

Application No. UP-977-21, Ryan Moberley: Request for a Special Use Permit, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, to authorize a major amendment of a previously approved Special Use Permit for a tourist home to allow modifications of approval conditions to permit whole house rental and expand rental times to seven (7) days per week. The subject property (GPIN G14c-0188-1256), located at 113 Edale Avenue (Route 731) is zoned R13 (High Density Single-family Residential) and designated High Density Residential in the Comprehensive Plan.

Amy Parker, Senior Planner, summarized the staff report dated November 29, 2021, stating that staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution No. PC21-21. She added that the staff received letters of support from all of the adjacent neighbors.

Mr. King asked why the original use permit limited the days of operation to Friday through Sunday.

Ms. Parker responded that it was self-imposed by the applicant in keeping with his work schedule.

Chair Titus asked if the resolution should include a condition requiring the applicant to designate a responsible party whose contact information would be provided to the Sheriff's Office.

Ms. Parker responded that it is a requirement of the Zoning Ordinance.

Ryan Moberley, 528 East Maynor Drive, stated that since the original approval, he has followed all the rules, paid his taxes on time and had no complaints from the neighbors. He stated that his tourist home has been used as a model for setting the standard in which STRs operate successfully without negatively affecting the neighborhood. He said his personal relationships with all the neighbors have been a key to running a successful tourist home which ensures that guests are respectful to the community while providing a welcoming environment for the visitors. He said that without this support, he would not be requesting approval to expand to seven days a week and to not be required to be present when rentals occur. He noted that his new residence is less than a mile from the rental property. Mr. Moberley explained why he is requesting these changes, stating that because of COVID-19, people no longer want to share a house with someone they do not know, which required him to sleep in his camper van or in his garage. He stated that since then he has bought the house in which he now lives and wants to continue to run a tourist home out of his previous home. In conclusion, he said he would operate the tourist home in the same manner as before, continuing to screen guests to ensure that they respect his home, the neighbors, and the overall community.

Ms. Leedom asked if the Commission received copies of the neighbors' comments.

Mr. Moberley responded that they were included as attachments to the staff report.

Brian Hattala, 151 Dennis Drive, wondered if Mr. Moberley has been operating in violation of his use permit since he has now moved out of the house and does not reside on the property. He expressed concern that the STR is within walking distance of Magruder Elementary School and associated athletic facilities that are used year-round, and he said that expanding rentals to seven days a week with no on-site supervision would increase the risk of non-registered sexual offenders preying on children and youth. Mr. Hattala stated that he believes the proposed changes would have an adverse effect on the high density residential neighborhood and that the community needs to protect the children.

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

Mr. Peterman said he was on the Commission when the original application was approved with an initial one-year probationary term to see how it went. He stated that both at that time and at this time the neighbors have been supportive of his tourist home, which he has now been operating for four years. He said Mr. Moberley is a good businessman who rents only to those who respect the community and would not rent to somebody who could harm children and the neighborhood and that he supports the proposed changes.

Mr. King stated that this is a case of an STR that was allowed to operate for a probationary period and did not generate any complaints from his neighbors. He said he understands the concern about the proximity to the school but added that there is nothing to prevent someone who wants to do harm from buying a house in the neighborhood. He said he supports this application.

Ms. Leedom stated that she does not feel the County should continue to approve STRs in residential areas until the Board of Supervisors puts more restrictions in place and for that reason, she would not support this application.

Mr. Holroyd agreed with Ms. Leedom that there need to be more guidelines in place, but he commended the applicant for running a good business and working through a probationary period. He stated that Mr. Moberley has worked four years to establish credibility with the neighbors and that he supports the application.

Mr. Criner stated that he is in favor of the application given the applicant's proven track record. He asked Mr. Cross if he had any comment regarding the concern about sex offenders. He noted that there is no requirement for someone renting a tourist home to register as a sex offender.

Mr. Cross responded that he did not feel having a tourist home nearby would expose children at the school to a greater risk than already exists. He said that STRs are not like pawn shops or liquor stores, where proximity to a school might be an issue. He said they are more like hotels and timeshares, of which there are several on Bypass Road and Waller Mill Road that are within walking distance of Waller Mill Elementary School.

Chair Titus stated that he supports the application, noting the applicant's four-year history of vetting renters. He said that while he appreciates the concerns expressed about crime, he has seen no evidence that there is more crime associated with STRs than with long-term renters or homeowners.

Mr. Criner moved the adoption of Resolution No. PC21-21

A RESOLUTION TO RECOMMEND APPROVAL OF A MAJOR AMENDMENT OF A PREVIOUSLY APPROVED SPECIAL USE TO AUTHORIZE A TOURIST HOME AS A WHOLE HOUSE RENTAL AND PERMIT RENTALS SEVEN (7) DAYS A WEEK

WHEREAS, Ryan W. Moberley submitted Application No. UP-895-17, requesting a Special Use Permit, pursuant to Section 24.1-306 of the York County Zoning Ordinance (Category 1, No. 6), to authorize the establishment of a tourist home in an existing single-family detached dwelling on a 0.22-acre parcel (GPIN G14c-0188-1256) located at 113 Edale Avenue (Route 731); and

WHEREAS, on October 17, 2017, the York County Board of Supervisors approved said application through the adoption of Resolution No. R17-128; and

WHEREAS, Mr. Moberley submitted Application No. UP-915-18 to request a minor modification to the above-referenced Special Use Permit, pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance and in accordance with Condition No. 9 of Resolution No. R17-28, authorizing an extension of the term of the Special Use Permit; and

WHEREAS, on October 16, 2018, the York County Board of Supervisors approved said application through the adoption of Resolution No. R18-118; and

WHEREAS, Mr. Moberley has submitted Application No. UP-977-21 to request a major amendment of the referenced Special Use Permit for the above-referenced property, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, to amend the conditions of approval to allow whole-house rentals and to permit rentals seven (7) days a week.

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of _December, 2021, that Application No. UP-977-21 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a major amendment of a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, for a tourist home on a 0.2-acre parcel (GPIN G14c-0188-1256) located at 113 Edale Avenue (Route 731) to amend the conditions of approval to allow whole house rentals and to permit rentals seven (7) days a week, subject to the following conditions:

1. This use permit shall authorize major amendment of a previously approved Special Use Permit, pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, for a tourist home on a 0.2-acre parcel (GPIN G14c-0188-1256) located at 113 Edale Avenue (Route 731) to amend the conditions of approval to allow whole house rentals and to permit rentals seven (7) days a week.
2. The site and floor plan layout associated with the tourist home shall remain as they exist and as depicted on the sketch plan and floor plan provided by the applicant and received by the York County Planning Division July 26, 2017, copies of which shall remain on file in the office of the Planning Division, except as modified herein.
3. Operation of the tourist home shall be in compliance with the performance standards set forth in Section 24.1-409 of the Zoning Ordinance.
4. The tourist home shall be rented out as a single unit only. Rental of individual bedrooms shall be prohibited. The maximum number of bedrooms shall be two (2), and the maximum number of guests occupying the tourist home at any one time shall be four (4).
5. Exterior cooking appliances used by customers of the tourist home shall have a fuel source of either propane or natural gas. The use of charcoal shall be prohibited.

6. Retail sales shall not be permitted on the premises.
7. The term of this Special Use Permit shall expire upon the termination of ownership of the subject property by the applicant.
8. Except as specifically modified herein, the conditions set forth in Resolution Nos. R17-128 and R18-118 shall remain in full force and effect.
9. A certified copy of the resolution approving this application shall be recorded at the expense of the applicants in the name of the property owners as grantor in the office of the Clerk of the Circuit Court prior to continuation of the tourist home use on the subject property.

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

On a roll call the vote was:

Yea: (5)	Peterman, Holroyd, King, Criner, Titus
Nay: (1)	Leedom
