County division of parks, recreation and tourism~~recreational services~~. Outdoor recreation space shall only include that area:

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Sec. 24.1-419. Standards for forestry operations.

- (g) Streamside management zones at least fifty feet (50') in width, within which no timbering may occur, shall be preserved on each side of all perennial and intermittent streams. Upon request, the zoning administrator may approve harvesting fifty percent (50%) of the crown cover within the streamside management zone accompanied by an a

~~fifty percent (50%)~~ increase of the streamside management zone to one hundred feet (100'). This request must be accompanied by a recommendation of approval from the Virginia Department of Forestry.

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Sec. 24.1-502. Information required on site plans.

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- (n) *Number of copies.* Plan submissions shall be clearly legible, blue or black line folded copies of the site plan and shall be accompanied by the appropriate application form and fee. No plan shall be deemed received until all relevant fees and applications are submitted. In addition, copies/sets of any supplementary reports or calculations (e.g., drainage calculations, traffic impact studies) shall be submitted with the plan submission. The number of copies of site plans and supplementary information/studies required shall be that number deemed sufficient by the zoning administrator to cover distributions to the relevant review departments/agencies and to provide a file copy to be maintained in the ~~Department of Environmental and~~ Development Services Division and the required number of copies shall be communicated in procedural information made available to prospective applicants by the Department.

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Sec. 24.1-505. Review and approval procedures for site plans.

- (a) While not required, developers and property owners are encouraged to present informally conceptual plans to the ~~Department of Environmental and~~ Development Services Division at a preapplication conference. Applicants should provide preliminary site sketches and plan information prior to the scheduled conference.
- (b) The ~~division of department of environmental and~~ development services shall be responsible for review of the site plan for general completeness and for compliance with established administrative requirements and for coordinating and monitoring the review process. In fulfilling this responsibility, the department may transmit copies of site plans to appropriate departments, agencies, and officials for their review, comment, and recommendations.

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- (j) Pursuant to Section 15.2-2261, Code of Virginia, final approval of a site plan submitted under the provisions of this article shall expire five (5) years after the date of such approval or, if building permits, or renewals thereof, have been issued for a valid and unexpired site plan, then upon the expiration of those permits. Plan validity determinations shall be subject also to the provisions of Section 15.2-2209.1 of the Code of Virginia. The issuance, and diligent pursuit of work thereunder, of a land disturbing activity permit (LDA permit) authorizing construction of stormwater management infrastructure also shall be sufficient to extend the term of validity of a site plan approval for a period concurrent with the validity of the LDA permit. The application for and approval of minor modifications to an approved site plan shall not extend the period of validity of such plan and the original approval date shall remain the controlling date for purposes of determining validity. Notwithstanding the five (5)-year term of validity, nothing shall preclude the application, to the greatest extent possible, of the terms of any local ordinance adopted pursuant to the Chesapeake Bay Preservation Act, or the application of the provisions of any local ordinance adopted to comply with the requirements of the federal Clean Water Act, Section 402 (p.) of the Stormwater Program

and regulations promulgated thereunder by the Environmental Protection Agency.

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On roll call the vote was:

Yea: (5) Titus, Phillips, Peterman, King, Jons  
Nay: (0)

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

There was no new business.

### **STAFF REPORTS**

**Mr. Cross** referred to the August Development Activity Report and stated that at its July meeting the Board of Supervisors approved the two towing operation applications and noted that the application to establish a bed and breakfast in Dandy was postponed at the request of the applicant. He noted that at its upcoming meeting the Board will consider the proposed senior housing facility on Victory Boulevard, the proposal to expand a horse stable operation on Yorktown Road, and the proposed solar facilities ordinance. He added that the application for a tourist home on Plantation drive that was considered by the Commission in July has been withdrawn by the applicant. He noted that there is an application scheduled for the Commission's September 13<sup>th</sup> meeting for a tourist home located off of Hubbard Lane.

### **COMMITTEE REPORTS**

There were no committee reports.

### **COMMISSION REPORTS AND REQUESTS**

There were no Commission reports or requests.

### **CITIZEN COMMENTS**

There were no citizen comments.

### **ADJOURN**

There being no further business to discuss, the meeting was adjourned at 9:43 PM.

### **SUBMITTED:**

\_\_\_\_\_  
Krystina N. Collins, Secretary

**APPROVED:** \_\_\_\_\_  
Montgoussaint E. Jons, Chair

**DATE:** \_\_\_\_\_

DRAFT