

**MINUTES**  
**YORK COUNTY PLANNING COMMISSION**  
Regular Meeting  
York Hall, 301 Main Street  
October 9, 2013

**MEMBERS**  
Glenn A. Brazelton  
Melissa S. Magowan  
Todd H. Mathes  
Timothy D. McCulloch  
Richard M. Myer, Jr.  
Mark B. Suiter

**CALL TO ORDER**

**Chair Mark B. Suiter** called the meeting to order at 7:00 PM.

**ROLL CALL**

The roll was called and all members were present.

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

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

**APPROVAL OF MINUTES**

**Mr. Myer** requested two minor wording changes to the draft minutes of September 11, 2013.

**Ms. Magowan** moved to adopt the minutes of the regular meeting of September 11, 2013 as amended, and the motion was approved (6:0).

**REMARKS**

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

**CITIZEN COMMENTS**

There were no citizen comments.

**PUBLIC HEARINGS**

**Application No. UP-832-13, Mark A. and J. Paige Stephens:** Request for a Special Use Permit, pursuant to Section 24.1-409(e) of the York County Zoning Ordinance, to authorize private weddings and receptions for a fee as a business venture to be hosted on the premises of a bed and breakfast operation, previously authorized by Special Use Permit, on property located at 4201 Seaford Road (Route 622). The property is located at the eastern terminus of Seaford Road approximately 330 feet east of its intersection with Bay Tree Beach and York Point Roads (Route 712) and is further identified as Assessor's Parcel No.

26-75. The property is zoned RC (Resource Conservation) and is designated Conservation in the Comprehensive Plan.

**Amy Parker, Senior Planner** summarized the staff report to the Commission dated October 1, 2013, in which staff recommends that 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. PC13-24(R).

**Mr. Mathes** asked for a definition of "stacking vehicles."

**Ms. Parker** responded "stacking vehicles" means moving the vehicles into and out of the property.

**Mr. Brazelton** asked if all the parking would be on the north side of the property.

**Ms. Parker** responded that all parking would be on the north side of the driveway on the left side as viewed from Seaford Road.

**Mr. Brazelton** said the driveway would be clear of vehicles and a permeable surface would need to be installed in the area where parking is going to be.

**Mr. Suiter** asked how emergency vehicles would be able to use the driveway and if it would be blocked with vehicles parked there. Mr. Suiter suggested "No Parking" signs be posted to allow for passage of emergency vehicles.

**Ms. Parker** said the Fire Marshall will review the plans to comment on emergency vehicle accessibility.

**Chair Suiter** opened the public hearing.

**Paige Stephens**, 4201 Seaford Road, owner of the Bay Tree Manor Bed & Breakfast, spoke as the applicant. Ms. Stephens said that there are employees outside an hour prior to events to guide guests to parking spaces. She added that only compact cars are parked on the left side of the driveway and that the circular driveway is open at all times. She said many people have approached her to tell her that the property is a perfect place for a wedding.

**Mr. Myer** noted that the tent looks like a fairly permanent structure and asked if it would be removed every 180 days.

**Mr. Stephens** said the tent is a substantial structure because of the winds coming off the water but the tent is constructed with a hinge system and all pieces can be rolled over and stacked and the panels can be pulled off of the roof. He said the tent would be taken down every six months.

**Mr. Myer** asked if will the land where cars will be parked would be paved or gravel and if this would have an impact on the lawn.

**Mr. Stephens**, co-applicant, responded that in the past three years they have only needed the overflow parking area three times.

**Ms. Stephens** said that most of their weddings involve 100 guests or fewer.

**Mr. Myer** asked if any of the applicant's neighbors have provided any feedback regarding the application.

**Ms. Stephens** said that in cases where there is music that is louder than expected, they will go to their neighbor and ask them if the music is a bother to them. She also said that all music from events is turned off by 10:00 p.m.

**Mr. Brazelton** asked if portable bathroom facilities are available in case there are a large number of guests.

**Ms. Stephens** said for all events there is a portable handicapped bathroom available.

**Mr. Brazelton** asked where it is located.

**Ms. Stephens** responded that it is located behind the waterfall and is visible from the tent.

**Mr. Stephens** added that most of the guests for events are also staying at the Bed & Breakfast.

**Mr. Brazelton** commented that if there are 140 guests that could put a large demand on the bathrooms.

**Ms. Stephens** said there have been situations where the guests would arrange to have additional portable bathrooms for an event.

**Ms. Magowan** asked about the change to the standards requiring a 25' evergreen landscape buffer between the applicant's property and their neighbors' property unless the abutting property owner signs a waiver. She asked if the applicants have discussed this with their neighbors.

**Mr. Stephens** responded that the buffer exists and the neighbors are in agreement.

**Chair Suiter** asked if the applicant has read the conditions of the resolution and if they are in agreement with all the conditions.

**Ms. Stephens** responded in the affirmative.

**Chair Suiter** closed the public hearing.

**Ms. Magowan** said the standards have been reviewed and the applicant has committed to meet them.

**Mr. Brazelton** said the location is good for events.

**Mr. McCulloch** said it is a perfect place for this type of event and the owners have experience with conducting events.

**Mr. Suiter** said he supports the application.

**Mr. Brazelton** moved adoption of PC13-24(R).

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE PRIVATE WEDDINGS AND RECEPTIONS FOR A FEE AS A BUSINESS VENTURE TO BE HOSTED ON THE PREMISES OF A BED AND BREAKFAST OPERATION, PREVIOUSLY AUTHORIZED BY SPECIAL USE PERMIT, ON PROPERTY LOCATED AT 4201 SEAFORD ROAD.

WHEREAS, on June 16, 2009, the York County Board of Supervisors approved Application No. UP-767-09, through the adoption of Resolution No. R09-86, to authorize a Special Use Permit for the establishment of a bed and breakfast operation in an existing single-family detached dwelling on a 9.45-acre parcel of land located at 4201 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 26-75 (GPIN V08b-4893-4991); and

WHEREAS, Mark A. and J. Paige Stephens have submitted Application No. UP-832-13 to request a Special Use Permit, pursuant to Section 24.1-409(e) of the York County Zoning Ordinance, to authorize private weddings and/or receptions for a fee as a business venture to be hosted on the premises of the operating bed and breakfast operation located at 4201 Seaford Road (Route 622) and further identified as Assessor's Parcel No. 26-75 (GPIN V08b-4893-4991); 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 October, 2013, that Application No. UP-832-13, be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval, subject to the following conditions:

1. This use permit shall authorize private weddings and/or receptions (henceforth referred to as "events") for a fee as a business venture to be hosted on the premises of the operating bed and breakfast establishment located at 4201 Seaford Road and further identified as Assessor's Parcel No. 26-75 (GPIN V08b-4893-4991).
2. A site plan prepared in accordance with the provisions of Article V of the Zoning Ordinance shall be approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to the conducting of private weddings and/or receptions on the subject property. Said site plan shall be in substantial conformance with the sketch plan titled "Plan Showing Improvements to "Parcel A," Boundary Line Adjustment Between the Properties of C.W. Messner & Richard W. Teagle & Jack D. McComb, County of York, Virginia" prepared by Davis & Associates, P.C., dated April 1, 2009 and received by the Planning Division August 6, 2013, copies of which shall remain on file in the office of the Planning Division, except as modified herein.
3. Operation of events on the subject property shall be in compliance with the performance standards set forth in Section 24.1-4069 of the Zoning Ordinance and applicable regulations of the Virginia Uniform Statewide Building Code, the Virginia Statewide Fire Prevention Code, and the International Fire Prevention Code.
4. The maximum number of guests permitted at any one event shall be one hundred sixty (160), not including caterers and other contract employees associated with individual events.
5. The applicants shall procure a new building permit and zoning approval for a temporary tent for use in accordance with the conditions herein prior to commencement of events. Location of the temporary tent shall be limited to the south side of the existing dwelling/bed and breakfast establishment as shown on the sketch plan referenced in Condition No. 2 above. The maximum

number of consecutive days said tent can be installed on the premises shall not exceed time limits established for temporary tents pursuant to the Virginia Statewide Fire Prevention Code and Section 2403 of the International Fire Prevention Code (i.e., not more than 180 days). In addition, the applicant shall consult with the Building Official to ensure compliance with all applicable Building Code requirements related to use of any building interior spaces for reception-related purposes.

6. The applicant shall insure that all stacking of vehicles entering or exiting the subject property in conjunction with events shall be accommodated on the property. Stacking of vehicles shall not be permitted in any public right-of-way.
7. Prior to commencement of events, signage reading "Do Not Block Driveway" shall be installed at the Seaford Road entrance to the driveway serving the property located at 4203 Seaford Road (Assessor's Map No. 26-6B, GPIN V09d-4500-0125).
8. The applicant shall be responsible for installation of a painted road surface stop bar across the westbound lane of Seaford Road at its intersection with Bay Tree Beach and York Point Roads. Said stop bar shall be installed in accordance with applicable Virginia Department of Transportation standards prior to the conducting of events.
9. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this 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 to application for site plan approval.

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.

Yea: (6) Brazelton, Myer, Suiter, Magowan, McCulloch, Mathes  
Nay: (0)

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**Application No. UP-833-13, Marquis Williamsburg RE Holding LLC:** Request to 1) amend the conditions of approval for a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, by authorizing major modifications to the design and layout of an existing retail center (The Marquis) located on 127 acres of land at the intersection of Marquis Center Parkway (Route 199) and Marquis Parkway (private) and further identified as Assessor's Parcel Nos. 11-4-3 (300 Whittakers Trace), 11-4-4 (100 Marquis Parkway), 11-4-5 (200 Marquis Parkway), 11-4-6 (210 Whittakers Trace), 11-4-7 (500 Marquis Parkway), 11-4-8 (120 Gristmill Plaza), 11-4-9 (100 Gristmill Plaza), 11-4-10 (100 Terra Cotta Lane), and 11-4-11 (130 Marquis Parkway); and 2) authorize the establishment of an automobile fuel dispensing establishment, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 2), on the above-referenced 82-acre parcel of land located at 300 Whittakers Trace and further identified as Assessor's Parcel No. 11-4-3. The properties are zoned EO (Economic Opportunity) and are designated Economic Opportunity with a Mixed Use overlay designation in the Comprehensive Plan.

**Timothy C. Cross, Principal Planner**, summarized the staff report to the Commission dated October 1, 2013, in which staff recommends that 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. PC13-25.

**Ms. Magowan** asked if the developer would be responsible for additional road improvements in the event that the development generates more traffic than expected.

**Mr. Cross** responded that there is no mechanism to require a developer to build additional roadways in such a scenario. He said that VDOT would address increased traffic volumes by adjusting the traffic signal timing to prevent delays on Route 199.

**Ms. Magowan** said she hopes the traffic estimates are correct or there will be traffic backups that the state and County would have to address.

**Mr. Cross** said traffic queues would be on the developer's property and the state is concerned with maintaining the traffic flow on Route 199 to ensure a Level Service C or better.

**Mr. Brazelton** said even though the Commission will be considering an application for the South Pod next month, the South Pod will influence traffic at the North Pod. He noted that there are two lanes of traffic going toward JC Penny but only one lane coming out, which he felt was insufficient. He asked if this should be addressed as part of the north pod application.

**Mr. Cross** said the roadway design for the South Pod was developed in accordance with what has already been approved and is not part of the North Pod application. He added that the applicant's traffic engineer was present and would be able to address that question.

**Mr. McCulloch** asked why are there two separate applications and why are they not being presented at the same time to understand the complete impact of the development.

**Mr. Cross** responded that the two applications are separate and are not contingent on each other. He explained that the second application is a Planned Development application, which requires an extra 30 days to process.

**Mr. McCulloch** noted the national discount club store has a letter of intent only if the residential area in the South Pod is approved. He said the two applications seem to be tied to each other and asked why they are being considered separately.

**Mr. Cross** responded that this is a land use question and no matter what happens with the South Pod application, the question currently before the Commission is whether or not the club discount store and the changes to the building layout are appropriate from a land use perspective, which is a determination the Commission can make independent of any potential changes on the South Pod

**Mr. Mathes** asked if the South Pod is being considered for residential development because it is unsuitable for commercial development.

**Mr. Cross** responded that the developer has indicated that commercial development is not viable for the South Pod.

**Mr. Mathes** asked if the current roadway infrastructure can accommodate the original plan that was designed for an even larger build-out than what currently exists.

**Mr. Cross** responded that the current roadway has been designed handle a larger build-out.

**Mr. Mathes** said he feels more comfortable with the application knowing that the road network can accommodate a larger amount of development.

**Mr. Myers** asked for a brief description of the South Pod under the current plan.

**Mr. Cross** said the approved plan is for a big box retail store.

**Mr. Myer** asked if the South Pod is to be rezoned to Planned Development Residential.

**Mr. Cross** said the proposal that will come before the Planning Commission at the November 13<sup>th</sup> meeting is to rezone the South Pod from EO (Economic Opportunity) to PDR (Planned Development Residential) to allow for 650 dwelling units with a mix of 161 single family detached units, 189 townhouses, and 300 apartments. He also said there are two areas of the South Pod that are proposed to remain Economic Opportunity.

**Mr. Myer** noted that the approved plan shows a second bridge.

**Mr. Cross** said that is correct and that on the proposed plan, the second bridge has been eliminated.

**Mr. Myer** asked if the second bridge was for vehicular or pedestrian traffic.

**Mr. Cross** said the second bridge was going to be for vehicles and pedestrians.

**Mr. Myer** asked if there is a change to the amount of roadway accessing the South Pod.

**Mr. Cross** said there would be no second access under the proposed plan.

**Mr. Myer** asked if the applicant had considered a charging station along with the fuel dispensing station.

**Mr. Cross** said he had passed the information regarding a charging station along to the applicant.

**Chair Suiter** asked what the Level of Service is at the intersection of Route 199 and Marquis Parkway.

**Mr. Cross** responded that based on the number of turning movements he is confident that it is currently operating at Level of Service A.

**Chair Suiter** said the amount of retail space would change from 398,000 square feet to 640,000 square feet, which is bound to have an effect on the number of daily trips. He noted that Water County USA is planning an expansion that will also have effects on traffic, and he expressed concern that as individual applications are approved, no one has looked at their cumulative effects on Route 199 and the intersection.

**Mr. Cross** responded that when a traffic impact analysis is performed for a particular development, the traffic engineer projects not just the amount of traffic generated by the development itself but also the growth in background traffic, which takes into account other development projects in the area that are also in the pipeline.

**Chair Suiter** asked if VDOT will give its seal of approval on the intersection.

**Mr. Cross** said VDOT will focus on the two Route 199 approaches to the intersections and that the traffic signal timing has been and will continue to be set to ensure an acceptable Level of Service on those two legs of the intersection

**Ms. Magowan** asked if the traffic analysis considered the additional residential units coming before the Planning Commission in November.

**Mr. Cross** said the traffic analysis discussed in the staff report reflects the proposed changes to the North Pod and the South Pod. He stated that the traffic analysis for the South Pod indicates that if it were rezoned for residential development, the amount of traffic generated would decrease significantly except in the morning peak hour since most shopping center stores typically are not open at 7:30 in the morning whereas people are driving to work at that hour.

**Ms. Magowan** asked if the current roadways would be able to accommodate both the North and South Pod applications.

**Mr. Cross** responded that staff's approach to evaluating the traffic impacts was to set aside the South Pod and compare the traffic associated with the North Pod development as approved with the traffic that would be associated with the North Pod development as proposed.

**Chair Suiter** asked if the traffic estimates assume the South Pod will be developed as currently approved.

**Mr. Cross** said that was correct. He stated that staff's concern was that the North Pod traffic numbers be no higher under the proposed plan than they are under the approved plan, and he added that they are, in fact, lower. He also noted that because the traffic estimates do not account for "pass-by" trips drawn from the existing traffic stream, they are probably actually lower than the staff report states.

**Chair Suiter** commented that not all big box retailers are the same and that this could affect the traffic analysis. He asked if staff is aware of the identity of the club retailer and took that into account in evaluating the traffic impact.

**Mr. Cross** explained that the *Trip Generation* manual is published by the Institute of Transportation Engineers and is used to determine the number of trips generated by various land uses. He stated that these trip generation rates are based on real counts taken at developments across the country for different land uses, including "club discount stores." He stated that the traffic estimates are based on those numbers.

**Chair Suiter** opened the public hearing.

**Greg Davis**, 4801 Courthouse Street, Williamsburg, spoke as the attorney for the applicant, Mr. Todd. He gave a presentation and said there has been a letter of intent received from a big box retailer but that he could not disclose the name because of confidentiality agreements. He stated that the new application provides a more realistic plan for the development with a 30% reduction in commercial square footage which carries with it a reduction in traffic. He said this project will have a positive impact on York County with an estimated \$137 million dollars in sales annually. In addition, he said the applicant accepts all the proposed conditions of approval.

**Mr. Myer** asked if the applicant has considered a charging station for electric vehicles.

**Mr. Davis** said there is not a need at this time for an alternative fueling station.

**Mr. Myer** said he would like to speak to the traffic engineer about traffic flow. He asked how the pending application for the South Pod would affect the traffic flow.

**Deborah Lencieski**, VHB, 351 McLaws Circle, Williamsburg, spoke as the traffic engineer for the applicant and said when working on the design for the pending application she wanted to maintain traffic volumes where the daily traffic volume would be less than or equal to the very worst that the daily demands were projected to be under the 2007 approved plans. She stated that the evening peak-hours traffic is much less but that in the mornings, with the introduction of the residential area, traffic will be higher but still significantly less than in the PM peak.

**Mr. Myer** noted that Water Country USA has an entrance off of Marquis Parkway for employees only, and he asked if Water Country had any plans to modify the use of that access point and whether Marquis Parkway ties into any other properties.

**Ms. Lencieski** said she did not know if Water Country USA has any planned land uses that would bring about changes to the employee-only access. She noted that there are no other properties served by Marquis Parkway

**Mr. Mathes** asked what the timeline for construction would be if the application is approved.

**Mr. Davis** responded that construction would begin in 2014 with a possibility of stores opening in 2014.

**Mr. Mathes** said he was satisfied with the traffic analysis since the existing roadway infrastructure was built to accommodate commercial on both the North and South Pods.

**Mr. Davis** said that is correct.

**Mr. McCulloch** asked the applicant why both applications were not presented to the Planning Commission at the same time.

**Mr. Davis** said the applications were submitted on the same day but since one is a Planned Development there is an additional 30-day period to process the application. He stated that the applicant wanted to stay on schedule with the North Pod and did not want to send a message to the national anchor tenant that there were any delays.

**Mr. Brazelton** said he was satisfied the traffic impact has been addressed. He said that with the proposed changes to the character of the South Pod he wanted an understanding of what Marquis Parkway is going to look like with the elimination of the second crossing between the North and South Pods.

**Mr. Davis** said having heard the Commissioners' comments regarding the traffic flow coming out of the proposed residential area; he would make sure the situation is analyzed.

**Ms. Magowan** said the proposal is a great idea for the County but she has concerns about the 650 households coming out of the Marquis. She stated that her fear is that there will be traffic problems similar to the Lee Hall interchange during rush hour.

**Mr. Davis** said Ms. Magowan's comments have been duly noted and will be addressed.

**Chair Suiter** asked for comments from the public.

**Shannon Hartig**, 210 Cherwell Court, spoke as a representative of the Days Hotel. She said her biggest concern is traffic at the intersection. She said her hotel has suffered because of diminished access and she would like the long-term plan to include better access to the surrounding businesses.

**Shawn Todd**, 400 North Ervay, Dallas Texas, spoke as the applicant. He said the applications were submitted at the same time and he did not want to delay the North Pod application due to a very anxious retailer. He said the bridge was more of an ornamental bridge for pedestrians and was never included in any previous traffic studies.

**Chair Suiter** closed the public hearing.

**Mr. Brazelton** said the proposed layout has a much different character from the plan that was approved in 2005. He said he is sorry that the town center area would be lost but that he understands that the old plan probably is just not viable for the existing clients to support.

**Ms. Magowan** said she supports this application because it will bring business to York County. She said the big box stores are less charming than the original application but she understands that the decision is market-driven. She said she still has concerns if there will be sufficient traffic capacity.

**Chair Suiter** said he has concerns about the South Pod that he will save until next month when the Commission considers that application.

**Mr. McCulloch** said he would have liked to have seen the two applications together.

**Mr. Mathes** said the application follows the Comprehensive Plan and hopes it will serve as a catalyst for development in the area. He said the applicant is going to have to take a good look at the main road going into and out of the complex.

**Mr. Myer** said he understands why the two applications were split but felt that perhaps both applications should be considered by the Board of Supervisors at the same time. He said would like to have solid estimates for traffic flowing from the South Pod into the North Pod.

**Chair Suiter** compared the two applications to a mixed-use application where the developer is expected to offer a development sequencing plan to ensure a proper balance of commercial and residential development, not just upon completion but throughout the construction process. He recommended that the applicant be prepared to address that next month.

**Mr. Myer** moved adoption of PC13-25.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A MAJOR AMENDMENT TO A PREVIOUSLY APPROVED RETAIL CENTER OF MORE THAN 80,000 SQUARE FEET AT THE INTERSECTION OF ROUTE 199 AND MARQUIS PARKWAY AND TO AUTHORIZE CONSTRUCTION OF AN AUTOMOBILE FUEL DISPENSING ESTABLISHMENT WITHIN THE RETAIL CENTER

WHEREAS, on December 20, 2005, the York County Board of Supervisors approved Application No. UP-686-05 to authorize a Special Use Permit for the establishment of a retail center of more than 80,000 square feet on property located on the south side of Route 199 in the southeast quadrant of the Interstate 64/Route 199 interchange; and

WHEREAS, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, the Board amended the conditions of approval for the retail center set forth in Resolution No. R05-201(R) on May 16, 2006 and again on September 4, 2007 through the adoption of Resolution Nos. R06-74(R) and R07-118 respectively; and

WHEREAS, Marquis Williamsburg RE Holding LLC has submitted Application No. UP-833-13, which requests to 1) amend the conditions of approval set forth in the Resolution Nos. R05-201(R), R06-74(R), and R07-118, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, by authorizing major modifications to the design and layout of the previously approved retail center located on 127 acres of land at the intersection of Marquis Center Parkway (Route 199) and Marquis Parkway (private) and further identified as Assessor's Parcel Nos. 11-4-3 (300 Whittakers Trace, GPIN H13d-4834-2062), 11-4-4 (100 Marquis Parkway, H13b-3833-3806), 11-4-5 (200 Marquis Parkway, GPIN H13b-3832-3152), 11-4-6 (210 Whittakers Trace, GPIN H13b-3705-2673), 11-4-7 (500 Marquis Parkway, GPIN H13b-4652-2897), 11-4-8 (120 Gristmill Plaza, GPIN H13d-4301-2012), 11-4-9 (100 Gristmill Plaza, GPIN H13d-4030-2029), 11-4-10 (100 Terra Cotta Lane, GPIN H13b-4347-2639), and 11-4-11 (130 Marquis Parkway, GPIN H13b-3822-3722); and 2) authorize the construction of an automobile fuel dispensing establishment, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 2), on the above-referenced 82-acre parcel of land located at 300 Whittakers Trace and further identified as Assessor's Parcel No. 11-4-3 (GPIN H13d-4834-2062); 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 October, 2013, that Application No. UP-833-13, be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval to 1) amend the conditions of approval set forth in the Resolution Nos. R05-201(R), R06-74(R), and R07-118, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, by authorizing major modifications to the design and layout of a previously approved retail center of more than 80,000 square feet; and 2) authorize the construction of an automobile fuel dispensing establishment, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 2); subject to the following conditions:

1. This Special Use Permit shall 1) amend the conditions of approval set forth in the Resolution Nos. R05-201(R) and R06-74(R), pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, by authorizing major modifications to the design and layout of a previously approved retail center of more than 80,000 square feet located on 127 acres of land at the intersection of Marquis Center Parkway (Route 199) and Marquis Parkway (private) and further identified as Assessor's Parcel Nos. 11-4-3 (300 Whittakers Trace, GPIN H13d-4834-2062), 11-4-4 (100 Marquis Parkway, H13b-3833-3806), 11-4-5 (200 Marquis Parkway, GPIN H13b-3832-3152), 11-4-6 (210 Whittakers Trace, GPIN H13b-3705-2673), 11-4-7 (500 Marquis Parkway, GPIN H13b-4652-2897), 11-4-8 (120 Gristmill Plaza, GPIN H13d-4301-2012), 11-4-9 (100 Gristmill Plaza, GPIN H13d-4030-2029), 11-4-10 (100 Terra Cotta Lane, GPIN H13b-4347-2639), and 11-4-11 (130 Marquis Parkway, GPIN H13b-3822-3722); and 2) authorize the construction of an automobile fuel dispensing establishment, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 12, No. 2), on the

above-referenced 82-acre parcel of land located at 300 Whittakers Trace and further identified as Assessor's Parcel No. 11-4-3 (GPIN H13d-4834-2062).

2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any construction or land clearing activities on the site. Said site plan shall be in substantial conformance with the sketch plan titled "North Pod Master Plan," prepared by VHB and dated August 29, 2013, except as modified herein.
3. The maximum allowable size of the retail center shall be 640,000 square feet of building area.
4. Parking lot layout and design shall comply with all applicable requirements of Section Nos. 24.1-606 and 607 of the Zoning Ordinance including, specifically, the provisions requiring:
  - a. Twenty (20) additional Landscape Credit Units (LCUs) to be earned for every ten (10) parking spaces in excess of the minimum number required by the Zoning Ordinance;
  - b. A maximum of fifteen (15) parking spaces in a row without an intervening landscaped island; and
  - c. The provision of landscaped islands and dividers to provide clear delineation of circulation patterns, guide vehicular traffic, prevent unsafe diagonal movements through the parking lot, break large expanses of pavement into sub-areas, minimize glare and noise, and delineate safe pedestrian routes
5. The automobile fuel dispensing establishment shall have a maximum of twelve (12) fueling positions.
6. All other conditions set forth in Resolution Nos. R05-201(R), R06-74(R), R07-118, and R07-127 shall remain in full force and effect.
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.

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.

Yea: (6) Brazelton, Myer, Suiter, Magowan, McCulloch, Mathes  
Nay: (0)

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**Application No. UP-834-13, Swing Kingz, LLC:** Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 9, Nos. 9 and 10) of the York County Zoning Ordinance, to authorize miniature golf, batting cages, and a golf driving range on an 11.3-acre portion of an 87.8-acre parcel located at 301 Lightfoot Road (Route 646) approximately 1,000 feet east of Richmond Road (Route 60) on the north side of Lightfoot

Road and further identified as Assessor's Parcel No. 2-17. The property is zoned EO (Economic Opportunity), and the Comprehensive Plan designates this area as Economic Opportunity with a Mixed Use overlay designation.

**Earl Anderson, Planner**, summarized the staff report to the Commission dated September 30, 2013, in which staff recommends that 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. PC13-23.

**Mr. Mathes** asked who would be responsible for the 25' buffer, the applicant or the adjacent property owner.

**Mr. Anderson** said it would be the applicant or whoever is running the business at the time the buffer is needed.

**Mr. Myer** said the sequence of events surrounding this application is troubling. He noted it took the applicant nine months to submit the application after being notified of the zoning violation. He expressed concern, given that track record, about the applicant's ability to install the required landscape buffer in a timely manner. He asked if the applicant understands what his responsibilities would be under the proposed conditions of approval.

**Mr. Anderson** said the applicant has reviewed the proposed resolution and is aware of the proposed conditions.

**Mr. Myer** noted that there is a difference between being aware and understanding.

**Chair Suiter** asked if the applicant has a business license and if he has been paying business taxes to the County while he has been operating without a business license.

**Mr. Anderson** said all taxes would be retroactive upon approval of the application.

**Chair Suiter** opened the public hearing.

**Vernon Geddy**, 1177 Jamestown Road, Williamsburg, spoke as the attorney for the applicant. He said that the applicant is a young, small businessman who is learning and did try to submit a Special Use Permit in September but that it did not come together so he reached out to his firm for some help and guidance. He said the applicant realizes the mistakes that were made and he fully understands the conditions of the application.

**Mr. Mathes** asked why the previous owner left the business.

**Mr. Geddy** said he did not know.

There being nobody else wishing to speak, **Mr. Suiter** closed the public hearing.

**Ms. Magowan** said she supports the application.

**Mr. Mathes** said the application is consistent with the Comprehensive Plan.

**Mr. Myer** said the applicant seems to be a young businessman trying to do the right thing and suggested that all start-up business persons should ask for assistance from the planning staff.

Chair Suiter said he drove by the property and it is very attractive.

Mr. Mathes moved adoption of PC13-23.

**RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF A GOLF DRIVING RANGE, MINIATURE GOLF, AND BATTING CAGE FACILITY AT 301 LIGHTFOOT ROAD**

WHEREAS, Swing Kingz, LLC, has submitted Application No. UP-834-13, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 9, Nos. 9 and 10) of the York County Zoning Ordinance, to authorize miniature golf, batting cages, and a golf driving range facility on an 11.3-acre portion of an 87.8-acre parcel located at 301 Lightfoot Road (Route 646) and further identified as Assessor's Parcel No. 2-17 (GPIN B19a-1390-4015); and

WHEREAS, said application has been referred 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 October, 2013 that Application No. UP-834-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a miniature golf, batting cage, and golf driving range facility subject to the following conditions:

10. This use permit shall authorize the establishment of a miniature golf, batting cage, and golf driving range facility on an 11.3-acre portion of an 87.8-acre parcel located at 301 Lightfoot Road (Route 646) and further identified as Assessor's Parcel No. 2-17 (GPIN B19a-1390-4015).
11. The miniature golf, batting cage, and golf driving range facility shall be operated in substantial conformance with the plan titled "Conceptual Plan for Special Use Permit at The Swing King Facility, Existing Conditions" dated 8/29/2013 and prepared by Land Tech Resources, Inc., a copy of which shall remain on file in the office of the Planning Division.
12. The miniature golf, batting cages, and a golf driving range shall be operated in accordance with the standards set forth in Section 24.1-454, *Standards for all recreation and amusement uses*; Section 24.1-458, *Standards for miniature golf, waterslide, skateboard rink, baseball hitting range, golf driving range, and other outdoor commercial amusements* of the Zoning Ordinance.
13. The one hundred-foot (100') separation buffer required under Section 24.1-458 may be reduced to a minimum of twenty-five feet (25'), provided, however, that buildings or parking areas developed in the future on any portion of the parent tract (i.e., the remainder of the parcel owned by the Williamsburg Pottery Factory, Inc.) shall be a minimum of fifty feet (50') from the driving range perimeter. The portion of the buffer adjoining the Laurel Spring Farm LLC parcel to the west shall be landscaped in accordance with the following standards. Landscaping of the remainder of the buffer may be deferred until the adjoining property is proposed for development and then shall be installed within ninety (90) days of the issuance of a building permit for construction on said adjoining property. Said buffer shall be landscaped to achieve the following ratios, at a minimum:

- One large evergreen tree (ultimate height greater than or equal to 40') for every thirty (30) linear feet measured along the outside edge of the buffer, plus
  - One medium evergreen tree (ultimate height 20' to 40' for every twenty-five (25) linear feet measured along the outside edge of the buffer.
6. In accordance with the standards of the Virginia Department of Transportation (VDOT), the right shoulder area of westbound Lightfoot Road shall be restriped with skip marks.
  7. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, prior to site plan approval a certified copy of this resolution shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

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

Yea: (6)  
Nay: (0)

Brazelton, Myer, Suiter, Magowan, McCulloch, Mathes

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**Application No. ZT-145-13, York County Board of Supervisors:** Consider an amendment to Section 24.1-306 – Category 1, No. 9 (Table of Land Uses) of the York County Zoning Ordinance (Chapter 24.1, York County Code) to add an opportunity for approval by Special Use Permit of Senior Housing – Independent Living Facility – Multi-unit Structures w/ Internal Entrances in the EO-Economic Opportunity District.

**Mark Carter, Assistant County Administrator,** summarized the staff report to the Commission dated September 25, 2013, in which staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation of approval set forth in proposed Resolution No. PC13-22.

**Chair Suiter** opened the public hearing.

There being nobody wishing to speak, **Chair Suiter** closed the public hearing.

**Ms. Magowan** moved adoption of PC13-22.

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-145-13 TO AMEND SECTION 24.1-306 OF THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) TO ADD *SENIOR HOUSING-INDEPENDENT LIVING – MULTI-UNIT STRUCTURES WITH INTERNAL ENTRANCES* AS A USE PERMITTED BY SPECIAL USE PERMIT IN THE EO-ECONOMIC OPPORTUNITY ZONING DISTRICT

WHEREAS, this application has been sponsored by the York County Board of Supervisors to allow consideration of an amendment to Section 24.1-306 (Table of Land Uses) of the York County Zoning Ordinance to add Senior Housing-Independent Living – Multi-unit Structures with Internal Entrances as a Special Use Permit use in the EO-Economic Opportunity zoning district; 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 October, 2013 that Application No. ZT-145-13 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation for approval of the following amendment to Section 24.1-306, Table of Land Uses, Category 1- Residential Uses, of the York County Zoning Ordinance:

**Sec. 24.1-306. Table of land uses.**

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

(1) Refer to Section 24.1-407 for accessory apartment location and performance standards (Ord. No. 03-2, 1/21/03; Ord. No. 03-8(R), 3/4/03; Ord. No. 03-25, 6/17/03; Ord. No. 08-17(R), 3/17/09; Ord. No. 11-15(R), 11/16/11)

Yea: (6)  
Nay: (0)

Brazelton, Myer, Suiter, Magowan, McCulloch, Mathes

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**OLD BUSINESS**

There was no new business.

## **NEW BUSINESS**

Chair Suiter said there is a seven member committee for the Marquis architecture review and since the Planning Commissioner seat from District 1 is vacant at this time; Mr. Brazelton has agreed to serve on the Marquis committee.

## **STAFF REPORTS**

**Mr. Carter** referred to the Development Activity Report dated October 9, 2013, and offered to answer questions. Mr. Carter also spoke regarding the two separate Marquis applications in hope of easing the minds of the Commissioners regarding traffic. He stated that the Trip Generation Manual published by the Institute of Transportation Engineers is the accepted source of traffic generation information for VDOT, the County and traffic engineering professionals. He also explained that the Marquis application relating to the South Pod is a request for a Planned Development and that type of application operates on a different time table than a Special Use Permit. As Mr. Cross previously stated, staff has looked at the North Pod application under the assumption that the South Pod might remain exactly as it is currently approved and traffic has been looked at assuming that might be the case. The road network works with the adjustments to the North Pod and with the assumptions about the South Pod. The traffic situation actually gets better if the South Pod changes to residential and will still operate in accordance with the Level of Service C standard. He said that the roads in the proposed residential development would either be public streets or private streets. In this case the developer is proposing private streets but the ordinance states that the streets must be designed and constructed to the same standards as what VDOT would require. He noted that staff would not make a recommendation of approval for something that would not work due to capacity or design. He said access to the South Pod will need to be a boulevard design to meet the County requirements for two points of access.

**Mr. Brazelton** asked if there would be a bike lane in the proposed development.

**Mr. Carter** said that all the details would be worked out during site plan review.

**Chair Suiter** asked why there is a longer lead time for Planned Development applications.

**Mr. Carter** explained that planned developments are more complex and they take longer to be reviewed by various agencies.

**Mr. Myer** asked about the proposed Rose Hill subdivision in Lackey and how there could be a proposed subdivision in an area with such poor roadway access, as was noted during the public hearing on the group home application in August.

**Mr. Carter** responded that Rose Hill is a matter of right development and one of the requirements of this subdivision (per a proffer by the landowner) is for the developer to provide a road connection between the development and Crawford Road. He stated that the road connection between Rose Hill and Crawford Road would provide a secondary means into the rear portion of the Lackey area.

**Chair Suiter** asked about the Attorney General's opinion regarding group homes.

**James Barnett, County Attorney**, said he has asked the Attorney General for an opinion regarding the state code definition of group homes and whether or not the County can require a Special Use Permit for group homes that have non-resident employees. He stated that he has not yet received a response but that he expects one soon.

**COMMITTEE REPORTS**

There were no committee reports.

**COMMISSION REPORTS AND REQUESTS**

There were no Commission reports and requests.

**ADJOURN**

The meeting was adjourned at 9:16 P.M.

**SUBMITTED:**

  
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Lisa Swartz, Secretary

**APPROVED:**

  
\_\_\_\_\_  
Mark B. Suiter, Chair

**DATE:**

11-13-13