

**MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
July 13, 2022

MEMBERS

Douglas Holroyd
Glen D. Titus
Mary P. Leedom
Michael S. King
Robert T. Criner
Robert W. Peterman
Joseph P. Smith

CALL TO ORDER

Chair Titus called the meeting to order at 7:00 p.m. and 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.

ROLL CALL

The roll was called and all Commissioners were present except Robert Peterman. Staff members present were Timothy C. Cross, Deputy Director of Planning and Development Services; Richard E. Hill, Jr.; Deputy County Attorney; Amy Parker, Senior Planner; Earl W. Anderson, Senior Planner; Jeanne Sgroi, Management Analyst; and Jacob Rizzio, Intern.

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

Chair Titus led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Criner moved to adopt the minutes of the regular meeting on June 8, 2022. The motion was approved (5:0).

ELECTION OF OFFICERS FOR FY 2023

With **Deputy County Attorney Richard Hill** presiding, Chair Titus nominated Ms. Leedom to serve as Chair for FY 2023, and Ms. Leedom was elected (6:0). Chair Titus nominated Mr. Holroyd to serve as Vice Chair for FY 2023, and Mr. Holroyd was elected (5:0).

CITIZEN COMMENTS

There were no citizen comments

PUBLIC HEARINGS

Application No. UP-998-22, Emani Properties Inc: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 1, No. 6) of the York County Zoning Ordinance, to authorize the establishment of a tourist home in an existing single-family detached dwelling on a 0.25-acre parcel located at 104 Bethune Drive (GPIN G13d-3833-0430). The property is zoned R13 (High-density single family residential) and designated High Density Residential in the Comprehensive Plan.

Timothy C. Cross, Deputy Director of Planning and Development Services, summarized the staff report dated July 1, 2022, stating that 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 Resolution No. PC22-20.

Mr. Titus asked if there are any more recent photos of the renovations that have been completed.

Mr. Cross responded that the photos shown in the presentation were taken a few weeks ago and that he believes the work on the house has ceased temporarily. He stated that the home repairs and renovations will be an improvement to the neighborhood.

Chair Leedom asked if there is a timeline for completion of the renovations.

Mr. Cross deferred to the applicant.

Mr. Holroyd noted that the resolution states that the additional driveway requires VDOT approval and he asked if that is a condition of approval for the Special Use Permit.

Mr. Cross responded that it is.

Mr. Holroyd asked if there is any evidence that the next-door neighbor, Mr. Cowles, has agreed to look after the property while rentals are taking place, as the applicant has indicated.

Mr. Cross responded that he has not spoken to Mr. Cowles but noted that he is one of the four adjacent residents who signed a statement in support of the application.

Mr. Holroyd said he found it strange that the application would go forward with a requirement that the neighbor look after the home without some documentation.

Mr. Cross responded that this has been done before. He stated that a few Special Use Permits have been approved with a third party management arrangement without that third party being identified during the public hearing process.

Mr. Smith asked if the Planning Division received any comments about application.

Mr. Cross responded that he received an email in opposition to the application from a Carver Gardens resident, which he forwarded to the Commissioners, and an anonymous email from someone who was also opposed to the application. He added that he received a phone call from an adjacent property owner who lives directly behind the house and asked questions about the application but did not offer an opinion.

Chair Leedom opened the public hearing.

Raul Mendez, 6260 Chelsea Crescent, Williamsburg, spoke as the applicant and owner of Emani Properties Inc. He stated that he has lived in the area for ten years and owns a local real estate team that helps transitioning military families who need temporary housing. Mr. Mendez stated that he plans to use the property for family members visiting from Texas and North Carolina as well as advertise it as a short-term rental on one of the online platforms. He said he does not want to jeopardize the neighborhood and would abide by all the rules. Mr. Mendez stated that the next-door neighbor has been maintaining the landscaping and keeping an eye on the property since before the property was purchased and has agreed to help with the management in the event of an emergency. He added that many of the neighbors are in support of the application and that he has given them his phone number in case there are any problems. He said the property has been an eyesore for years and that the renovations would be an improvement to the neighborhood.

Mr. King asked how the renovations are progressing since staff had stated that work on the house has been halted, and he asked what the timeline is for making the improvements outlined in the presentation.

Mr. Mendez responded that he expects the work to be completed in sixty days.

Mr. King asked Mr. Mendez what he plans to do with the property if the application is not approved. He also asked if he is the owner of the property.

Mr. Mendez responded that he owns the home and that he has not decided yet what he will do if the application is not approved. He said he might offer it as a long-term rental.

Mr. Smith asked what military bases he is targeting for military families transitioning into the area.

Mr. Mendez responded he is a real estate agent and often works with military families who scramble to find housing when closings on houses are delayed.

Mr. Smith asked what online platform he would use to advertise the property.

Mr. Mendez responded he has not decided yet, but it would probably be Airbnb or VRBO.

Richard Howell, 104 Horseshoe Drive, stated that he opposes this application, stating that the proposed tourist home does not meet the Zoning Ordinance definition of a tourist home because the owner does not reside on the property and purchased it solely for commercial venture. He said County zoning requirements are much more restrictive for home occupations than for short-term rentals (STRs), noting that with a home occupation, the owner is required to reside in the home. In addition, he cited other home occupation requirements. Mr. Howell stated that to allow STRs where the owner does not live in or adjacent to the home violates the intent of the residential zoning and the Comprehensive Plan. He stated that the parking is not adequate and that the applicant would be making alterations to the property, which would not be allowed for a home occupation. Finally, he stated that this type of STR would not be permitted in James City County, Williamsburg, or Newport News and that the applicant lives farther away from the property than the County Administrator has previously deemed to be acceptable.

There being no one else wishing to speak with regard to this application, **Chair Leedom** closed

the public hearing.

Mr. Smith asked Mr. Cross to respond to the comments made by Mr. Howell.

Mr. Cross responded that he does not understand the comparison of tourist homes to home occupations since tourist homes are not home occupations and they fall under a separate section of the Zoning Ordinance. He stated that staff and the Commission have discussed these issues at great length over the past years and that to date, the Commission and the Board of Supervisors have not felt there needs to be an ironclad rule that the owner must live on the property or in an adjacent premises, which is why the Zoning Ordinance provides for these types of third party arrangements involving the designation of a responsible party. He said such arrangements have been approved in some cases and denied in others. He stated that Mr. Howell is correct that this is a commercial venture but noted that there is nothing in the ordinance preventing it. Lastly, he stated that staff also had some concerns about this application but felt that they were not significant enough to warrant a recommendation of denial.

Mr. Titus said he opposes the application for a number of reasons. He stated that it is a whole house rental by a commercial entity with a third party management arrangement in a residential neighborhood, which he felt was not consistent with the Commission's intent for STRs. He also expressed concern about was the conversion of an affordable housing unit to a commercial use and a general concern about the commercialization of residential neighborhoods by real estate companies buying up properties and operating them as STRs.

Mr. King said he agreed with Mr. Titus and that he is uncomfortable with the fact that the improvements to the property have not been completed and that he can't see what the home will look like.

Mr. Criner said he does not find the affordable housing argument persuasive since the house would likely be used as a rental property if this application is denied. Nevertheless, he said he is not comfortable with a management arrangement that depends on a third party who could move away.

Mr. Smith expressed concern that approval of this application would set a precedent for more moderately-priced homes to be converted into STRs.

Mr. Holroyd said he agreed with Mr. Titus and Mr. King and would have liked to have seen the next-door neighbor at the meeting. He added that he would like to have seen a condition in the resolution with added controls in the event that the neighbor were to move.

Mr. Titus moved the adoption of Resolution No 22-20.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR
A SPECIAL USE PERMIT TO AUTHORIZE A TOURIST HOME AT 104
BETHUNE DRIVE

WHEREAS, Emani Properties Inc. has submitted Application No. UP-997-22 to request a Special Use Permit, pursuant to Section 24.1-306 (Category 1, No. 6) of the York County Zoning Ordinance, to authorize the establishment of a tourist home in an existing single-family detached dwelling on a 0.3-acre parcel (GPIN G13d-3833-0430) located at 104 Bethune Drive (Route 1102); 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 13th day of July, 2022, that Application No. UP-997-22 be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval of a Special Use Permit, pursuant to Section 24.1-306 (Category 1, No. 6) of the York County Zoning Ordinance, to authorize the establishment of a tourist home in an existing single-family detached dwelling on a 0.3-acre parcel (GPIN G13d-3833-0430) located at 104 Bethune Drive (Route 1102) subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of a three-bedroom tourist home in an existing single-family detached dwelling on a 0.3-acre parcel (GPIN G13d-3833-0430) located at 104 Bethune Drive (Route 1102).
2. The tourist home shall be operated in accordance with the performance standards set forth in Section 24.1-409 of the York County Zoning Ordinance, Standards for boarding houses and short-term rental homes (tourist home and bed and breakfast establishments), and with the floor plan and narrative description submitted by the applicant and received by the York County Planning Division on June 1, 2022, and June 28, 2022 respectively, copies of which shall remain on file in the office of the Planning Division.
3. Pending County and VDOT approval, an additional asphalt-paved parking space sufficient to accommodate two vehicles shall be provided on the property as described and depicted in the referenced narrative description.
4. Rental of individual rooms within the dwelling shall not be permitted.
5. No signage identifying the tourist home shall be permitted.
6. A maximum of six (6) guests may occupy the tourist home at any one time.
7. Guests' lengths of stay shall range from a minimum of two nights to a maximum of thirty nights.
8. Exterior cooking appliances used by tourist home guests shall have a fuel source of either propane or natural gas. The use of charcoal shall be prohibited. Any outside fire pits must be lit, supervised, and extinguished by the property owners.
9. The term of this Special Use Permit shall expire upon the termination of ownership of the subject property by the applicant.
10. 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 prior to commencement of the tourist home use.

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.

On a roll call the vote was:

Yea: (0)

Nay: (6) King, Criner, Smith, Titus, Leedom, Holroyd

Application No. UP-998-22, Wayne Harbin: Request for a Special Use Permit, pursuant to Section 24.1-306 (category 1, no. 6) of the York County Zoning Ordinance, to authorize the establishment of a tourist home on a 0.3-acre parcel (U09a-2278-3681) located at 106 Shirley Road (Route 626). The property is zoned RR (Rural Residential) and is designated Low Density Residential in the Comprehensive Plan.

Jeanne Sgroi, Management Analyst, gave a brief overview of the application, stating that the applicant was not able to attend the meeting and has requested that the application be tabled until the August 10 meeting. She stated that staff recommends the Commission open the public hearing, take comments from anyone who wishes to speak, and then continue the hearing to its August 10 meeting. She added there would be a full staff presentation at that time.

Mr. Smith asked if there is a home on the property.

Ms. Sgroi responded that there is. She explained that the applicant relocated the home from his property at 125 Shirley Road to the subject property at 106 Shirley Road and is living in an accessory dwelling at 125 until they build a new home there.

Mr. Holroyd asked if there is any evidence that Mr. Harbin lives at 125 Shirley Road.

Ms. Sgroi responded that it is not standard practice for the County to collect that information.

Mr. Cross responded that his address of record is in Williamsburg.

Mr. Smith asked if the County has received any citizen comments.

Ms. Sgroi responded that no comments have been received.

Chair Leedom opened the public hearing.

No one was present who wished to speak with regard to this application.

Mr. King moved that the public hearing on the application be continued to the September 14 meeting.

On a roll call the vote was:

Yea: (6) King, Criner, Smith, Leedom, Holroyd, Titus
Nay: (0)

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. Holroyd expressed concerns about the noise levels measured at the Tidal Wave Auto Spa on Mooretown Road and stated that the County Attorney had recently indicated that since the County is considering amending the noise ordinance, no zoning enforcement action is being taken at this time. He asked Mr. Hill to comment.

Mr. Hill responded that staff has looked at the noise issue and is having discussions about whether or not to recommend changes to the noise ordinance that may remedy this situation. He noted that one of the citizens who brought this to the County's attention indicated he was not looking for a citation to be issued but rather was looking for vegetation or noise mitigation on Tidal Wave's part. Mr. Hill stated that if any changes to the noise ordinance are proposed, they would have to be approved by the Board of Supervisors after conducting a public hearing. He added that there are other instances where zoning enforcement action might not be taken to address a potential violation, such as cases where someone seeks some sort of exception to allow them to do something that is not permitted. In this case, he stated, since there are ongoing discussions both among County staff and between staff and representatives of Tidal Wave, the County has decided not to take any immediate action. Lastly, he stated that if enforcement action were taken, a citation would be issued and Tidal Wave would be taken to court and, if found guilty of violating the noise ordinance, would likely be fined \$50.

Mr. Holroyd thanked Mr. Hill for the clarification.

STAFF REPORTS

Mr. Cross reported that at its June 21 meeting, the Board of Supervisors approved two tourist home applications, one on Railway Road and the other on Baptist Road in the Lackey area. He added the Board also approved an application to expand the Tabb Walmart, which was processed as a minor expansion of a legally conforming special use and therefore did not come before the Commission. He stated that the Board will consider two more tourist homes at its July 19 meeting, one on Oaktree Road and the other on Ambler Street in the Yorktown village. He added that the Commission's August 13 meeting will be canceled since there are no applications on the agenda and the Commission continued the Wayne Harbin application to the September 14 meeting. Lastly, Mr. Cross noted that copies of the Commission's Annual Report for the 2020-21 Fiscal Year were distributed at the meeting.

COMMITTEE REPORTS

Mr. King reported that the York 2040 Committee met last week and discussed the draft Citizen Input chapter. He stated that staff did a good job presenting the several types of input, which included the citizen survey and comments from six public meetings held throughout the County. He stated that if the Committee meets in August, it would be on August 3rd.

COMMISSION REPORTS AND REQUESTS

There were no Commission reports or requests.

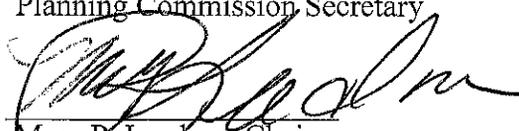
ADJOURN

There being no further business to discuss, the meeting was adjourned at 7:55 PM.

SUBMITTED:


Catherine G. Tartabini
Planning Commission Secretary

APPROVED:


Mary P. Leedom, Chair

DATE:

9/14/2022