

**COUNTY ADMINISTRATOR**  
Neil A. Morgan



**BOARD OF SUPERVISORS**  
Walter C. Zaremba  
District 1  
Sheila S. Noll  
District 2  
W. Chad Green  
District 3  
Jeffrey D. Wassmer  
District 4  
Thomas G. Shepperd, Jr.  
District 5

February 6, 2020

Ms. Christy Coleman  
Executive Director  
Jamestown-Yorktown Foundation  
P.O. Box 1607  
Williamsburg, Virginia 23187

Dear Ms. Coleman:

For several years now, the Foundation has generously allowed the York County Board of Supervisors and its staff to use the American Revolutionary Museum for its Annual Retreat on the last Friday of January. The Gerdelman Family Mezzanine has always been the perfect setting for our yearly session, and we wish to express our gratitude for your accommodation to us again this year.

Ms. Kim Scholpp, Special Events Coordinator, worked with our staff to ensure all our needs were met. On the day of the event, she was there to welcome us at 7:30 a.m., the room was set up perfectly, and our IT needs were met without any problems. As always, your staff was more than willing to work with us, so everything was ready to go when we arrived. Please extend our sincere appreciation to Ms. Scholpp and all those involved for their assistance.

On behalf of the Board of Supervisors and its staff, please accept our thanks to you for your very gracious hospitality.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil A. Morgan", with a long horizontal flourish extending to the right.

Neil A. Morgan  
County Administrator

NAM:mes

Copy to: York County Board of Supervisors

# COUNTY OF YORK

## MEMORANDUM

**DATE:** February 7, 2020

**TO:** York County Board of Supervisors

**FROM:** Neil A. Morgan, County Administrator 

**SUBJECT:** Draft Zoning Ordinance Text Amendments – Short-Term Rental Homes

In response to the significant increase in the number of Special Use Permit applications for tourist homes over the past few years, the Board and the Planning Commission have both expressed a desire for additional Zoning Ordinance standards or guidelines to assist them in evaluating such applications. In August, 2019, the Planning Commission conducted a work session at which staff provided the attached issue paper, which includes a detailed analysis of the issue of short-term rentals (STRs) and how they are regulated in York County, including case studies of recent applications and a review of the various policy options. For purposes of comparison, staff also provided the attached summary of zoning regulations for short-term rentals utilized by some other Virginia localities. Following discussion, the Commissioners expressed a preference for keeping the flexibility that the use permit process provides while adding some criteria or considerations that will provide guidance to the decision-makers evaluating proposals for short-term rentals. (For more details, please see the attached Planning Commission work session minutes.)

With the Board's and the Commission's guidance in mind, staff has drafted a set of potential Zoning Ordinance text amendments relative to STRs. These are attached for the Board's information. Under the proposed changes, a Special Use Permit would continue to be required for any STR in a residential zoning district. Performance standards are proposed to be added to specify the application submittal requirements and evaluation criteria as well as to address fire and life safety needs permitting and taxation requirements. Minor changes to the parking requirements for STRs are also proposed.

The regulation of STRs in residential areas raises several policy questions that the Board will need to consider in evaluating possible changes to the current STR requirements. These are discussed in detail on pages 10-11 of the attached issue paper, but there are three I believe are worth highlighting:

- Matter-of-Right vs. Special Use Permit. The most fundamental question surrounding STRs is whether to allow them as a matter of right or to require a public hearing process that gives residents an opportunity to voice their opinion on whether or not a proposed STR is appropriate in their neighborhood. Although many Virginia localities require a conditional or special use permit for STRs, a surprising number allow them as a matter of right subject to compliance with certain performance criteria. Given the sensitivity that often surrounds proposals to establish commercial

or quasi-commercial uses in residential areas, staff believes it is important to retain the use permit requirement in residential districts.

- Residency Requirements. Some localities require the owners of an STR to use the house as their principal place of residence and to be physically present when rentals are taking place. While such a requirement addresses the frequently raised concern about unruly behavior on the part of unsupervised guests, it makes no allowance for other living arrangements that can provide for an equivalent level of oversight. For example, in two cases the Board has approved tourist homes where the owners lived in an adjacent residence, and in a third case, the owners lived about ten minutes away. In lieu of a residency requirement, a number of localities require the STR owner to designate a local “responsible party” who is on call while rentals are taking place to respond to any problems or complaints that may arise. As the Board may recall, this strategy was utilized with a recently approved tourist home on Goosley Road where the owners lived in James City County, which was approved by the Board on a 3:2 vote following a 4:2 recommendation of approval from the Planning Commission. The proposed text amendments that have been drafted would not require on-premises residency by the owner and would add language specifically requiring applicants to describe in their application submittals how they would ensure that their guests’ behavior is monitored.
- Maximum Number of Occupants/Bedrooms. In order to limit the commercial aspect of STRs in neighborhoods and address concerns about allowing “mini-hotels” in residential areas, some localities have adopted maximum limits on the number of occupants and/or bedrooms that can be rented at one time. Such blanket limits are inherently arbitrary and do not provide an opportunity to distinguish between a normal single-family detached home within a subdivision, where the intensity of use might be a major concern, and a larger house on a large lot in a fairly isolated location where the neighbors are few and far between. Under the current regulations, the Board establishes the maximum occupancy as part of the use permit approval, and this is not proposed to change.

I should emphasize that the recommended changes would not alter the basic dynamics of our current process whereby the Board is able to evaluate short-term rentals in residential districts on a case-by-case basis, which ensures that neighborhood input will continue to be a key factor in the decision-making process. What the changes would do is create a more systematic application and review process by providing additional clarity and guidance to prospective STR operators and to those – the Board and the Planning Commission – who will be reviewing their proposals.

The draft proposed zoning text amendments are being forwarded to the Planning Commission for review, study, and, following a public hearing, a recommendation. Depending on how long that process takes, the amendments would likely come to the Board for review and action in the spring of 2020. In the meantime, staff would welcome Board members’ input on the draft proposed amendments in particular or on the regulation of short-term rentals in general.

Cross/3496

Attachments:

- Short-Term Rental Issue Paper
- Overview of Short-Term Rental Regulations in Virginia Localities
- Planning Commission Work Session Minutes, August 26, 2019
- Draft Zoning Ordinance Text Amendments

# Home Away From Home: Short-Term Rentals In York County

## INTRODUCTION

Cities and counties across the United States are grappling with the issue of how to address the permitting of short-term vacation rental homes in their zoning ordinances. Short-term rentals are nothing new. In fact, York County has provided for them since the adoption of its first Zoning Ordinance in 1957. What has changed in recent years is the increased popularity of internet sites such as Airbnb and VRBO (Vacation Rentals by Owner) that have made it easy for homeowners interested in renting out their homes – or rooms within their homes – on a short-term basis to connect with travelers who are looking for a place to stay other than a hotel, motel, or timeshare. Once limited mainly to tourist areas and beach-front communities, short-term rentals are now springing up in residential neighborhoods all over the country, sometimes leading to conflicts that often arise when commercial land uses are located in residential areas.

Short-term rentals offer benefits to homeowners and travelers alike. For homeowners, they provide a source of income that can require little investment; for travelers, they provide a comfortable alternative to hotels and motels, especially for families or other groups that require more than one room. Unfortunately, when located in residential areas, these rentals can also cause problems – such as increased traffic, noise, and parking demand – for nearby residents who purchased their homes in a residential subdivision or neighborhood with the expectation that their residential quality of life would not be disturbed by the presence of what are essentially commercial establishments.

While it is local governments that deal most directly with this issue, short-term rentals have also been a topic of considerable discussion at the state level. Senate Bill SB 1578, approved by the Virginia General Assembly in 2017 and signed by the Governor, affirmed the right of Virginia localities to regulate the short-term rental of property through zoning provisions and authorized localities to require the registration of persons offering property for short-term rental. For localities that do not currently regulate short-term rentals through zoning, this legislation provides an opportunity to consider amending their ordinances to address this type of use. For others, such as York County, the question is whether or not existing regulations are adequate to provide for such uses while ensuring that they will not have adverse impacts on their surroundings.

## SHORT-TERM RENTALS IN YORK COUNTY

In York County, short-term rentals (STRs) fall into the category of either *tourist homes* or *bed and breakfast inns* (B&B's), as defined below in Section 24.1-104 of the Zoning Ordinance:

- *Bed and breakfast inn.* A dwelling in which, for compensation, breakfast and overnight accommodations are provided for transient guests. When the establishment is located in a residential zoning district, the owner of the property shall live on the premises or in an adjacent premises and shall be the operator/provider of the bed and breakfast accommodations and services.
- *Tourist home.* An establishment, either in a private dwelling or in a structure accessory and subordinate to a private dwelling, in which temporary accommodations are provided to overnight transient guests for a fee.

Also relevant is the following Zoning Ordinance definition of *transient*, since both tourist homes and B&Bs provide accommodations specifically for transient guests:

- *Transient occupancy.* Occupancy of a lodging unit or accommodation on a temporary basis for less than (ninety) 90 continuous days by a visitor whose permanent address for legal purposes is not the lodging unit occupied by the visitor.

The distinction between tourist homes and B&Bs is that in the latter, breakfast is provided in addition to overnight accommodations. In addition, for B&Bs the Zoning Ordinance requires the property owner to live on the premises or in adjacent premises, whereas no such restriction exists for tourist homes.

Tourist homes and B&Bs are permitted as a matter of right in the GB (General Business) and LB (Limited Business) zoning districts. In residential districts – RC (Resource Conservation), RR (Rural Residential) R33 (Low density single-family residential), R20 (Medium density single-family residential), R13 (High density single-family residential), and RMF (Residential Multi-Family) – a Special Use Permit is required. STRs are also permitted in the YVA (Yorktown Village Activity) district subject to Board of Supervisors approval through the YVA process, which is virtually identical to the Special Use Permit process.

STRs are subject to the following performance standards set forth in Section 24.1-409 of the Zoning Ordinance:

- When located in single-family residential zoning districts, tourist homes, and bed and breakfast establishments shall have the appearance of a single-family detached residence and normal residential accessory structures.
- Other provisions of this chapter notwithstanding, one freestanding, non-illuminated sign, not exceeding four (4) square feet in area, may be permitted to identify such use.
- In all residential districts, required off-street parking for the subject use shall be effectively screened by landscaping from view from adjacent residential properties and shall not be located in any required front yard area.
- The board shall specify the maximum number of persons who may be accommodated in the proposed use. Such determination shall be based on a consideration of the density and character of the vicinity in which located and of the size and characteristics of the proposed site.

In addition to these standards, Section 24.1-409(e) provides an opportunity for the owner of a tourist home or B&B to apply for a supplementary Special Use Permit to host private weddings and receptions as a commercial venture subject to additional performance standards governing the frequency of events, the number of guests, parking, noise, etc. The tourist home or B&B must have been in operation for at least a year before the proprietor can apply for a supplementary use permit.

STRs are subject to the state sales tax as well as the 5% County transient occupancy tax and \$2.00 per night room tax. The proprietor of any such establishment is required to obtain a County business license, establish a County transient occupancy tax account, and file with the Virginia Department of Taxation for a Virginia State Sales Tax account.

For most of the County's history, STRs were mostly limited to the Yorktown village. Prior to 2015, there were ten applications for such uses, nine of which were approved. Seven were in Yorktown, while two were in the Moore House area just east of the village and one involved a waterfront parcel in Seaford. Since 2015 and the advent of the Airbnb phenomenon, however, fifteen such applications have been submitted involving property all over the County. Eight were approved and four were denied. Two were withdrawn by the applicants after being recommended for denial by the Planning Commission, and one was deferred indefinitely at the request of the applicant. These cases are described below.

## CASE STUDIES

### Queens Lake I

In April 2015, a County homeowner applied for a business license to operate a three-bedroom tourist home on his property located on Valor Court in Queens Lake and was informed that a Special Use Permit was required. He subsequently advertised the tourist home on the VRBO website and was issued a Notice of Violation by the County's Zoning and Code Enforcement staff, after which he applied for a Special Use Permit. Valor Court is a seven-home cul-de-sac street. This small, self-contained area consists of two streets with a total of fourteen homes and is the only section of Queens Lake that is zoned R20 (Medium density single-family residential) rather than RR (Rural Residential). Staff recommended denial of the application, citing concerns about traffic and activity levels, the house's proximity to other single-family detached homes, and the fact that there would be no one on-site to monitor the conduct of the renters. The Planning Commission conducted a public hearing at which only the applicant's business partner spoke, after which the Commission voted 3 to 2 to recommend approval. Two citizens spoke in opposition to the application when it came before the Board of Supervisors, and after discussion the Board denied the application by a vote of 3 to 1.

### Spivey Lane

In January 2017, the Planning Commission considered an application submitted by a couple seeking to operate a three-bedroom B&B out of their waterfront home on a 1.5-acre parcel located on Spivey Lane in a relatively isolated part of Seaford that is zoned RC (Resource Conservation). Two of the applicants' four immediate neighbors spoke in support of the application at both the Planning Commission and Board of Supervisors public hearings. The Commission voted 5 to 2 to recommend approval, but ultimately, the Board denied the application on a split vote, with 2 in favor, 2 opposed, and 1 abstention. The denial was based on concerns about access to the property, which was via a narrow, unpaved private road across property owned by a third party who did not support the application.

### Dandy

The Planning Commission considered another use permit application for a waterfront B&B, this one located on a five-acre parcel on Sandbox Lane (a paved private driveway) in Dandy. The proposed B&B would be in an existing 8,500-square foot single-family detached home and would have five guest rooms, with a sixth bedroom to be occupied by the owner/proprietor. Staff recommended approval of the application, opining that both the property and the home were suitable for this type of use and that it would not adversely affect the Dandy area. At the Planning Commission public hearing, eighteen citizens spoke against the application and six citizens spoke in favor. While the application was specifically for a B&B, the applicant had in the accompanying materials expressed his intent ultimately to apply for a supplementary use permit to operate the B&B as an event venue, and most of the negative citizen comments were specifically in opposition to the possibility of an event venue. Other concerns were in reference to the additional traffic that a B&B – or a B&B operated as an event venue – would bring to Dandy Loop Road, which is fairly narrow and the only road into and out of Dandy. Following the public hearing, the Commission voted 3 to 2 to recommend approval. Scheduled to be considered by the Board at its July 2017 meeting, the application was deferred at the request of the applicant, who indicated that he needed time to reconsider his plans in light of additional conditions of approval that were being proposed by the County Administrator in his memo to the Board on the application. To date, the Board public hearing has yet to be rescheduled.

### Plantation Drive

In July 2017, a couple on Plantation Drive in the upper County appeared before the Planning Commission to request a Special Use Permit to operate a tourist home with up to three guest rooms in their ex-

isting single-family detached home. Plantation Drive is a fourteen-home cul-de-sac street off of Waller Mill Road in the upper County. The neighborhood is zoned R20 (Medium density single-family residential) In this case, the applicants planned to occupy the house while guests were staying there. Largely for that reason, staff recommended approval of the application subject to a proposed condition that would limit the initial term of the use permit to one year, after which the applicant would be required to submit a request to the Board of Supervisors for a minor amendment of the permit to extend the term. As proposed by staff, such an application could be approved by

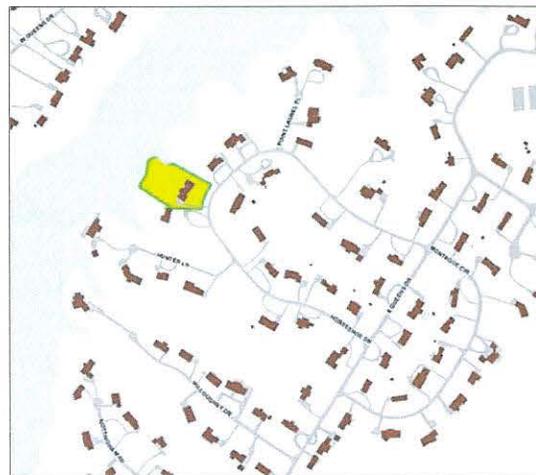


Board resolution with no public hearings, provided that the request is accompanied by written statements from the owners of each of the properties abutting the subject property indicating that they have no objection to continuation of the tourist home use. The purpose of the one-year review requirement was to give the Board an opportunity to discontinue the use if its operation was determined to be incompatible with its residential setting. The Planning Commission conducted a public hearing at which six citizens spoke in opposition, citing concerns about traffic, safety, and privacy. The Commission voted six to zero to recommend denial, and the applicants subsequently withdrew the application.

#### Queens Lake II

In August 2017, the Planning Commission considered another Special Use Permit application to operate a tourist home in Queens Lake on Horseshoe Drive. Horseshoe Drive is a loop road off the main street – East Queens Drive – and serves 28 single-family detached homes. The entire area is zoned RR (Rural Residential). This application was generated by a complaint from a citizen who saw the property advertised for short-term rental on the Airbnb website. A Notice of Violation was issued by County zoning staff, and the homeowner ultimately applied for a Special Use Permit in order to continue operation even though she indicated that she was no longer offering the home for occupancy as a tourist home and only wanted to honor reservations that had already been booked. Staff recommended denial of the application

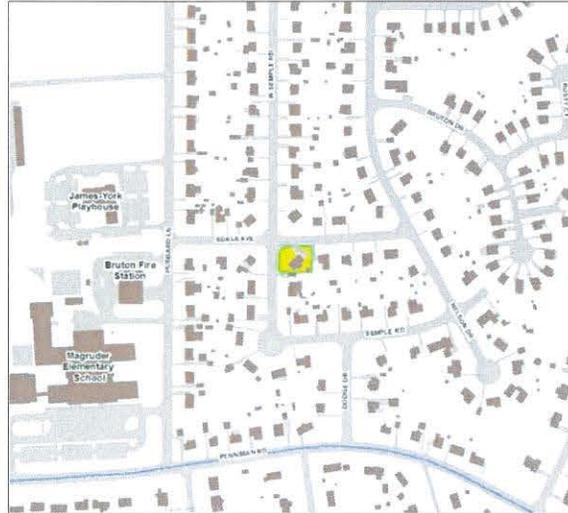
with a recommendation that if the use permit were approved, the applicant should be required to occupy the house while it was being rented. Eleven citizens spoke in opposition, expressing concerns about safety, traffic, and the possibility of short-term renters using the community facilities. One citizen spoke in support and another speaker spoke positively about the application without expressing an overt opinion. In doing so, they cited the positive aspects of short-term rentals for both homeowners and travelers and noted that short-term renters have not proven to be any less neighborly than permanent residents. The Commission, by a vote of four to one, recommended denial of the application. The applicant subsequently withdrew the application, so it was never considered by the Board of Supervisors.



#### Edale Avenue

The following month, the Commission considered another Special Use Permit application submitted by a homeowner on Edale Avenue seeking to operate a two-bedroom tourist home out of his house. This application differed from the Plantation Drive and Queens Lake applications in several respects. First,

while the subject parcel is located in a residential subdivision – Nelson Circle – it is a subdivision that is part of a much larger residential area with a fairly extensive, highly interconnected street network that offers multiple means of ingress and egress to and from the property. The property, which is zoned R13 (High density single-family residential), is only 350 feet from Hubbard Lane and thus is relatively close to a road that serves various nonresidential uses (e.g., James-York Playhouse, James-York Plaza, the Bruton Fire Station, and Magruder Elementary School) and functions as a collector road for traffic from a number of residential neighborhoods. Moreover, the adjacent streets – Edale Avenue and West Semple Road – carry an average of only 670 and 420 vehicles per day and, with pavement widths of approximately 36 feet each, are able to safely accommodate the modest increase in traffic that might be associated with the proposed tourist home. For these reasons, the additional traffic generated by the proposed tourist home was not considered likely to be noticeable to neighboring residents. Staff recommended approval as did the Planning Commission, by a unanimous vote. The Board also voted unanimously to approve the application. It is noteworthy that there was no citizen opposition to the application and two of the adjacent property owners sent emails expressing their support. In this case, staff recommended an initial use permit term of one year, after which the applicant could apply for an extension of the term to be processed as a minor modification with review and authorization by the Board and provided that the request is accompanied by written statements from owners of the adjacent properties indicating that they have no objection to continuation of the tourist home use. The purpose of this one-year review requirement was to give the Board an opportunity to discontinue the use if its operation were determined to be incompatible with its residential setting. At the end of the initial term, the application provided letters of support from all the adjacent property owners, and the Board voted to remove the term limit.



### Yorktown Village

In December 2017, the Board unanimously approved a Yorktown Village Activity (YVA) application to authorize a two-bedroom tourist home in an existing building (the former Nancy Thomas Gallery) on Ballard Street in historic Yorktown. The application, which generated no citizen opposition, was recommended for approval by both the staff and the Planning Commission (unanimously) based on a number of factors, including its location on a higher-order street that carries a considerable amount of non-local traffic, the absence of residential neighbors, and most importantly, its location in Yorktown, where lodging spaces for tourists are common and, in fact, encouraged by the adopted Yorktown Master Plan. This approval did not include a requirement that the owners, who lived in Marlbank (and have since moved to Dandy), reside in the home while it is being rented out.

### Wichita Lane

In August 2018, the Board unanimously approved a two-bedroom B&B on a 2.1-acre parcel on the cul-de-sac at the end of Wichita Lane, located in the Skimino Hills subdivision. The Planning Commission had also recommended approval by a unanimous vote. There was no citizen opposition.

### Yorkville Road

A use permit for a two-bedroom tourist home on a one-acre parcel at 604 Yorkville Road was unanimously approved by the Board in November 2018; the Planning Commission also had recommended approval. The property is one of three lots created through a family subdivision and accessed by a private driveway off of Yorkville Road, which is a local road carrying 1,900 vehicles per day. The applicants own all three lots and were not proposing to live in the tourist home; however, they live in the adjacent home to the rear. At the Planning Commission meeting, a next door neighbor spoke in opposition to the application, stating that a tourist home does not belong in a Rural Residential area and expressing concern that it would set a precedent for more tourist homes in residential areas. Another neighbor spoke in support of the application. No citizens other than the applicants spoke at the Board meeting.



### Carters Neck Road, Part I

Also in August 2018, the Board considered a second tourist home application, this one involving a 1.9-acre parcel located on Carters Neck Road, which is a relatively sparsely developed local road carrying 250 vehicles per day. The proposal was for a three-bedroom tourist home to be used as a whole house rental. As with the Yorkville Road application, the applicants were not proposing to live in the tourist home; however, they live in the house next door. The Planning Commission unanimously recommended approval of the application, and it was approved by the Board by a vote of 4 to 1. There was no citizen opposition.

### Old Landing Road



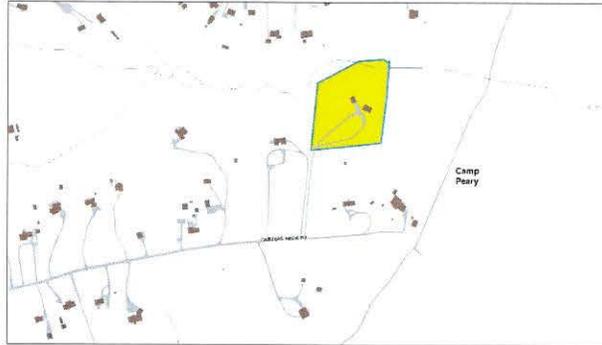
In December 2018, the Board unanimously approved a two-bedroom tourist home on a one-acre waterfront parcel located on Old Landing Road in the Marlbank Farm subdivision. Old Landing Road is a local subdivision street carrying 650 vehicles per day. The application had received a recommendation of approval from the Planning Commission. The applicant indicated that the two-bedroom guest suite would be rented out as a single unit and that there would be no rental of individual bedrooms. She also indicated that she and her husband would reside in the house while rentals are taking place. The applicant submitted letters of support from five of her neighbors as part of her application, and the County received one email from a neighbor opposing the application. No one other than the applicant spoke at either public hearing.

### Carters Neck Road, Part II

A second tourist home application was submitted for Carters Neck Road, this one involving a 5.0-acre parcel located on the private, unpaved western section of the road. The owner had an existing one-bedroom accessory apartment, for which a Special Use Permit was approved in 1986, on the second floor of a detached garage building and wanted to offer it for short-term rental. The surrounding area is fairly rural, characterized by large lots and low densities. The seven immediately adjacent lots range in

size from 2.7 to 9.4 acres, and the nearest home is 450 feet away. Because of its location at the end of a long, narrow driveway off of a dirt and gravel road, combined with the absence of public water, the Department of Fire and Life Safety expressed significant concerns about the application, even though the garage apartment was approved for year-round residential occupancy.

The owners of two adjacent properties spoke in opposition to the application, stating that the tourist home would detract from their privacy and safety by bringing strangers into the neighborhood on a regular basis as well as place an additional financial burden on those who maintain that portion of Carters Neck Road, which, according to the staff's estimates, carries approximately 60 vehicles per day. The Commission voted to recommend denial by a vote of 4 to 2. When the application came before the Board of Supervisors in March 2019, two neighbors spoke in opposition, and the Board denied the application by a unanimous vote.



### Tom Thomas Road

Also at the March 2019 Board meeting, the Board reviewed another tourist home in the Skimino area. The subject property, located on Tom Thomas Drive approximately two miles from the site of the unsuccessful Carters Neck Road application, is 0.4 acre in size. The applicants live approximately ten minutes away in Queens Lake and indicated that they would not be residing in the home. No citizens expressed opposition to the application, which received a unanimous recommendation of approval from the Planning Commission and was subsequently approved by the Board by a vote of 4 to 1.

### Goosley Road

In June 2019, the Board voted 3 to 2 to approve a tourist home on a 0.6-acre parcel on Goosley Road. The applicant, who lives in James City County, planned to purchase the property, which is completely surrounded by vacant land – most of it owned by the National Park Service and unlikely ever to be developed – solely for the purpose of offering it as a short-term rental. The nearest home is 370 feet away, and there was no citizen opposition. Goosley Road is classified as a minor arterial road carrying approximately 6,000 vehicles per day. In recommending approval, staff included a proposed condition requiring the applicant to designate a “responsible party” who would be available to address any problems (e.g., noise, parties, littering, on-street parking, etc.) that might occur while rentals are taking place. The purpose of this requirement, which numerous other localities in Virginia and across the United States have adopted, was to address the concern that commonly arises about the absence of someone on the premises to monitor the guests’ behavior. The contact information for this person would be maintained in both the Zoning and Code Enforcement office and the Sheriff’s Office.



The application was recommended favorably by the Planning Commission by a vote of 4 to 2. Commissioners who opposed the application expressed concern about the commercial nature of the proposal, and one member also expressed concern about the impact of short-term rentals on the availability of affordable housing, noting that the house in question has a relatively low assessed value and would no longer be available for permanent residency if converted to a tourist home.

### Queens Lake III

A third application for a tourist home in Queens Lake, this one on a 0.6-acre lot on Sherwood Drive, was considered by the Board in August 2019. The applicant was seeking authorization (after the fact) to operate a two-bedroom tourist home out of her single-family detached home. She indicated that she would be present in the home during rental periods. At the Planning Commission, five citizens spoke in favor of the application and three spoke in opposition. The Planning Commission recommended approval by a vote of six to zero, subject to an additional, fairly unusual, condition that would require the use permit to expire if the applicant were ever to sell the property. When the application was considered by the Board, however, there were nine citizens who expressed opposition to the application and only three who spoke in favor, and the application was denied unanimously.

### Summary of Case Studies

Summary data for these fifteen tourist homes and B&B applications is provided in the table below. In comparing applications that were approved with those that either were denied or were withdrawn by the applicants following a recommendation of denial from the Planning Commission, it is interesting to note that lot size and density have little bearing on whether or not an application is approved. In fact, the average lot size is somewhat higher for the unsuccessful applications (1.59 acres) than for the successful applications (0.95 acre). Regarding the size and scale of the proposed uses, the successful and unsuccessful applications are almost identical; the average number of bedrooms and maximum occupancy are slightly lower for successful applications (2.3 vs. 2.5 bedrooms and 5.9 vs. 6.0 guests). Another factor that is often considered by the Commission and the Board of Supervisors is whether or not the property owner would reside in the home while rentals are taking place. Five of the six unsuccessful applications would have required resident occupancy, whereas only three of the eight successful applications included such a requirement (although in two of those successful cases, the owner lived next door to the proposed tourist home).

The one factor that most differentiates successful applications from unsuccessful ones is the absence of neighborhood opposition. In the table below, Public Input is characterized as “anti” if most of the public comments were in opposition, “pro” if most of the public comments were in support, “even” if the public comments were evenly divided between opponents and supporters, and “none” if there were no public comments. Public input was mostly negative in four of the five unsuccessful applications and either supportive, neutral, or nonexistent in all eight of the successful applications.

Lot Size	Zoning	Bedrooms	On-Site Manager	Maximum Occupancy	Public Input	PC Action	BOS Action
0.22	R13	2	Yes	4	Pro	Approval	Approved
0.43	YVA	2	No	5	None	Approval	Approved
2.10	RR	2	Yes	6	None	Approval	Approved
1.00	RR	2	Next Door	4	Even	Approval	Approved
1.90	RR	3	Next Door	9	None	Approval	Approved
1.00	RR	2	Yes	6	Pro	Approval	Approved
0.40	RR	2	No	5	None	Approval	Approved
0.57	R13	3	No	8	None	Approval	Approved
0.74	R20	3	No	6	Anti	Approval	Denied
1.40	RC	3	Yes	9	Pro	Approval	Denied
4.90	RR	1	Yes	3	Anti	Denial	Denied
0.60	RR	2	Yes	4	Anti	Approval	Denied
0.60	R20	3	Yes	8	Anti	Denial	Withdrawn
1.26	RR	3	Yes	6	Anti	Denial	Withdrawn
5.00	RR	5	Yes	10	Anti	Approval	Deferred

## Observations

Though residential in character, tourist homes and B&B's are commercial establishments in which homeowners provide a service – lodging and possibly meals – to customers (renters) for a fee. In that respect, a single-family home used as short-term rental is similar to a home occupation with on-site customer/client contact, which, with a few exceptions, requires a Special Use Permit. When considering home occupations – or any proposed land use involving property within or close to a residential neighborhood – the Planning Commission and Board of Supervisors have consistently placed a high priority on the goal of preserving the residential character of the area and the neighbors' quality of life.

STRs often generate some of the same concerns from neighboring residents as do home occupations, such as traffic and parking. However, concerns have also been raised about the possibility of loud parties, crime, safety, and a general uneasiness about living among strangers who are only staying for a short time and might not have the best interests of the neighborhood – or the neighbors – at heart.

Some of these concerns have more of a factual basis than others. There is no evidence, for example, that short-term renters are more likely to commit crimes or hold loud parties than are permanent residents. In one of the cases discussed above, there was a complaint about a disruptive late-night party at a home that was being operated illegally as a short-term rental; however, the party was being held not by a short-term renter but by an on-site caretaker who was living in the basement of the house.

Traffic and parking, on the other hand, can be legitimate concerns, particularly in smaller residential areas with low-volume – and often narrow – local streets where relatively small increases in traffic can be especially disruptive. The potential for problems is compounded when a single home has more than one guest suite and thus a higher intensity of use (although it should be added that even when a tourist home is rented out as a single unit, there is no guarantee that it will be rented out by a single family; the potential exists for multiple families or groups of guests to share a short-term rental, each arriving in a separate vehicle).

As the case studies show, every case, every property, and every neighborhood is different, and the Planning Commission and Board of Supervisors have wide discretion in evaluating STR proposals. This is the purpose of the Special Use Permit process, as set forth in Section 24.1-115 of the Zoning Ordinance:

*“Certain uses, because of their unique characteristics or potential impacts on adjacent land uses, are not generally permitted in certain zoning districts as a matter of right, but may, under the right set of circumstances and conditions be acceptable in certain specific locations. These uses are permitted only through the issuance of a special use permit by the board after ensuring that the use can be appropriately accommodated on the specific property, will be in conformance with the comprehensive plan, can be constructed and operated in a manner which is compatible with the surrounding land uses and overall character of the community, and that the public interest and general welfare of the citizens of the county will be protected. No inherent right exists to receive a special use permit; such permits are a special privilege granted by the board under a specific set of circumstances and conditions, and each application and situation is unique. Consequently, mere compliance with the generally applicable requirements may not be sufficient and additional measures, occasionally substantial, may be necessary to mitigate the impact of the proposed development. In other situations, no set of conditions would be sufficient to approve an application, even though the same request in another location would be approved.”*

The Virginia Supreme Court has ruled that zoning ordinances do not need to include standards concerning the issuance of special use permits where local governing bodies are to exercise their legislative judgment or discretion, stating that “It would be impractical to provide standards in ordinances that

would be applicable to all situations that might arise.”<sup>1</sup> While certain minimum standards are appropriate – limitations on signage and parking, for example – for the County to impose specific, uniform requirements for STRs in residential areas would be contrary to the intent of the use permit process, which is based on the premise that for some uses in some zoning districts, a “one size fits all” approach is not appropriate. In lieu of strict standards, however, a set of evaluation criteria to be used in determining the appropriateness of a tourist home in a residential zoning district could have some benefit. It would give additional guidance not only to the Planning Commission and the Board of Supervisors in evaluating tourist home applications but also to potential applicants (and possibly save some of them the trouble and expense of applying for a Special Use Permit that has little chance of success). Such criteria might include one or more of the following:

- Provisions for monitoring guest behavior. One of the most frequently raised concerns about STRs has been that if the owner does not reside in the home, there will be no one present to monitor the guests’ behavior. York County has approved five tourist homes in which the owner did not propose to live in the house being rented. In two of those cases, the owners lived next door, and in two others, they lived in the County about ten minutes away. In the fifth case, the owners live approximately thirty minutes away in an adjacent locality. (Interestingly, in only one of the six unsuccessful applications was the applicant *not* proposing to occupy the home during rental periods.)
- Limitations on the number of bedrooms/guest suites that can be rented. The Zoning Ordinance currently states that the Board of Supervisors “shall specify the maximum number of persons who may be accommodated in the proposed use ... based on a consideration of the density and character of the vicinity in which located and of the size and characteristics of the proposed site.” Although the number of bedrooms has really not been much of an issue with any of the STR applications in the County, setting a maximum occupancy would be one way to limit the commercial aspect of the use.
- Capacity of the adjacent street network, including not just pavement width but the number of routes of ingress and egress. For example, the traffic associated with an STR with multiple bedrooms would likely be more disruptive to residential neighbors on an older, narrow cul-de-sac than on a through-street that meets the current VDOT pavement with standards. Two of the five unsuccessful applications involved properties located on narrow, unpaved private streets, which likely contributed to their eventual denial.
- Emergency/life safety requirements. Because the Fire Code does not specifically address tourist homes or B&Bs, staff, at the request of the Department of Fire and Life Safety has included a series of additional conditions in the approving resolution for all STRs. Intended to provide safety for visitors to the proposed tourist home, these conditions require an Emergency Action Plan identifying exit routes, fire extinguisher locations, and other life safety procedures; one or more fire extinguishers with a minimum rating of 2A10BC; and annual fire inspections. This is one case where strict, uniform standards make sense, and it would be appropriate to incorporate these into the performance standards for all STRs, regardless of zoning.
- Permitting requirements. Another standard condition in all recent STR approvals specifies that the applicant is responsible for obtaining all applicable permits and/or approvals required in accordance with regulations of the Virginia Uniform Statewide Building Code and the York County Department of Fire and Life Safety prior to use of the dwelling as a tourist home.
- Business license/tax requirements. Every STR operator is required to obtain a County business license, establish a County transient occupancy tax account, and file with the Virginia Depart-

---

<sup>1</sup> *Bollinger v. Roanoke County Board of Supervisors*, 217 Va. 185, 227 S.E. 2d 682 (1976)

ment of Taxation for a Virginia State Sales Tax account. While not related to land use, it might be helpful to reference these requirements in the performance standards to ensure that potential applicants are aware.

- Provisional term limits. In one case a tourist home was approved for an initial one-year term to allow it to operate on a provisional basis. A year later, the Board approved an extension of the term when the applicant was able to provide written statements from the owners of each of the adjoining properties indicating that they have no objection to continuation of the tourist home use. Some STR cases could involve unusual circumstances that would warrant a similar initial term limit, after which the Board could either extend the term of the use permit or, in the event of documented violations or complaints, revoke the permit.
- Expiration requirements upon the sale of the home. Although not recommended by staff, the Commission has in one case recommended approval of a tourist home subject to an additional condition specifying that the use permit would be null and void upon the transfer of ownership of the property in question. This was in response to concerns expressed by opponents about the use permit running with the land. It has not been the County's practice to tie Special Use Permit approvals to specific individuals. The County Attorney and Planning Division staff have consistently advised against imposing this type of condition, noting that if the Board deems a given use to be acceptable and appropriate in a given location subject to a given set of conditions, it should not matter who owns the property since any future owner would be subject to the same conditions of approval as the applicant. The case law on conditions attached to special exceptions and special use permit indicates that as a general rule, conditions that relate to the use of the land are upheld, while "conditions that do not relate to the use of the land, such as a condition that terminates the conditional use when there is a change in ownership." are not.<sup>2</sup>

## CONCLUSION

Short-term rentals and single-family detached homes can coexist in the same residential neighborhood under the right circumstances and with proper controls and limitations. While some of the concerns that short-term rentals generate among residential neighbors are matters of perception rather than reality, there are valid reasons to subject them to the close scrutiny that the Special Use Permit process affords. As always with commercial uses in residential areas, preserving neighborhood character and the residents' quality of life is paramount. Incorporating appropriate evaluation criteria into the Zoning Ordinance standards for tourist homes and B&B's would assist policymakers and potential applicants alike by providing additional direction as to the types of areas that are and are not considered suitable for these uses. It is hoped that in so doing, it would also reduce the incidence of contentious public hearings with neighbors pitted against one another, which can have serious, long-term negative impacts on a community.

---

<sup>2</sup> Daniel R. Mandelker, Land Use Law, 4<sup>th</sup> edition (Charlottesville, Virginia: Lexis Law Publishing, 1997) 272.

## Regulation of Short-Term Rentals in Virginia

Not surprisingly, Virginia's cities and counties vary widely in their respective approaches to the regulation of short-term rentals (STRs). Some localities allow them as a matter of right with an administrative permit that must be renewed annually, while others require a Special Use Permit or Special Exception from the governing body or the Board of Zoning Appeals. In some cases, whether or not such uses can be approved administratively depends on whether or not the owner/proprietor resides in the home while rentals are taking place.

In York County, STRs fall into the category of either tourist homes or bed-and-breakfast inns (B&Bs), the difference being that with B&Bs, breakfast is provided to the guests and the owner is required to live in the home or in an adjacent premises. York County allows both uses as a matter of right in the GB (General Business) and LB (Limited Business) zoning districts. In residential districts (RR, R33, R20, R13, and RMF), a Special Use Permit is required. STRs are subject to the following performance standards set forth in Section 24.1-409 of the Zoning Ordinance:

- STRs in residential districts must have the appearance of a single-family detached home and normal residential accessory structures.
- One freestanding sign up to four (4) square feet in area is permitted.
- In residential districts, required off-street parking for the subject use must be effectively screened by landscaping and cannot not be located in any required front yard area.
- The maximum number of guests is determined by the Board of Supervisors based on a consideration of the density and character of the area and of the size and characteristics of the proposed site.

Whether they allow STRs by right or with a Special Use Permit, most localities in Virginia specify various standards or guidelines applicable to such uses. Some of the more commonly used guidelines and requirements in Virginia are:

- Owner residency and/or occupancy requirements
- Limitations on the number of occupants and/or the number of bedrooms that can be rented
- Limitations on the number of rentals over a given period
- Minimum and/or maximum length of stay requirements
- Designation of a responsible party or authorized agent to respond to problems
- Prohibitions on signage

For purposes of comparison, staff has compiled Zoning Ordinance requirements for short-term rentals from several other localities in Virginia. These are summarized below:

### Virginia Beach

The City of Virginia Beach adopted its Short Term Rental Ordinance in January 2019. Virginia Beach's ordinance distinguishes "home sharing" from "short term rentals." For home sharing, the owner must utilize the dwelling as his or her principal residence and must occupy the dwelling during the rental period. Home sharing is permitted as a matter of right in residential zoning districts. Short term rentals differ from home sharing in that the owner is not required to use the home as a principal dwelling and is not required to occupy the dwelling while rentals are occurring. A short term rental requires a Conditional Use Permit,

including public hearings and Planning Commission review. The owner/operator of the short term rental must provide the name and phone number of a responsible person who is available to be contacted and to address conditions occurring at the short term rental within thirty (30) minutes.

### Charlottesville

The City of Charlottesville refers to short term rentals by the term “homestay,” which is defined as “a home occupation in which an individual who owns a dwelling and uses it as his or her permanent residence within a dwelling hires out, as lodging: (i) such dwelling, or any portion thereof, or (ii) a lawful accessory dwelling.” The City allows homestays as a matter of right with a Provisional Use Permit, which involves an administrative approval process. The operator of the homestay must be a permanent resident of the dwelling and, similar to Virginia Beach, there must be a responsible party located within thirty (30) miles who will be available 24/7 to respond to and resolve issues and complaints that arise while rentals are occurring.

### Blacksburg

The Town of Blacksburg’s also uses the term “homestay,” and its regulations are similar to Charlottesville’s. Blacksburg allows homestays by administrative permit in the primary residence of the host, who must be available by phone 24/7. Unlike Charlottesville, Blacksburg also requires that a “principal guest” be designated as a contact person for Town officials in the event of “safety or behavioral issues” at the unit. The host is responsible for providing the principal guest’s contact information to the Town.

### Williamsburg

The City of Williamsburg adopted its Short Term Rental ordinance in February 2019. In general, the City is somewhat more restrictive than most other localities, allowing STRs only in single-family detached homes and only upon the approval of a Special Exception by the Board of Zoning Appeals following a public hearing. Furthermore, rentals are limited to a single room within the home, which can include a bedroom, bathroom, closet(s), and a sitting area for the exclusive use of the transient visitors; separate cooking facilities are not permitted. Occupancy is limited to a maximum of two adults, not including minor children. The ordinance does not set forth specific guidelines or criteria to be used by the BZA in evaluating a Special Exception application for a STR, stating merely that the BZA “shall determine if the property at issue meets the occupancy requirement, provides an adequate plan for managing the property, and shall determine if the property may be operated as a short-term rental consistent with the” general considerations applicable to all Special Exception applications (e.g., traffic impacts; surrounding uses; the health, safety, and welfare of the neighbors; and impacts on neighboring property values).

**MINUTES  
YORK COUNTY PLANNING COMMISSION**

Work Session  
York Hall – East Room, 301 Main Street  
August 26, 2019

**MEMBERS**

Robert T. Criner  
Montgoussaint E. Jons  
Michael S. King  
Robert W. Peterman  
Donald H. Phillips  
Bruce R. Sturk  
Glen D. Titus

**CALL TO ORDER**

Chair **Michael S. King** called the work session to order at 7:00 PM.

**ROLL CALL**

The roll was called and all members were present with the exception of Mr. Jons. Staff members present were Susan Kassel, Director of Planning and Development Services; Timothy C. Cross, Deputy Director of Planning and Development Services; Amy Parker, Senior Planner; and Earl Anderson, Senior Planner; Daria Linsinbigler, Planning Assistant; and Justin Atkins, Assistant County Attorney.

**OPENING REMARKS**

**Chair King** explained that the purpose of the work session was to speak about ideas regarding regulations for tourist homes. He thanked the staff for the briefing paper that was sent to the Commissioners, and he opened the floor for comments.

**Mr. Peterman** said the information provided by staff was very informative and commended them for the presentation. He stated that he participated in the Commission's review of most of the recent tourist home and bed-and-breakfast (B&B) applications and that it was clear that community sentiment played an important part in the decision-making process for both the Planning Commission and the Board of Supervisors. He said that in most cases when there has been neighborhood dissent, the application was not approved.

**Dr. Phillips** noted that at its last meeting, the Commission considered an expansion of a previously approved tourist home in the Yorktown village where the proprietor did not live on the premises and, in fact, had since moved further away from the property, from Marlbank to Dandy. He said that if the County continues to allow non-residents to operate short-term rentals, the location of the owner's residence is a concern, and he suggested that maybe they could be required to come back for approval if they move.

**Chair King** asked where the line should be drawn; for example, should a non-resident owner be required to live in the County or within a certain distance from the property?

**Mr. Titus** stated that he sees little difference between a short-term rental and a one-room hotel. He asked how the rental home is monitored if the owner lives off-site or goes on vacation.

**Chair King** said that typically if the proprietor lives in the home, he or she is less likely to allow trouble-making from the guests, and he said that monitoring is key.

**Mr. Sturk** questioned how far the County needs to go in regulating these establishments, and he inquired if the Sheriff's Office has reported any issues involving these short-term rentals. He said that if regulations and standards are met, he did not feel a need to over-regulate tourist homes.

**Chair King** agreed that Mr. Sturk made a valid point and that most of the concerns about crime and bad behavior are a matter of perception rather than fact. He said that consistency and clarity are factors being weighed to make a decision.

**Mr. Sturk** said these are revenue-generating businesses and if the community is not protesting, there is no need to be so regulatory.

**Mr. Criner** stated that a minimum list of standards can be set that addresses such items as fire safety and parking. He added that the ongoing question of managing the property from a distance is not easily solved.

**Mr. Cross** stated, in response to Mr. Sturk's question, that there had been one case of criminal activity at a short-term rental in Cobble Creek that was being operated illegally without a Special Use Permit. He stated that ultimately the County had to take the owner to court. He added that there was an incident involving a loud party in a home in Queens Lake that was being operated as a short-term rental without a use permit, but in that case, the party was held by the resident caretaker who had been hired by the owner to manage the property.

**Mr. Titus** likened tourist homes to home occupation, neither of which generate much crime.

**Dr. Phillips** agreed that serious crimes at short-term rentals are rare and that a minimum set of standards is needed.

#### **STAFF PRESENTATION**

**Mr. Cross** gave a slide presentation on short-term rentals in York County. He stated that they are categorized as either tourist homes or bed-and-breakfast inns (B&Bs), and he explained the difference between the two. He summarized the Zoning Ordinance standards for short-term rentals, and noted that the number of use permit applications for these uses has increased dramatically in recent years with the advent of internet reservation sites such as Airbnb and VRBO (Vacation Rentals by Owner). Mr. Cross then presented summary data for recent applications, noting that the main factor that distinguishes the successful applications from the unsuccessful ones is not lot size or density or the presence of the owner in the home but rather the absence of neighborhood opposition. In addition, he distributed copies of a handout describing some of the standards and requirements imposed on short-term rentals in other Virginia localities.

#### **COMMISSION DISCUSSION**

**Chair King** asked why the County cares if breakfast is served in a short-term rental.

**Mr. Cross** answered that it is a factor by which the two types of rentals are distinguished from each other.

**Chair King** noted that a tourist home can still provide food and that it might no longer be necessary to distinguish between the two. He asked if providing breakfast would qualify a tourist home as a bed and breakfast.

**Mr. Cross** answered that it would not necessarily since B&Bs are required to have the owner live in the house or in an adjacent premises.

**Mr. Titus** asked if there is a difference the Commissioners needed to be aware of.

**Mr. Cross** stated that B&Bs are subject to the same requirements as tourist homes, except that a permit from the Virginia Department of Health would likely be required if breakfast is provided. He added that some other localities specifically prohibit the serving of food or the presence of a separate kitchen.

**Mr. Titus** asked what the phrase “subordinate to a private dwelling” means in the context of the tourist home definition.

**Mr. Cross** cited the example of a use permit application for a tourist home that was approved in the Moore House area in which the owners lived in the main house on the property while they rented out a smaller cottage on the property that was ancillary to the principal dwelling. He stated that the definition means that a rental located in a separate building on a residential property has to be in the accessory structure and not in the principal dwelling.

**Mr. Criner** asked why that is a concern.

**Mr. Cross** responded that it keeps the neighborhood residential since the principal use of the property would be the owner’s residence and not the tourist home, which is a commercial use.

**Mr. Criner** suggested that a minimum standard should be set so that occupancy does not exceed the number of bedrooms.

**Mr. Cross** responded that the maximum occupancy is determined by the Board on a case-by-case basis and that floor plans are required as part of the application submittal.

**Chair King** stated that parking is also a factor.

**Dr. Phillips** asked if private roads have been a factor in the unsuccessful applications.

**Mr. Cross** responded that in cases where the owners of the private roads were against the application, the application usually fails. He added that one of the few instances where most of the public comments were in support of the application but it was ultimately denied was because it was on a narrow private road on property owned by someone else. He added that different localities approach short-term rentals in different ways, some allowing them by right subject to certain standards and payment of an annual fee, and some requiring the owner to live on the premises and be available when unit is rented or designate a local manager.

**Mr. Sturk** asked if there has been any citizen input about short-term rentals as part of the Comprehensive Plan review process.

**Mr. Cross** responded that no citizen comments pertaining to short-term rentals have been received but that the survey results showed strong support for home occupations.

**Chair King** commented that although no one is clamoring to support or oppose allowing short term rentals, the Planning Commission is trying to be proactive.

**Mr. Sturk** stated that the Zoning Ordinance should clearly address basic parameters such as parking, life safety, food, and neighborhood input.

**Mr. Titus** stated that people will stretch the limits if not held in check and the important items that need to be considered are traffic, roads, noise, lights, and odor because they affect the neighbors.

**Mr. Sturk** stated that the Board of Supervisors leans on the Planning Commission and staff to bring policies to the table that need to be tweaked and he agreed that a system of checks and balances was necessary.

**Mr. Criner** asked if a having manager who lives fifteen minutes away is a problem and if there should be a minimum standard of distance.

**Chair King** said he did not think it was a problem as long as the contact person is within a reasonable distance.

**Justin Atkins, Assistant County Attorney**, added that the owner could have a management contract with a real estate company. He stated that the Commissioners have wide discretion and that the question is whether regulations are arbitrary and reasonable and related to public health, safety, morals and general welfare. He stated that localities have the power to include various guidelines in the Zoning Ordinance that would serve not as requirements but as considerations or evaluation criteria to be used when deliberating on a use permit application.

**Mr. Cross** added that in the briefing paper, staff had included some possible suggestions for such considerations that would still leave room for flexibility. He stressed that having evaluation criteria rather than strict standards recognizes that each case is different and that it gives the Commission and Board more flexibility to consider each application based on its individual merits. He stated that spelling out a series of specific requirements that must be met can open the County up to legal challenge if it were to approve an application that meets those requirements and deny another one that also meets them.

**Chair King** asked for clarification regarding evaluation criteria.

**Mr. Cross** answered that there are some specific standards already in place and that there might be others, such as the fire and life safety and tax filing requirements that are typically included as conditions of approval in every short-term rental. He said these could be supplemented with a list of considerations to help the Commission and the Board make their decisions. Such considerations, he stated, might include such things as road access and adequate provisions for monitoring guest behavior.

**Chair King** said he liked the idea of adding considerations to the Zoning Ordinance and restating them in the use permit resolutions.

**Mr. Criner** suggested the possibility of granting provisional approval with an annual review requirement.

**Mr. Cross** responded that the Zoning Ordinance used to require an annual review for home occupations with non-resident employees but eventually deleted that requirement because it proved to be too cumbersome. He noted that all approved special uses are checked annually by the Zoning staff, but the applicant does not have to come back to the Board.

**Mr. Criner** suggested limiting use permit for short-term rentals to the applicant such that they would become null and void if the property were to be sold.

**Mr. Cross** said the position of the Planning staff is that use permits should run with the land based on the notion that the permit is for a specific use in a specific location subject to specific conditions but not for a specific individual.

**Mr. Criner** asked how somebody would know if a neighbor has this type of business.

**Mr. Atkins** noted that all use permit resolutions are recorded in the courthouse, so the information can be found during a title search.

**Mr. Criner** asked if a maximum can be set for the number of people per room.

**Mr. Cross** answered that most rentals state a maximum of two adults per room.

**Dr. Phillips** noted that sometimes people staying in a short-term rental will have visitors and that this should be regulated.

**Mr. Cross** stated that staff is open to any guidance from the Commission as to possible evaluation criteria to include in the ordinance.

**Chair King** said that putting considerations in place, perhaps with an annual review, seems like a good idea and that any considerations should be flexible.

**Mr. Sturk** stated that rules should be in place to ensure that guests' behavior is monitored.

**Mr. Cross** said the applicant can be asked to address specific items in their application narrative.

**Dr. Phillips** asked about the owner moving away from the rental property after getting the use permit.

**Chair King** responded that there could be a provision requiring that a manager be available day and night.

**Mr. Cross** noted that in one recent case the owner of a short-term rental was required to designate a responsible party whose contact information would be provided to the Zoning and Code Enforcement Office and the Sheriff's Office.

**Susan Kassel, Director of Planning and Development Services**, added that the Sheriff's Office would need the responsible party's contact information to respond to an incident, while the Zoning

and Code Enforcement staff would need the owner's information since the owner would be responsible for any zoning violations.

**Mr. Peterman** said he did not anticipate seeing a large number of these types of uses in York County outside of the Williamsburg area, which has a lot of tourists.

**Mr. Criner** stated that there are quite a few available online and he mentioned that one he viewed that was offered for twenty-two dollars a night.

**Earl Anderson, Senior Planner**, responded that the rental he was referring to requires a ninety-day minimum stay and would not be considered a short-term rental.

**Chair King** suggested the Planning Commission examine flexible considerations for short term rental limits, fire and life safety, taxes, and location of owner's residence. He asked the staff to prepare a list to for the Commission to review.

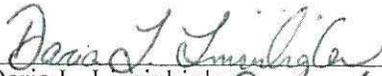
By consensus, the Commission expressed its agreement with the proposed approach of developing considerations that will provide guidance while leaving flexibility in the decision-making process.

**Mr. Cross** stated that staff should be able to provide draft language for the Commission's review within a few months.

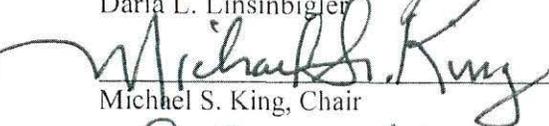
**ADJOURN**

There being no further business to discuss, Chair King adjourned the work session at 8:28 p.m.

SUBMITTED:

  
Daria L. Linsinbigler

APPROVED:

  
Michael S. King, Chair

DATE:

9 OCT 19

## ARTICLE I. IN GENERAL

\*\*\*

### Sec. 24.1-104. Definitions.

\*\*\*

*Bed and breakfast inn.* A dwelling in which, for compensation, breakfast and overnight accommodations are provided for transient guests. ~~When the establishment is located in a residential zoning district, the owner of the property shall live on the premises or in an adjacent premises and shall be the operator/provider of the bed and breakfast accommodations and services.~~

\*\*\*

*Tourist home.* An establishment, either in a private dwelling or in a structure accessory and subordinate to a private dwelling, in which temporary accommodations are provided to overnight transient guests for a fee.

\*\*\*

## ARTICLE IV. PERFORMANCE STANDARDS FOR USES

\*\*\*

### Sec. 24.1-409. Standards for boarding houses, and short-term rental homes (tourist home and bed and breakfast establishments).

- (a) When located in single-family residential zoning districts, boarding houses, and short-term rental homes (tourist homes, and bed and breakfast establishments) shall have the appearance of a single-family detached residence and normal residential accessory structures.
- (b) Signage for properties occupied by ~~tourist home or bed and breakfast uses~~ short-term rental homes shall be permitted in accordance with section 24.1-703(b)(2).
- (c) ~~In all residential districts, required off-street parking for the subject use shall be effectively screened by landscaping from view from adjacent residential properties and shall not be located in any required front yard area. Any parking demand generated by the conduct of such use shall be accommodated off the street in a suitably located and surfaced space.~~
- (d) ~~When a bed and breakfast establishment is located in a residential zoning district, the owner of the property shall live on the premises or in an adjacent premises and shall be the operator/provider of the bed and breakfast accommodations and services.~~
- (e) ~~The owner/proprietor of a tourist home shall reside either in the home or in an adjacent premises or shall designate a responsible party, who may be the applicant, and who shall be available to promptly respond to and resolve problems or complaints that arise while rentals are taking place. The owner shall be responsible for providing the Sheriff's Office with the responsible party's contact information, including name, address, phone number, and email address.~~
- (f) ~~The owner/proprietor of a short-term rental home shall be responsible for obtaining all applicable permits and/or approvals required in accordance with regulations of the Virginia Uniform Statewide Building Code and the Department of Fire and Life Safety prior to use of a structure as a short-term rental home.~~
- (g) The board shall specify the maximum number of persons who may be accommodated in the proposed use. Such determination shall be based on a consideration of the density and character of the vicinity in which located and of the size and characteristics of the proposed site.
- (h) ~~The following emergency/life safety requirements shall apply to the operation of a short-term rental home:~~
  - (1) ~~An Emergency Action Plan identifying exit routes, fire extinguisher locations, and other life safety procedures shall be submitted to and approved by the Fire Marshal and posted conspicuously for guests' review.~~

- (2) One or more fire extinguishers with a minimum rating of 2A10BC shall be installed. The location(s) shall be determined by the fire code official.
- (3) The establishment shall be maintained in accordance with the State and Local Fire Prevention Code and the Virginia Residential Code and shall have a fire inspection conducted by the Department of Fire and Life Safety prior to the commencement of the short-term rental home and annually thereafter.
- (4) All smoke detectors shall be interconnected and installed in accordance with the 2012 Virginia Residential Code, Section R314, or as it may from time to time be amended.
- (i) The owner/proprietor shall obtain a York County business license, establish a County transient occupancy tax account, and file with the Virginia Department of Taxation for a Virginia State Sales Tax account.
- (j) In addition to the submittal requirements set forth in section 24.1-115(a) of this chapter, any special use permit application for a short-term rental home shall be accompanied by the following items which, in addition to the standards set forth in section 24.1-115(b)(3) of this chapter, shall be considered by the planning commission and board of supervisors in their evaluation of the appropriateness of the proposed short-term rental home:

  - (1) A detailed narrative description of the project specifying the proposed operating procedures; provisions for monitoring of guests' behavior; the maximum number of occupants (both children and adults); the minimum and maximum length of stay, if any; the number of bedrooms to be rented; and provisions for accommodating off-street parking. The narrative description shall also specify if individual rooms within the house will be rented or if the property will be offered as a whole house rental.
  - (2) A floor plan of the structure clearly delineating all of the rooms in the house and specifically identifying those rooms and areas that will be available to renters.
- (k) In evaluating any special use permit application for a short-term rental home, the commission and board shall consider the adequacy and capacity of the adjacent roadway network, including pavement widths, traffic volumes, and street ownership and maintenance arrangements as applicable, to accommodate the proposed use without adversely affecting neighboring properties.
- (l) The owner/proprietor of an authorized and operating bed & breakfast (B&B) establishment or tourist home may apply for a supplementary Special Use Permit authorization to host private weddings and receptions for a fee as a business venture. In order to be eligible to apply for such supplementary Special Use Permit, the B&B or tourist home shall have been in continuous operation for at least one (1) year prior to the date of the submission of the application. The following performance standards and conditions shall be observed unless specifically modified or waived by the Board of Supervisors at the time of approval:

  - (1) Frequency of events: No more than one (1) event per day, or two (2) events in any 7-day period, shall be allowed. A wedding ceremony and its associated reception shall be considered to be a single event.
  - (2) Maximum number of guests: The maximum number of guests shall be established as a condition of the Special Use Permit approval and shall be based on an assessment of the capacity and suitability of the site in consideration of the size of the property and facilities, the amount of parking available to accommodate guests, the capacity and condition of the highway network providing access to the site, the surrounding land uses and their proximity, and such other considerations as the Board of Supervisors deems to be relevant to prevent adverse effects upon neighboring properties.
  - (3) Facilities: Any building or temporary tents used to accommodate ceremonies or receptions shall comply with all applicable Building and Fire Code requirements including, but not limited to: access; materials and fire ratings; emergency lighting; exit lights; fire detection and suppression; etc. Any tent(s) shall be positioned on the property in accordance with all applicable setback requirements for principal structures or such greater setbacks as may be established as a condition of the Special Use Permit approval. Tents shall be

dismantled within 48 hours of the conclusion of each event, unless the Special Use Permit shall allow a greater time.

- (4) Duration of event: Events shall be limited to the time period between 10:00 am and 10:00 pm. Set-up and take-down activities may take place no earlier than 8:00 am and no later than 11:00 pm.
- (5) Lighting: Exterior lighting shall be limited to fixtures and illumination intensities that will not produce illumination intensities exceeding 0.1 footcandles at any property line.
- (6) Noise: The activities on the subject property shall be conducted in complete accordance with all requirements of the York County Noise Ordinance set forth in Section 16-19 of the York County Code.
- (7) Parking: Except as specified below and as documented in the Special Use Permit approval, all parking demand associated with the event shall be accommodated on the site on a suitable all-weather surface. The minimum number of spaces shall be calculated at a ratio of one (1) parking space per every two (2) persons based on the maximum allowable occupancy/attendance limit plus one (1) space for every regular or contract employee associated with the reception facility.

The Special Use Permit may allow:

- a. the use of an abutting property owned or controlled by the applicant and from which event attendees can walk without obstruction to reach the reception site. For the purposes of this section, the term abutting shall be construed to include property located on the opposite side of a street right-of-way, provided that event attendees will be able to cross perpendicularly and safely and will not be required to walk along a road or road shoulder;
- b. the use of any available and conveniently located public parking spaces from which attendees can walk safely.

Any parking areas constructed or established specifically for support of the reception use shall be located a minimum of 25 feet from any abutting property not owned by the proprietor, unless with the consent of the owner of the abutting property, and shall be screened from view from those abutting properties and public rights-of-way by evergreen landscaping, unless the abutting property owner consents to waiver of the screening requirement. All applicable stormwater management standards and requirements associated with the installation of the required parking spaces shall be observed.

- (8) Fire and Emergency Vehicle Access: Driveway access to the site shall comply with all requirements as to weight capacity, base and surface material, width, configuration and alignment, and vertical and horizontal clearance as set forth in Section 24.1-261. Existing driveways shall be upgraded to meet these standards if they are deficient in any aspect.
- (9) Sanitation: Restrooms or toilet facilities shall be provided for event attendees based on the ratios/requirements set forth in the Virginia Uniform Statewide Building Code. Reception venues that would be dependent on the dwelling's on-site septic system will not be approved unless the applicant provides written authorization from the Health Department as to the adequacy of the system. In the event portable restroom or toilet facilities are proposed to be used, all shall be screened from view from adjacent public rights-of-way and abutting properties and all shall be serviced or removed within two working days of the conclusion of the event.
- (10) Caterers / Vendors: The proprietor shall ensure that any caterers or other vendors providing services for a reception are properly licensed and permitted, whether such caterer/vendor is hired by the proprietor or by the client contracting for the use of the facility. Likewise, the proprietor shall ensure that all applicable ABC permits have been obtained, either by the client or by the proprietor, and are kept valid.

\*\*\*

## ARTICLE VI. OFF-STREET PARKING AND LOADING

\*\*\*

### Sec. 24.1-606. Minimum off-street parking and loading requirements.

Off-street parking spaces and loading spaces shall be provided in accordance with the minimum standards set forth in the following tables. These standards prescribe the minimum amount of parking and loading space that must be provided in conjunction with various uses and nothing shall prohibit the installation of more than the required minimums, provided however, that an additional twenty (20) landscape credits shall be provided/earned on the site for every ten (10) spaces in excess of the minimum number. Such additional landscaping shall be installed in the parking lot or around its perimeter.

(a) Category 1 - Residential and related uses.

USE	OFF-STREET PARKING SPACES	OFF-STREET LOADING SPACES
(1) Dwelling: single-family detached & duplex	Two (2) spaces per unit	None.
(2) Dwelling: single-family attached (townhouse & multiplex)	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking	None.
(3) Dwelling: multi-family	One and one-half (1½) spaces per unit; plus One (1) space per three (3) units for visitor parking.	None.
(4) Manufactured Home on individual lot	Two (2) spaces per unit.	None.
(5) Manufactured Home Park	Two (2) spaces per unit; plus One (1) space per three (3) units for visitor parking.	None.
(6) Rooming, Boarding, Lodging House, Bed and Breakfast, Tourist Home	Two (2) spaces, <u>or one (1) space if the owner/proprietor does not reside in the home</u> ; plus One (1) space per each sleeping room.	None.
(7) Group Home	Three (3) spaces, plus One (1) space per each two (2) beds:	None
(8) Senior Housing – Independent Living Facility	One (1) space per unit; plus one space per six (6) units for visitor parking	None
(9) Senior Housing – Congregate Care Facility, Assisted Living Facility	One (1) space per two (2) units; plus one space per six (6) units for visitors	None

\*\*\*

## ARTICLE VII. SIGNS

\*\*\*

### Sec. 24.1-703. Permitted signs.

\*\*\*

(b) Other provisions of Section 24.1-703 notwithstanding, the following permanent signs shall be permitted in accordance with conditions and requirements as stated and in compliance with provisions of Section 24.1-702, unless otherwise specified herein.

\*\*\*

- (1) On residentially zoned property containing a tourist home or bed and breakfast use, one (1) non-illuminated freestanding sign not exceeding three (3) square feet in area and three (3) feet in height, or one (1) non-illuminated wall sign not exceeding four (4) square feet in

area, may be installed unless otherwise specified by the Board of Supervisors in conjunction with the approval of a special use permit for such use.

\*\*\*

# COUNTY OF YORK

## MEMORANDUM

**DATE:** February 5, 2020

**TO:** York County Board of Supervisors

**FROM:** Neil Morgan, County Administrator



**SUBJECT:** Sister Cities Yorktown Proposal

As the Board is aware, we have been in discussions with Sister Cities Yorktown regarding the County's two sister city programs. The attached represents their proposal to integrate the two programs. I'm sharing it with you for information and plan to discuss it as part of the Community Support Budget considerations.

NAM:mes

Attachment

Copies to: County Attorney  
Director of Community Services



**sister cities**  
YORKTOWN

*Fostering a Culture of Citizen Diplomacy*

January 23, 2020

Mr. Neil Morgan  
York County Administrator  
P. O. Box 532  
Yorktown, VA 23690

Dear Mr. Morgan:

Thank you for taking the time to meet with us concerning the Sister Cities' program and how the Sister Cities Yorktown (SCY) may be able to work with the County and assist with its international city relationships. As you know, the County has established international relationships with Zweibrücken, Germany (established in 1978), and Port-Vendres, France (established in 1990 by the Yorktown Trustees and formally recognized by the County in 2011). Currently, the affiliation with Zweibrücken is coordinated and overseen by the York County government whereas Port-Vendres is coordinated by the SCY, a non-profit private organization.

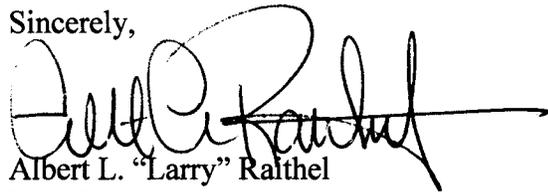
The attached Memorandum of Understanding (MOU) is a proposal to transition the management of the Zweibrücken, Germany Sister City activities to the Sister Cities Yorktown. This new arrangement would consolidate both programs under one organization. As such, the existing program with Zweibrücken would be preserved, while strengthening the relationship with Port-Vendres. The agreement would also increase citizen and community involvement. The transition, as proposed, would be phased-in after the 2020 visit of the Zweibrücken delegation, for which the County has begun preparations. The MOU could also be utilized should the County desire relationships with additional cities.

If approved, the MOU will serve as a guide as to how the program will operate in the future. In addition, the SCY will request financial support and continued in-kind staff assistance. As proposed, in the first year of the agreement, the SCY will request \$15,000 in funding for the Board of Supervisors' consideration during the FY21 operating budget process. The agreement also includes two County positions on the Sister Cities Yorktown Board, one being a Board of Supervisor Member and the other a staff person designated by the County Administrator.

This new relationship would not affect the student exchanges with the York County School Division. As the arrangement evolves, the SCY would work with the York County School Division to complement and enhance the existing student exchange programs. However, no changes would be made without the approval of the School Division and would be handled under a separate agreement.

We are excited to work with the County on improving the relationship with both Zweibrücken and Port-Vendres, and believe that our experience and expertise will ultimately decrease the County staff workload while continuing to strengthen and enhance the relationship with both cities. We look forward to continued discussion on this matter, and are pleased to answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Ralthe", with a long horizontal stroke extending to the right.

Albert L. "Larry" Ralthe  
President  
Sister Cities Yorktown

**MEMORANDUM OF UNDERSTANDING  
COUNTY OF YORK  
AND THE  
SISTER CITIES YORKTOWN, a 501(c) 3**

**I. PURPOSE**

This Memorandum of Understanding (MOU) sets forth the terms and understanding between YORK COUNTY, Virginia (herein referred to as “the County”) and SISTER CITIES YORKTOWN (herein referred to as “SCY”) with regard to the management of York County’s official Sister Cities’ relationships. This partnership is undertaken to ensure oversight of the official international relationships entered into by York County on behalf of their citizens.

This MOU serves as the agreement ensuring that all official Sister Cities’ relationships, both current and future, are managed by the non-profit Sister Cities Yorktown and are governed by its non-profits’ Bylaws.

Currently, those official international relationships include Zweibrücken, Germany (established in 1978), and Port-Vendres, France (established in 1990 by the Yorktown Trustees and formally recognized by the County in 2011).

This MOU shall serve as the official vehicle for the transition of management of the Zweibrücken, Germany Sister City activities to management by the non-profit, SCY beginning after the 2020 visit of the Zweibrücken delegation.

As outlined in SCY’s Bylaws, Article X, the organization is dedicated to promoting educational, cultural, social, economic, and charitable activities through its relationship with municipal cooperation organizations, designated municipal governments and their citizens, under the guidance of Sister Cities International (SCI). The organization’s objectives are:

- A. To encourage the people of Yorktown, York County and the greater York County area, to acquire a consciousness of each other, to understand one another as individuals, as members of their community, as citizens of their country, and as a part of the family of nations. Heretofore, Sister Cities Yorktown will refer to Yorktown, York County and the greater York County area.
- B. To foster, as a consequence of such knowledge and consciousness, a continuing relationship of mutual concern between the citizens of York County and the people of similar cities of foreign nations.
- C. To undertake activities and programs that will provide to one another appropriate aid, comfort, and education and mutual understanding of their respective culture and economics.

- D. To participate as an organization in the promoting, fostering and publicizing of local, state, and national programs of international cooperation.
- E. To act as a coordinating body, committee, or agency among those organizations, groups and individuals desiring to engage and engaging in the activities of such international municipal cooperation organizations.
- F. To educate and involve members in the fundamental purpose, objectives, committees and projects of Sister Cities Yorktown.

The above goals will be applied to all Sister Cities' relationships and will be pursued and accomplished by SCY in partnership with the County.

Additionally, by ratification of the MOU, SCY's Bylaws shall be amended to provide for the inclusion of the following Ex Officio members on the SCY Board of Directors:

- 1) a member of the York County Board of Supervisors or, their designee
- 2) the York County Administrator or, his/her designee

These persons, or their designees, shall automatically be members of SCY and shall be automatically elected as Directors by right of their office and each shall serve as a member and Director only so long as they also hold the office indicated.

## **II. REPORTING**

SCY shall be required to make an Annual Report before the York County Board of Supervisors detailing the extent of activities of the non-profit for the calendar year most recently passed. It shall be the duty of the SCY Board, as required in the Bylaws, to report annually to the membership.

## **III. FUNDING**

Request for financial support from the County will be requested by SCY. This request should be submitted to the County as part of the County's Community and Regional Support request and due to the County annually as part of the County's budget development. This MOU does not commit County funds to SCY, but the County recognizes SCY as an affiliated, non-profit and will continue its support, both financial and in-kind, to Sister Cities' relationships and activities.

## **IV. TIME PERIOD**

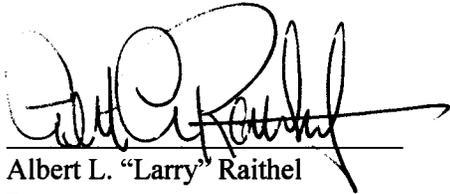
This agreement will remain in force for as long as it is mutually beneficial.

**V. AMENDMENTS AND MODIFICATIONS**

This agreement may be modified by mutual agreement of authorized persons representing the governing body and SCY. No oral understanding or agreements will be recognized until it is written, signed by both parties, dated, and incorporated into this agreement.

**VI. TERMINATION**

This agreement may be terminated by either party upon written notice mailed to the SCY's or THE COUNTY's address. The termination date can be no less than ninety (90) days after the postmarked date on the envelope containing the notice.



Albert L. "Larry" Raithel  
President  
Sister Cities of Yorktown

1/27/2020  
Date

\_\_\_\_\_  
Neil A. Morgan  
County Administrator  
County of York

\_\_\_\_\_  
Date

Approved as to Form

\_\_\_\_\_