

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall, 301 Main Street
September 14, 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 Leedom 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. She explained that this responsibility is exercised through recommendations conveyed by resolutions or other official means, all of which are matters of public record. She 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 Glen D. Titus, Robert T. Criner, and Joseph P. Smith. 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 Cathy Tartabini, Planning Assistant.

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

Chair Leedom led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Holroyd noted a correction to the minutes of the regular meeting on July 13, 2022, to accurately reflect the number of voting members. Mr. Holroyd then moved to adopt the minutes as amended. The motion was approved (3:0), with Mr. Peterman abstaining.

CITIZEN COMMENTS

There were no citizen comments

PUBLIC HEARINGS

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, summarized the staff report dated August 31, 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. PC22-21(R).

Chair Leedom opened the public hearing.

Wayne Harbin, 125 Shirley Road, spoke as the applicant and stated that when he bought the property, he didn't want to destroy the existing house, so he moved it to 106 Shirley Road. He explained that he wants to use the home to host family gatherings and also, in order to recoup the cost of relocating it, offer it for short-term rentals. He said that short-term rentals are easier to manage than long-term rental where it takes months to get renters to vacate a property. Mr. Harbin added that he held a neighborhood meeting to address any concerns that the neighbors might have and all those present seemed to have no objections. In addition, he stated that this is a good area for a short-term rental since a lot of people come to Seaford to fish and that he did not think traffic or parking would be a problem.

Mr. Holroyd asked Mr. Harbin why he is living in an apartment above the garage.

Mr. Harbin responded that he needs less space as he gets older but that he is adding onto the building. He added that he has no plans to move out of Seaford.

Kary Snyder, 300 Shirley Road, stated she has lived in Seaford since 2001 and owns two rental properties on Shirley Road and expects to inherit another property in a few years and is a proud Seaford homeowner. She recommended that the Commission recommend approval of the application, stating that vacationers benefit local businesses and should be welcomed to the community. In addition, she stated that she is a liaison for the Coast Guard base in Yorktown and that the proposed tourist home would be a great lodging place for parents coming to see their children graduate. Lastly, she stated that Mr. Harbin will be nearby to monitor the guests and that the Harbins are reputable people. She asked the Commission to recommend approval.

John Moore, 105 Club Way, stated that he owns the property at 105 Shirley Road, which is directly across the street from the subject property, and that he supports the application.

Doug Harbin, 202 Landing Road, spoke as Wayne Harbin's oldest son, stating that he has lived in Seaford for forty-five years. He stated that his father will be able to manage the short-term rental since he lives nearby. He stated that in the past the area had a fair amount of commercial traffic because of the marina and other water-oriented businesses and that he did not feel the tourist home would create a traffic problem. He asked the Commission to recommend approval.

Robert M. Alexander, 108 Harbor Crescent, said he has known Wade and Bonnie Harbin for forty-two years and is confident that they will be mindful of their neighbors. He said there is a void in Seaford for short-term accommodations for graduations, funerals, and weddings and that he would like the Planning Commission to support this application. He added the tourist home would be an asset for the Seaford community.

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

Mr. Peterman stated that he initially had some concerns about the application because of the location and the narrow streets but that since the community is in support of it, he will support it.

Mr. King said he agreed with Mr. Peterman's comments and was happy to hear that Mr. Harbin will be living nearby and will be able to keep an eye on the property.

Mr. Holroyd said that now that he knows the applicant will be living in close proximity, he is ready to support the application.

Mr. King moved the adoption of Resolution No 22-21(R).

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
AUTHORIZE A TOURIST HOME IN AN EXISTING DWELLING AT 106
SHIRLEY ROAD

WHEREAS, Wayne Harbin has submitted Application No. UP-998-22 requesting 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 U09a-2278-3681) located at 106 Shirley Road (Route 626); 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 14 day of September, 2022, that Application No. UP-998-22 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 on a 0.3-acre parcel (GPIN U09a-2278-3681) located at 106 Shirley Road (Route 626) subject to the following conditions:

1. This use permit shall authorize the establishment of a tourist home in an existing single-family detached dwelling on a 0.3-acre parcel (GPIN U09a-2278-3681) located at 106 Shirley Road (Route 626). Except as set forth herein, the establishment shall be operated in accordance with the floor plans provided by the applicant and received by the York County Planning Division on June 1, 2022, and the sketch plan and narrative description provided by the applicant and received by the York County Planning Division on June 3, 2022, copies of which shall remain on file in the office of the Planning Division.
2. The owner/operator of the tourist home shall reside at 125 Shirley Road during times of all tourist home rentals.

3. The tourist home shall be rented out as a whole house only. Rental of individual rooms shall be prohibited. The maximum number of guests occupying the tourist home at any one time shall be eight (8).
4. The maximum number of vehicles parked on the property at any one time shall be four (4).
5. No sign advertising the tourist home shall be allowed.
6. Exterior cooking appliances used by customers of the tourist home 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.
7. The term of this Special Use Permit shall terminate in the event that Wayne D. Harbin, Trustee ceases to own the subject property.
8. The tourist home shall be rented on a temporary basis for no fewer than three (3) and no more than thirty (30) continuous days.
9. A Certificate of Occupancy shall be issued prior to the commencement of the tourist home use.
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 on the subject property.

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: (4) King, Peterman, Holroyd, Leedom
Nay: (0)

Application No. UP-999-22, Ashley Anderson: 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 0.2-acre parcel (G14c-0187-2338) located at 141 W Semple Road (Route 726). The property is zoned R13 (High Density Single-Family Residential) and is designated High Density Residential in the Comprehensive Plan.

Jeanne Sgroi, Management Analyst, summarized the staff report dated September 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. PC22-22(R).

Mr. Holroyd asked if there are any short-term rentals outside the subdivision that are within a half-mile radius.

~~**Ms. Sgroi** responded that there are not.~~

Chair Leedom opened the public hearing.

Ashley Anderson, 141 West Semple Road, spoke as the applicant and stated that she bought the home in the summer of 2020. She said family and friends helped her to fully renovate the house and that she now plans to offer it for short-term rental from May through September as well as a few other weekends throughout the year and that she will be staying in York County not too far away while the property is rented. She noted the home's proximity to Colonial Williamsburg, William and Mary, and Busch Gardens. She stated that she has spoken with all of the neighbors and that her next-door neighbor, Hank Robertson, has agreed to oversee the property while rentals are taking place. She stated she plans to rent the home through Airbnb and that there will be house rules and guidelines in place that the guests will have to agree to prior to approval. Ms. Anderson added that she will have the ability to deny prospective guests that she is uncomfortable renting to.

Henry B. Robertson II, 115 Colonial Avenue, said he has lived in the County for forty-eight years and has seen the subject property change hands many time but that no one has taken an interest in building and making such a beautiful home as the applicant. He said he is retired and will be at home most of the day to keep an eye on the property while it is being rented. He encourage the Commission to recommend approval of the application.

Richard Howell, 104 Horseshoe Drive, expressed concern about the density of short-term rentals, noting that there has been an increase in tourist home applications in the last year. He stated that his concern is about the number of tourist homes in the County and not necessarily this application, and he opined that there should be some kind of limit. He said there is one approved tourist home one mile away in addition to the one on Edale Avenue and that there are two others within a two-mile radius.

Ms. Sgroi clarified that there are no tourist homes within a one mile driving radius of the subject property other than the one on Edale Avenue. She said there is a tourist home within a 1.6-mile driving distance and another within a 1.7-mile driving distance.

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

Mr. Peterman stated that initially he had some concerns that there is another short-term rental a short distance away but that since the neighbors support the application, the next-door neighbor is going to be there whenever there is a rental, and rentals will be limited to the tourist season, he will support the application.

Mr. King stated that he understood the concern expressed about over-saturation of tourist homes, but he noted that each Special Use Permit is evaluated based on its individual merits. He said he agreed with Mr. Peterman's comments about the neighborhood support and that he feels there are enough conditions to limit any potential impacts and that he supports this application.

Mr. Holroyd stated that Ms. Anderson gave a good presentation and that her application meets most of the criteria the Commission looks for but that he is bothered by the density of tourist homes in the area and therefore was not in favor of the application.

Ms. Leedom agreed with Mr. Holroyd, stating that the streets are narrow and questioning the ability of the property to accommodate three parking spaces. She added that she is concerned about the number of short-term rentals in the area and does not support the application.

Mr. Holroyd moved the adoption of Resolution No 22-22(R).

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
AUTHORIZE A TOURIST HOME IN AN EXISTING DWELLING AT 141
WEST SEMPLE ROAD

WHEREAS, Ashley Anderson has submitted Application No. UP-999-22 requesting 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 0.2-acre parcel (GPIN G14c-0187-2338) located at 141 West Semple Road (Route 726); 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 14 day of September, 2022, that Application No. UP-999-22 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 on a 0.2-acre parcel (GPIN G14c-0187-2338) located at 141 West Semple Road (Route 726) subject to the following conditions:

1. This use permit shall authorize the establishment of a tourist home in an existing single-family detached dwelling on a 0.2-acre parcel (GPIN G14c-0187-2338) located at 141 West Semple Road (Route 726). Except as set forth herein, the establishment shall be operated in accordance with the floor plan provided by the applicant and received by the York County Planning Division on July 28, 2022, the sketch plan provided by the applicant and received by the York County Planning Division on August 26, 2022, and the narrative description provided by the applicant and received by the York County Planning Division on September 1, 2022, copies of which shall remain on file in the office of the Planning Division.
2. The designated responsible party for the tourist home shall reside and be present at 115 Colonial Avenue during times of all tourist home rentals.
3. The tourist home shall be rented out as a whole house only. Rental of individual rooms shall be prohibited. The maximum number of guests occupying the tourist home at any one time shall be four (4).
4. No signage advertising the tourist home shall be permitted.

5. Exterior cooking appliances used by customers of the tourist home 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.
6. The term of this Special Use Permit shall expire upon the termination of ownership of the subject property by the applicant.
7. The tourist home shall be rented on a temporary basis for no fewer than two (2) and no more than fourteen (14) continuous nights.
8. In accordance with Sections 24.1-409(c) and 24.1-606(a)(6) of the York County Zoning Ordinance, a minimum of three off-street parking spaces shall be installed prior to commencement of the tourist home use on the subject property.
9. 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 on the subject property.

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: (2) King, Peterman
Nay: (2) Holroyd, Leedom

Application No. ZM-193-22, Celia and Timothy Whitlatch: Request to amend the York County Zoning Map by reclassifying two parcels containing a total of 0.39 acre of land (GPINs U09c-0060-1118 and U09c-0091-1175) located at 2200 and 2200A Seaford Road (Route 622) from RR (Rural Residential) to NB (Neighborhood Business). The property is designated Low Density Residential in the Comprehensive Plan. The Low Density Residential designation is intended to provide opportunities for single-family detached housing having a maximum density of 1.0 dwelling unit per acre. The NB district is intended to provide opportunities for limited types of commercial activities within or near residential districts and oriented primarily toward serving the day-to-day needs of nearby residential communities. The applicants have indicated that they wish to use the existing vacant commercial building on the property for a small retail store.

Amy Parker, Senior Planner, summarized the staff report dated September 1, 2022, stating that staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation of approval through the adoption of Resolution No. PC22-23.

Mr. Holroyd asked if the applicant has proffered to provide a driveway and parking area off Seaford Road.

Ms. Parker responded that it doesn't need to be proffered because it would be a requirement with the land use change. She explained that the driveway would be required as part of site plan review.

Chair Leedom opened the public hearing.

Tim Whitlatch, 600 York Point Road, spoke as the applicant. He stated they intend to completely renovate the dilapidated building and install a driveway off Seaford Road. He said the planned use of the property is a small business intended for selling house plants and craft items.

Mr. Holroyd asked if there would be CBD sales.

Mr. Whitlatch responded that there would be no CBD sales and that they would sell house plants and perennials.

Rebecca Nunes, 102 Club Way, stated that she lives adjacent to the subject property and is opposed to the proposed rezoning. She stated that the property was rezoned from commercial to residential years ago so that future uses would fit the immediate neighborhood, which is comprised of families with young children. She stated that she and her neighbors maintain the private road, Club Way, adjacent to the property and that customers are likely to use the private drive, which would pose a danger to young children who use the road and increase maintenance expenses. She stated the rezoning would open the door to other uses that are not compatible with the neighborhood. She stated that the applicants have proffered to prohibit many uses, there are still other undesirable uses that would be permitted. Ms. Nunes stated that any recommendation of approval should include additional proffers addressing such items as use limitations, screening and landscaping, access to Seaford Road, hours of operation, limitations on the types of items sold, and maintenance of the property.

John Moore, 105 Club Way, said he has lived across from the property since 1984 and that the previous commercial use was very limited in scale. He said it has since been abandoned and noted that there is an old sailboat on the property. He said he and his wife oppose the application.

Carla Mutone, 1017 Bay Tree Beach Road, said she is a member and trustee of the Women's Club of Seaford, which has been in existence for eighty years and was instrumental in bringing the post office and fire station to Seaford. She stated that the proposed rezoning would directly affect not just the property of the Seaford Women's Club but the entire surrounding area. She expressed concern about what might happen in the future to the retail use if the property were to change hands or if the property owners decide to add on the building. In addition, she stated that approval of this application would set a precedent for other commercial rezonings of residential land. She added that Seaford does not have a thoroughfare that is conducive to a retail environment. In closing, she stated that the Women's Club is opposed to the rezoning.

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

Mr. Peterman stated that there are already commercial properties along this portion of Seaford Road, including an office building and a market, with the Women's Club building to the rear. He said the building needs a lot of work and cannot be expanded because of the small size of the lot. In addition, he noted that the applicants plan to install the driveway and parking lot on Seaford Road and would not be using the private road. He said the application is an opportunity to replace a derelict building with a viable commercial use and that he is in support.

Mr. King said the current zoning is based on the Comprehensive Plan and is presumed to be correct and that the burden should be on the applicant to demonstrate the need for a change in zoning. He acknowledged that the applicant is trying to improve the property, but said the speakers raised made some valid concerns. He suggested that the applicant work with the adjacent property owners to address those concerns. He said he did not support the application.

Mr. Holroyd agreed with Mr. King that the applicant needs to make a strong case for rezoning the property. He also agreed that the applicants should work to address the concerns of the citizens who spoke against the application.

Ms. Leedom agreed with Mr. Holroyd.

Mr. Holroyd moved the adoption of Resolution No 22-23.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
REZONE 0.39 ACRE OF LAND AT 2200 AND 2200A SEAFORD ROAD FROM
RR (RURAL RESIDENTIAL) TO NB (NEIGHBORHOOD BUSINESS)
SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS

WHEREAS, Celia and Timothy Whitlatch have submitted Application No. ZM-193-22, which is a request to amend the York County Zoning Map by reclassifying two parcels containing a total of 0.39 acre (GPINs U09c-0060-1118 and U09c-0091-1175) located at 2200 and 2200A Seaford Road (Route 622) from RR (Rural Residential) to NB (Neighborhood Business) subject to voluntarily proffered conditions; 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 14 day of September, 2022, that Application No. ZM-193-22 be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying two parcels containing a total of 0.39 acre (GPINs U09c-0060-1118 and U09c-0091-1175) located at 2200 and 2200A Seaford Road (Route 622) from RR (Rural Residential) to NB (Neighborhood Business) subject to the voluntarily proffered conditions set forth in the proffer statement titled CONDITIONS VOLUNTARILY PROFFERED FOR THE RECLASSIFICATION OF PROPERTY LOCATED AT 2200/2200A SEAFORD ROAD, signed by Celia Whitlatch and Timothy Whitlatch, and dated July 26, 2022.

BE IT FURTHER RESOLVED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the ordinance approving this application, together with a duly signed copy of the proffer statement, shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to approval of a site plan for the property.

On a roll call the vote was:

Yea: (1) Peterman
Nay: (3) Holroyd, King, Leedom

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. Holroyd stated that at the Comprehensive Plan Review Steering Committee meeting last week he expressed concern about a complete loss of Wi-Fi and cellular service in Ontario, Canada last July. He said that as a result, all businesses were shut down, the 911 system was inoperable, and there were no cash transactions. He suggested that the Planning staff meet with representatives of Cox Communications to see how Cox would address the items that came up in the public inquiry that followed the incident in Ontario. He stated that he feels there needs to be a strong communications backup in the County in addition to backup energy.

Mr. King responded that it is the duty of the Steering Committee to listen to the input it receives and decide what actions should be taken and if anything is going to happen, it is that Committee that needs to make the decision, not the Planning Commission. He added that he has confidence that the County's public safety personnel are doing everything possible to ensure reliability of our communication systems.

Mr. Peterman agreed with Mr. King that the Comprehensive Plan Committee is the proper body to consider this issue.

STAFF REPORTS

Mr. Cross reported that at its July 19 meeting, the Board of Supervisors approved two tourist home applications, one on Ambler Street in the Yorktown village and one on Fenton Mill Road. He added at its August 16 meeting, the Board approved a home pet grooming business on Penniman Road and an HVAC contractor building on Route 17. He stated that the Tres Pollitos tourist home application on Allens Mill Road has been withdrawn and the applicants indicated that they have found a military family to rent the home to on a long-term basis but that they may come back to pursue a Special Use Permit at a later date. Mr. Cross further stated that there are no land use cases on the agenda for the Board's September 20 meeting and that the Tidal Wave Auto Spa application for property on Route 17 has been withdrawn by the applicant. He added that the Board is considering canceling its October 18 meeting, in which case the applications that came before the Commission tonight would not be considered until November at the earliest. Lastly, he stated that the Commission's October 12 meeting will be canceled since there are no applications on the agenda but that there will be a community informational meeting that night on the Sims Metal Special Exception application that the Commission recommended approval of at its May 11 meeting. He said the meeting is scheduled for October 12 at 7:00 PM at the Tabb Library and will be an opportunity for the residents of Tabb Lakes and other to learn about the application and have discussions with representatives from Sims Metal and the County.

COMMITTEE REPORTS

Mr. King reported that the York 2040 Committee met last week and discussed the draft Public Facilities element, specifically the sections pertaining to Public Safety, Government Offices, and Libraries. He said the next meeting will focus on Parks and Recreation, Tourism, and Schools and will take place on October 5.

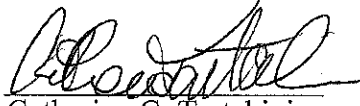
COMMISSION REPORTS AND REQUESTS

There were no Commission reports or requests.

ADJOURN

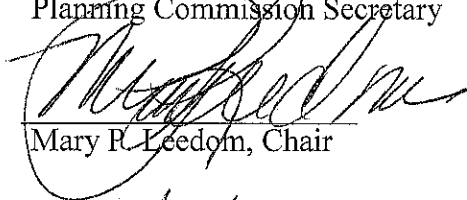
There being no further business to discuss, the meeting was adjourned at 8:20 PM.

SUBMITTED:



Catherine G. Tartabini
Planning Commission Secretary

APPROVED:



Mary R. Leedom, Chair

DATE:

9/14/2022

