

COUNTY OF YORK

MEMORANDUM

DATE: February 2, 2024

TO: York County Board of Supervisors

FROM: Mark L. Bellamy, Jr., Interim County Administrator 

SUBJECT: Revisit Short-Term Rentals (STRs) and related Zoning Text Amendments

During 2023, the Board instituted a freeze on hearing Short-Term Rentals (STRs) to consider some suggested changes to the Zoning Ordinance. At the work session on March 5, one of the items to be discussed will be Short-Term Rentals (STRs). We have attached the most recent two memos written on STRs along with the accompanying attachments. Presently, there are three cases waiting to be reviewed by the Board.

Attachments:

- Memorandum dated August 19, 2022
- Board material considered at the June 20, 2023 meeting

COUNTY OF YORK

MEMORANDUM

DATE: August 19, 2022

TO: York County Board of Supervisors

FROM: Neil A. Morgan, County Administrator 

SUBJECT: Zoning for Short-Term Rentals

INTRODUCTION

At its July 19 meeting, the Board received comments on the subject of short-term rentals (STRs) from two County residents, Richard Howell and Dana deJager, both of whom reside in Queens Lake and has taken an active interest in issues surrounding STRs and have addressed the Board several times over the past few years in opposition to various tourist home applications. Mr. Howell supplemented his comments with a printed handout that he distributed to the Board members. In response to the information they provided, I would like to offer some clarification as well as provide an update on recent Planning Commission discussions relative to the Zoning Ordinance provisions for STRs.

BACKGROUND

In his comments to the Board, Mr. Howell correctly stated that several years ago, the Board requested the staff to develop additional zoning guidelines for regulating short-term rentals. Unfortunately, his comments also gave the impression that staff never completed this assignment when, in fact, staff has spent time and effort developing a series of Zoning Ordinance text amendments pertaining to short-term rentals that were unanimously adopted by the Board in March 2020. That effort began with an August 2019 Planning Commission work session at which staff provided an issue paper that included a detailed analysis of the issue of short-term rentals (STRs) and how they are regulated in York County, including case studies of past applications and a review of possible policy options. Staff also provided a summary of zoning regulations for STRs 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 to provide guidance to the decision-makers evaluating proposals for short-term rentals.

Staff subsequently drafted a set of proposed Zoning Ordinance text amendments and presented them to the Commission at its February 12, 2020, meeting, and a public hearing was held at which eight people spoke. The citizens who spoke were generally supportive of the proposed amendments while expressing a desire for three additional changes: 1) requiring STR owners to live in the residence or in an adjacent residence; 2) requiring STR approvals to run with the applicant rather than with the land; and 3) prohibiting signage in connection with home occupations. In addition, one speaker recommended that neighborhoods be given the opportunity to essentially “opt out” of the allowance for

STRs through some sort of neighborhood survey or vote. Of these recommendations, the one that was given the most serious consideration by members of the Commission was the suggestion that the owner be required to live in the home or in an adjacent home. Under the draft amendments, the owner/proprietor would have to *either* reside in the home or in an adjacent premises *or* designate a responsible party who will be available to promptly respond to and resolve problems or complaints that arise while rentals are taking place. Two Commissioners expressed an interest in establishing a residency requirement, while other members pointed out that with or without that the proposed mechanism for monitoring guest' behavior, the Board would still have the ability to deny any application where it felt such an arrangement would not adequately protect the surrounding neighborhood from the possibility of unruly guest behavior. Following discussion, the Commission voted 5:0 (with two members absent) to recommend that the Board adopt the amendments as written.

The Board considered the proposed amendments at its March 17, 2020, meeting – just as the seriousness of the COVID-19 pandemic was being widely recognized and businesses, churches, sporting events, and other activities across the country were being shut down. Consequently, although the meeting was open to the public, attendance consisted of just three Board members (with the other two participating electronically), a very limited number of staff, a rezoning applicant and his attorney, and a citizen who was present to speak on another matter. No one spoke at the public hearing; however, the Board did have the benefit of the Planning Commission minutes, which contained all the public comments made at the Commission meeting and were included in the agenda material. Following the public hearing, the Board voted 5:0 to approve the amendments as written.

Shortly after the amendments were adopted, the STR issue was reopened as a result of a Special Use Permit application for a one-bedroom tourist home in the Queens Lake subdivision. The application generated considerable opposition in the neighborhood, although the immediately adjacent neighbors were all in support of it. Though recommended for approval by the Planning Commission and staff, the application was ultimately denied by the Board on a 3:2 vote. In the aftermath of that application, the County was approached by a small group of Queens Lake residents, which included Mr. Howell and Ms. deJager, that subsequently met several times with me and Planning Division staff to discuss the possibility of adopting additional amendments to the ordinance to address citizens' concerns underlying their opposition to the Queens Lake tourist home application and to STRs in general. In these meetings, staff expressed a receptiveness to some of the proposals while expressing concerns that some of them would be impractical, overly restrictive, or unnecessary. At the third of these meetings, all parties agreed that a Planning Commission work session would be the appropriate venue for a discussion of the STR issue and the specific proposals put forth by the Queens Lake team.

That work session took place on July 27, 2021. Unlike most work sessions, which are open to the public but typically do not provide an opportunity for public comment, this one was designed to be more interactive in order to allow back-and-forth dialogue between the Queens Lake team and the Commission (and staff, as necessary) rather than limiting public participation to the traditional public comment opportunity with time limits and no opportunity for questions or follow-up. Several STR owners and others were

also in attendance and participated in the discussion. As a follow-up to that meeting, the Commission dedicated its August 11 meeting to an extensive discussion of the group's recommendations with the purpose of giving staff direction in drafting potential Zoning Ordinance amendments for the Commission's consideration. The recommendations that were discussed are listed below, along with the general consensus of the Commission on each.

1. USE PERMIT EXPIRATION REQUIREMENTS

- Should Special Use Permits for STRs run with the land or with the property owner? *The general consensus of the Commission was that STR use permits should run with the property owner, although one Commissioner felt they should run with the land just as all other use permits do.*

2. RESIDENCY REQUIREMENTS

- Should the STR owner/proprietor be required to be on the premises (or an adjacent premises) while rentals are taking place? *The general consensus of the Commission was that while it is preferable for the owner/operator to reside in the home or in an adjacent premises, it should be treated not as a requirement but as something the Commission and Board should consider when evaluating an application for a tourist home.*

3. WHOLE HOUSE RENTALS

- Should whole-house rentals be prohibited? *The consensus was that there should not be a ban on whole-house rentals.*

4. STR DENSITY CAPS

- Should there be some sort of numerical limit on the number or density of STRs in a given area (outside the Yorktown village)? Alternatively, should the presence of one or more existing STRs in proximity to a proposed STR site be added to the Zoning Ordinance as another factor to be taken into consideration with the goal of preserving the residential character of the neighborhood? *The general consensus of the Commission was that the County should not try to control STR density with a specific numerical standard and that the presence of other STRs in close proximity or in the same neighborhood or general area should be treated as a consideration, consistent with the goal of preserving the residential character of the neighborhood. Two Commissioners opined that there should be some kind of density limit.*

5. NEIGHBORHOOD "OPT-OUTS"

- Should neighborhoods be able to "opt out" of having any STRs by majority (or "super majority," however that is defined) vote of the residents? *The general consensus was that neighborhoods should not have the ability to opt out of having STRs, although one Commissioner disagreed.*

6. RENTAL LIMITS

- Should there be a limit on the number of rental nights per year, and if so,

what should that limit be? Also, should there be a limit on the number of rooms rented, and if so, what should that limit be? *The consensus of the Commission was that the Zoning Ordinance should not have a specific limit on the number of rooms. With regard to limiting the number of rental nights per year, the Commission tabled the issue, stating that they wanted input from the STR owners as to the impact that such a restriction would have on their businesses. Staff subsequently posed this question to all of the STR owners that were operating in the County at the time, four of whom responded. The Commission revisited this issue at its December 11 meeting and, based on the input from the STR owners, decided that imposing a blanket restriction on the number of rental nights per year would be an arbitrary restriction that would place an undue financial hardship on the proprietors. Two of the Commissioners, however, felt that there should be a limit, at least initially, that could be increased incrementally over time if the STR operates without any problems and in accordance with all County requirements. There was general agreement that the Board should have the ability to limit the number of rental nights in individual cases if the circumstances warrant it.*

7. LIABILITY INSURANCE

- Should STR operators be required to maintain liability insurance coverage and if so, what should the minimum coverage be? *The general consensus was that liability insurance coverage should not be required, with one Commissioner dissenting.*

8. ZONING ENFORCEMENT – FEES, PENALTIES, RENEWAL, ETC.

- *The consensus of the Commission was that zoning fees and penalties should remain as they are.*

9. OTHER RECOMMENDATIONS

- Should there be a requirement for prior residency on the property before a person can apply for a Special Use Permit for an STR? *The general consensus was that prior residency could be used as a consideration but that there should be no specific requirement. Two Commissioners felt there should be a requirement.*
- Should an applicant for an STR use permit have to have the agreement of the neighborhood in order for the proposal to go forward? *The general consensus of the Commission was that neighborhood support should not be required for an application to go forward since the public hearing process provides ample opportunity for neighbors to offer their opinions and those opinions are given serious consideration.*

Based on the views of the majority of Planning Commissioners as expressed at the August 11 meeting, staff drafted a set of possible amendments to the STR provisions of the Zoning Ordinance, and the Commission discussed them at its December 8, 2021, meeting. For the most part, the proposed amendments were relatively modest since most of the

Commissioners were not in favor of making major changes to the STR provisions. The most significant proposed change was to allow STR use permits to run with the property owner rather than with the property. Allowing STR approvals to run with the land has been the major bone of contention among STR opponents ever since 2015 when the Airbnb phenomenon began to take hold in the County. The proposed amendment would stipulate that all STR approvals automatically expire when the property is transferred to a new owner. Other recommended changes include a requirement that STR owners maintain a guest log book as well as additional language clarifying that onsite residency is preferred but not required as long as applicants can demonstrate that they have adequate provisions in place to monitor guest behavior. After discussion, the Commissioners indicated that the draft amendments adequately and accurately reflect the general – albeit not unanimous – consensus of the members.

CONCLUSION

The Zoning Ordinance provisions for STRs are intended to preserve the quality of life in the County's residential neighborhoods while protecting the rights of private property owners to use their property as they see fit. I believe that for the most part, our current process achieves a reasonable balance between these two goals by allowing homeowners to operate short-term rentals only when the Board determines that doing so will not infringe on their neighbors' quality of life. It is worth noting that there have been no neighborhood complaints or compliance problems associated with any of the STRs that have been approved through the use permit or YVA process.

For many land uses, the Zoning Ordinance stipulates very detailed and specific performance standards. This is often necessary for uses that are permitted as a matter of right because the Board has no approval authority over such projects and no ability to apply conditions to mitigate adverse impacts. For STRs, however, this is not the case. Unlike many other Virginia localities, York County requires a Special Use Permit for STRs in *all* residential zoning districts. As described in Section 24.1-115 of the Zoning Ordinance, the use permit process is specifically intended to take site- and use-specific circumstances and other intangibles into consideration:

“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 re-

quirements 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.” (Emphases added)

STRs do not lend themselves to a “one size fits all” regulatory approach, which is why the County requires a case-by-case review. This ensures that affected neighbors will have an opportunity to express their views on any proposed STR and allows the Board and the Planning Commission to consider those views and to use their best judgment in evaluating each application on its particular merits. I believe that approach is preferable to adopting a highly prescriptive ordinance that does not allow for consideration of the unique aspects of each STR proposal.

Of course, no ordinance is perfect, and the Planning Commission will be recommending possible improvements to the County’s ordinance. I recommend that the Board allow that process to proceed to its conclusion and then, once the Commission has completed its work, held a public hearing on the draft amendments, and formally transmitted its recommendations to the Board for consideration, plan on holding a work session – which could possibly be a joint meeting with the Planning Commission – to have a thorough discussion of the regulation of STRs. In particular, I believe there are two key questions that need to be addressed in that discussion:

- Should the Zoning Ordinance require STR operators to live in the house or in an adjacent premises and be present while rentals are taking place? If not, should there be some specified maximum allowable distance between the tourist home and the owner’s residence?
- Should the Zoning Ordinance include some specified limit on the number, density, or proximity of STRs in a single neighborhood?

The Planning Commission has made it clear where it stands on these questions, but the Board has never specifically addressed them, and I believe they are the most critical issues raised by the Queens Lake team. Other STR policy options that the Board might want to consider would also be open for discussion.

Concerns have been raised about the sheer volume of tourist home applications and approvals in recent years. Ms. deJager stated to the Board that STR applications are increasing “exponentially,” and one of the slides distributed by Mr. Howell suggests a similar trend. While it is true that with the advent of the Airbnb phenomenon, the past several years – and especially 2022 – have seen a notable increase in the number of STR applications compared to previous years, the overall scale of STR activity in the County is still extremely small. Since 1995, there have been a total of 43 STR applications, 33 of them between 2017 and 2022. Twenty-nine of these have been approved (including 21 since 2017), and six have been denied. Another six were withdrawn by the applicants – in most cases after receiving a recommendation of denial from the Commission – and two have not yet been considered by the Commission. Of the 29 approved STRs, six either have

ceased operation or were never established, leaving a total of 23 STRs currently permitted to operate in the County. That is a very small number, particularly when one considers that they constitute only about one-eighth of one percent of the approximately 18,000 single-family detached homes in the County. (Since almost all STRs are in single-family detached homes, townhouses are not included in this analysis, even though two of the permitted STRs are located in townhouses in the Yorktown village.)

Although there has been an increase in tourist home applications in recent years, I would note that the majority of them do not generate significant controversy or opposition from neighboring residents, although some have proven to be highly contentious. Just as some County residents welcome or at least do not oppose STRs in their neighborhood, there are others who are opposed to STRs in residential neighborhoods under any circumstances. There is, however, one aspect of STRs on which the Board, Planning Commission, staff, and most citizens seem to agree: they should not be permitted in residential neighborhoods as a matter of right. Given that consensus, the Board should be prepared to accept that unless it wants to ban short-term rentals altogether, it will continue to have to grapple with tourist home applications and the emotions they sometimes trigger among citizens on both sides of the issue. No set of standards and restrictions we place on STRs will alter that fact.

Cross/3496

**MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
August 11, 2021

MEMBERS

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

CALL TO ORDER

Chair Titus called the meeting to order at 7:00 p.m. and stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. He explained that this responsibility is exercised through recommendations conveyed by resolutions or other official means, all of which are matters of public record. He stated that the Commission is comprised of seven citizen volunteers appointed by the Board, including one representative from each voting district and two at-large members.

ROLL CALL

The roll was called and all members were present. Staff members present were Timothy C. Cross, Deputy Director of Planning and Development Services; James Barnett, County Attorney; Amy Parker, Senior Planner; Earl W. Anderson, Senior Planner; Jeanne Sgroi, Management Analyst Intern, and Cathy Tartabini, Planning Assistant. Also in attendance was Susan D. Kassel, Director of Planning and Development Services.

NEW BUSINESS

Chair Titus stated that the Commission would be discussing potential Zoning Ordinance amendments pertaining to short-term rentals. He stated that a group of Queens Lake residents had provided the Commission with a document outlining their proposed changes and that staff had prepared a list of discussion topics based on that document and on the discussion at the July 27 work session. He suggested that the Commission discuss each item in turn as outlined on the list of discussion topics and give staff some direction on each.

Chair Titus stated that the first discussion topic is whether Special Use Permits for STRs should run with the land or with the property owner.

Mr. King stated he is in favor of having use permits for STRs run with the property owner since the Commission makes its recommendations based largely on the information presented by the applicant and so if the property changes hands, the new owner should have to go through the same process.

Mr. Criner asked staff if there is a mechanism by which the County would be notified if the property is sold.

Earl Anderson responded that a change in property owners would come up as part of the County's annual inspection of all use permits.

Ms. Leedom asked if STR owner/operators could be required to notify the County if they sell the property, which she felt would give some layer of protection to the neighbors.

Mr. Criner responded that since there is already a trigger in place with the annual inspections, he is confident that sufficient protections are in place to ensure that a new owner would eventually get caught if they are running an STR without approval. He added that he agrees with Mr. King that the use permits should run with the owner.

Mr. Cross added that use permit resolutions are a matter of public record and are recorded at the courthouse, so any potential buyer should be aware that there is a condition tying the use permit to the property owner and all other conditions of approval. He added that there is a quarterly tax reporting requirement, so the Commissioner of the Revenue's Office would know if a report was received from somebody who was not registered as a short-term rental operator.

Chair Titus asked if the proposed change would also apply to bed-and-breakfast establishments (B&Bs).

Mr. Cross responded that the term "short-term rental" encompasses both tourist homes and B&Bs, so it would apply to B&Bs as well as tourist homes.

Chair Titus stated that he feels the use permits should run with the land, noting that use permits should not be approved on the basis of personalities. He said there are procedures in place to deal with those who violate material conditions, and he questioned whether the identity of the operator constitutes a material condition.

Mr. King responded that he understands Chair Titus's concerns but that he is concerned that there is no guarantee that a new owner might not operate an STR in the same manner as the original applicant, which he felt would place an additional burden on Zoning and Code Enforcement staff.

Mr. Holroyd commented that most use permits for STRs are approved when the neighbors are in agreement, which he said only happens when the property owner is a long-time resident whom the neighbors trust. He stated that a new owner would not have that same level of trust, so he believes the use permit should be tied to the owner.

Chair Titus responded that the same logic would seem to apply to home occupations. He asked why STRs should be treated differently.

Mr. King asked the County Attorney if the County can have different requirements for different types of use permits.

Mr. Barnett responded that there is nothing in the Code of Virginia that requires use permit conditions to be uniform for all use permits.

Mr. Peterman stated that he agrees that use permits for STRs should be tied to the owner and not the property.

Chair Titus summarized the discussion, stating that the consensus is that STR use permits should

run with the owner.

Chair Titus introduced the next topic, which was whether or not STR owners should be required to be on the premises – or in an adjacent premises – while rentals are taking place.

Mr. King expressed his opposition to such a requirement, stating that although he tends to look more favorably upon STRs that have on-site management, there are exceptions, such as the one that was approved on Goosley Road where the owners did not live on or near the premises. He said he does not want to make the standards overly restrictive and take away the flexibility to evaluate each case on its own merits.

Mr. Criner stated that in considering STR proposals, he gives a lot of weight to the fact that the owner lives in the home or next door but that he does not want to make it an absolute requirement since there can be extraordinary circumstances that can be considered on a case-by-case basis.

Ms. Leedom asked if such a requirement would apply to whole-house rentals or just room rentals, noting that it would be difficult to have the owner living in a whole-house rental.

Mr. King said that is a good point, stating with a whole-house rental, the owner cannot live in the house but could live next door.

Mr. Peterman responded that whether the owner lives next door or across the street or a block away, each case has to be considered individually. He stressed that the Commission's main concern is that the person operating the short-term rental must be responsible to the neighborhood and able to respond to any situation that arises.

Mr. Holroyd commented that having a physical presence in or near the home is the most effective way of monitoring the situation, more so than electronic surveillance. He stated that he feels the owner should remain in the local area, however that is defined.

Mr. King responded that the term "local" is subjective.

Chair Titus commented that this discussion is centered specifically on tourist homes since the Zoning Ordinance requires B&B owners to live on the premises or in an adjacent premises.

Mr. King stated that case-by-case review allows the Commission and the Board to decide whether or not the owner is in sufficient proximity to the STR and avoids the problem of having to define it in the Zoning Ordinance.

Mr. Titus stated that the general preference appears to be that on-site residency should be treated as a consideration rather than a requirement.

Mr. Cross responded that in fact, it is already included as a consideration in the Zoning Ordinance, which states that applicants must either be on the premises or in an adjacent premises or designate a responsible party who can respond promptly to any complaints or problems that arise. He mentioned the case of the Yorktown Cottages, where the owners lived in Marlbank when the application was approved but later moved to Dandy, which is much further away. He said it is impossible to anticipate and control for every scenario, but it is something to keep in mind when considering use permits for STRs.

Chair Titus asked if it would be fair to recommend that STR owners have some kind of electronic

surveillance mechanisms in place if they are not living on the property or nearby. He commented that designating a manager to monitor STR can put a tremendous burden on somebody designated to go to a trouble spot when they don't know how to handle the situation other than to call the Sheriff's Office.

Mr. Cross said that might be the way to address those situations, whether or not the owner is on-site.

Mr. King stated that the County needs to be careful not to dictate what kind of surveillance is used, and he added that requiring someone to be on the premises in all cases is simply not practical. As an example, he cited the STR approved on Goosley Road, which is a house by itself and not in a neighborhood.

Chair Titus stated that the challenge is in allowing STRs in residential areas while ensuring that they do not become investment properties. He said that in this case, no change to the code is needed since on-site residency is already included as a consideration.

Mr. Cross asked the Chair to clarify if the consensus is that the Commission does not want to require the owner to be on the premises or in an adjacent premises.

Chair Titus said that is correct, that the Commission wants to retain the flexibility because there are some places in the County where a stand-alone STR would be acceptable, especially if the owner/operators can be next door or a short distance away or have mechanisms that will allow real-time surveillance of the property.

Mr. Holroyd added that there was general agreement that the owner should be reasonably close.

Mr. Criner asked Mr. Barnett what the rules are regarding video surveillance on a rental house. He stated that his understanding is that it is not allowed.

Mr. Barnett responded that he would have to study this question. He stated that any activity on the exterior of the house is open and obvious to anyone and therefore might not raise a privacy issue. He stated that he would have to research the issue but that he was not aware of any prohibition on a property owner videotaping in his or her own home.

Chair Titus stated that the next question is whether or not whole-house rentals should be prohibited, which he felt was addressed in the previous discussion.

Mr. Cross responded that this issue was raised in staff's discussions with the citizens group, which felt that whole-house rentals should not be allowed.

Mr. Anderson stated that based on the Commission's consensus that the owners should not be required to be in the home while rentals or taking place, any proposed whole-house rentals would be reviewed on a case-by-case basis.

Mr. King stated that the Commission would follow the evaluation criteria discussed previously and that if the Commission is not satisfied that the owners are in close enough proximity, then it can recommend denial.

Mr. Peterman stated that he has no objection to whole-house rentals as long as there is adequate supervision of the property. He stated that a prohibition on whole-house rentals could be

problematic since an owner could claim that some part of the house is not going to be rented and therefore it is not a whole-house rental. He stated that he feels whole-house rentals should continue to be evaluated on a case-by-case basis.

Chair Titus agreed and said that the consensus is that a ban on whole-house rentals is not necessary.

Chair Titus introduced the next subject, which was whether or not there be some sort of numerical limit on the number or density of STRs in a given area.

Mr. Peterman stated that the problem with this proposal is that “community” and “neighborhood” are not defined terms. He said he was unable to find a definition in the County Code.

Mr. King said he had the same concern, stating that it would be difficult to define the boundaries of a neighborhood.

Mr. Cross responded that the citizens group referred specifically to “defined neighborhoods,” which would be easy to define in the case of a subdivision but difficult to define in other cases. He stated that the staff did a lot of research into this issue and found that setting limits on the number of STRs in a given area is not commonly done in Virginia. In fact, he stated, staff was unable to find a single locality in the state that does it, although the City of Virginia Beach is considering capping the percentage of STRs in its two proposed STR overlay districts to roughly 10% of the homes. He said there are a number of localities in the western states, such as California and Oregon, that limit the density by limiting the distance between STRs. Mr. Cross cited a few examples, including one city that prohibits an STR within 300 feet of another STR on the same street, another city that limits the total number of STRs to 250 and prohibits them from being within 110 feet of another property, and another locality that limits the number of STRs to 3% of the homes in a given Census Tract.

Mr. King stated that he is reluctant to set arbitrary limits on STR density and that if there are too many STRs in a given neighborhood, the Commission will know about it. He stated that the staff does a good job at pointing out where the existing ones are and that the presence of an existing STR nearby would be a factor for the Commission to consider. He agreed with Mr. Peterman about the difficulty of defining a community, and he noted that homes can be in separate but adjacent subdivisions.

Chair Titus commented that his subdivision of Patriot Village is inter-connected with Tabb Lakes, York Meadows, The Greenlands, and Coventry all within a mile of each other, resulting in several individual neighborhoods that overlap. He said it would be possible to have two STRs adjacent to each other because they are in separate neighborhoods. Chair Titus added that Yorktown Village is fairly dense already.

Mr. Cross noted that if there were density caps, the Yorktown Village would likely be excluded since STRs are actually encouraged there by the Yorktown Master Plan.

Mr. Criner recommended that the existence of other STRs nearby be identified as a consideration and that the Commission not try to rewrite the rules.

Mr. Holroyd disagreed, stating that he feels there needs to be a minimum distance between STRs, which would effectively serve as a density cap.

Ms. Leedom added that a single STR can change the neighborhood in terms of added traffic, more people, and more strangers. She stated that she would like to see some sort of cap.

Mr. King responded that examples cited by staff of 110, 300, and 500 feet would not be much of a limit.

Mr. Cross commented that if the Commission wants to go in that direction, it can pick whatever minimum distance it feels is reasonable.

Mr. King noted that some neighborhoods are denser than others, which makes it difficult to come up with a uniform distance that would make sense in every area.

Mr. Criner stated that the presence of other STRs nearby should be treated as a factor for the Commission and Board to take into consideration when evaluating STR applications.

Mr. Holroyd disagreed, reiterating that he feels there should be a limit.

Ms. Leedom stressed that it will be important for the Commission to watch the numbers to make sure no neighborhood has an over-abundance of STRs.

Chair Titus summarized the discussion, stating that most of the members agree that it should be a consideration and that the County should not try to control STR density with a specific numerical standard.

Chair Titus stated that the next issue is whether or not neighborhoods should be able to essentially opt out of having any STRs by majority – or super-majority – vote of its residents. He addressed a question to Mr. Cross stating that he was under the impression that this would not be allowable.

Mr. Cross responded that there is language in the Code of Virginia stating that all zoning regulations must be uniform for uses throughout each particular zoning district such that, for example, if STRs are permitted with a use permit in one neighborhood that is zoned Rural Residential, the same would apply to all other neighborhoods that are zoned Rural Residential. He stated that the only way to get around that would be to create a different zoning district for each neighborhood, which he said would be problematic.

Mr. Barnett agreed with Mr. Cross and added that such a provision would have the appearance of divesting the Board of Supervisors, who are the elected officials, of the ability to control zoning. He said it was a novel idea but that the uniformity issue would be a problem. He said he would have a problem with allowing a group of people who are not elected officials to simply say by vote that they are going to control what the County can allow under its ordinances.

Mr. Peterman commented that once again, the problem of trying to define neighborhoods would be an issue.

Chair Titus stated that the mechanism for neighborhoods to disallow STRs is to regulate them through their homeowners' association (HOA) covenants. He noted that the Coventry HOA is, in fact, pursuing such a change, although he acknowledged that this is not an option in subdivisions that do not have an HOA.

Mr. King added that neighbors can also attend the public hearings to make their views known.

Mr. Barnett commented that pursuant to the Code of Virginia, any vote would have to be done without the assistance of the Electoral Board or the Registrar's office.

Chair Titus stated that the consensus appears to be that neighborhoods should not be able to opt out.

Ms. Leedom stated that she believes that neighborhoods should be able to opt out through their HOA or whatever association they have in place.

Chair Titus explained that if a neighborhood prohibits STRs in its covenants, that rule would supersede the County's ability to authorize an STR.

Mr. King asked about the definition of a super majority.

Mr. Cross responded that the central issue is the concept of opting out by vote and that if the Commission wants to allow this, the staff can come back with specific suggestions on how such a provision would be implemented.

Mr. Holroyd asked Mr. Cross how the City of Chesapeake handles this issue, noting that STRs are not allowed in certain areas.

Mr. Cross responded that Chesapeake regulates it through zoning. He explained that the city only allows B&Bs and tourist homes as a conditional use in its Agricultural zoning district and in its Historic and Cultural Preservation overlay district. He reiterated that the only way to prevent STRs in a given area would be by zoning.

Chair Titus asked the Commissioners if they wanted to address this issue through zoning, and the consensus was in the negative.

Chair Titus introduced the next topic, which was whether or not there should be limits on the number of rentals per year for an approved STR and whether there should be a limit on the number of rooms available for rent.

Mr. King asked for clarification regarding a limit on the number of rentals.

Mr. Cross responded that at the July 27 work session, the citizens group had suggested that STRs be limited to a maximum of 90 days of the year. He noted that other localities in Virginia have similar provisions, with the number of rentals ranging from 60 to 104 days, while others have no limit at all. He explained that the rationale for the citizens [KS1] group recommendation of a 90-day limit is that it would ensure that the commercial aspect of the home is ancillary to the principal use, which is residential.

Mr. King asked if the County received any feedback from existing STR owners of STRs as to whether a three-month limit on rentals is a business model that works.

Mr. Cross responded that it clearly would not work for the approved STR on Goosley Road since it is basically a commercial venture and the owners do not live in the house and that it would probably be problematic for the Yorktown Cottages as well. He recalled that there was some negative feedback from the STR owners in the audience when the topic was discussed at the work session but stated that the Planning Division has not received any formal feedback.

Mr. Criner asked if there have been any complaints or problems.

Mr. Cross responded that there have been no problems or complaints about any of the legally approved STRs.

Mr. Holroyd stated that he feels there should be a limit to prevent people from buying up homes in their neighborhoods for investment purposes. He stated that he feels this is the best way to limit the number of STRs in our neighborhoods.

Mr. King responded that he would like to hear from the STR owners and find out if an arbitrary 90-day limit would put them out of business, and he added that the tourist season in this area is longer than 90 days.

Mr. Criner stated, based on his experience as the owner of a beach house, that the rental season is four months.

Mr. Cross commented that 90 days just happens to be the number that was suggested by the citizens group. He said that if the Commission feels a limit makes sense it can pick whatever number seems appropriate. He agreed that the tourist season exceeds 90 days, noting the season schedule for Busch Gardens, William & Mary's graduation in May, and the fact that a lot of tourists visit Williamsburg at Christmastime.

Mr. Criner stated that he is not opposed to a limit but that he does not know what the number should be.

Mr. King said he feels the same way and would like to hear more input from the STR numbers.

Mr. Peterman stated that while he understands the concern, he is generally opposed to placing a limit on the number of rentals. He agreed that it would be good to hear from the current STR owners and get some feedback before moving forward on this question.

Mr. King suggested that this issue be tabled until the Commission can receive input from the STR owners.

Chair Titus agreed that there would have to be a rational basis for any such limitation.

Mr. Cross noted that the Commission has said it does not want to require the owners to live in the home or in an adjacent premises, which raises the question of what a non-resident STR owner is supposed to do with the house for the rest of the year if there is a limit on the number of rental nights.

Chair Titus responded that in that situation, the limitation would probably force the STR to close.

Following discussion, **Chair Titus** stated that the matter would be tabled pending the receipt of additional information.

Mr. Cross stated that the Commission also needs to address the question of whether or not to limit the number of rooms that can be rented in a home that is not a whole-house rental.

Mr. Criner stated that if whole-house rentals are allowed, he does not see the point in limiting

the number of rooms rented.

Chair Titus stated that the Commission appears to agree.

Chair Titus raised the next discussion topic, which was whether or not STR operators should be required to maintain liability insurance. He recollected that the amount of coverage recommended was \$1 million.

Mr. Cross said that was the number that was suggested by the citizens group. He stated the only localities he could find in Virginia that have an insurance requirement are the City of Williamsburg, which has a very restrictive ordinance and requires \$500,000 of coverage, and the City of Virginia Beach, which requires a million dollars in coverage. He added that insurance requirements are more common outside Virginia, especially in the western states, where the minimum coverage is typically half a million dollars.

Mr. Criner asked who the coverage would be protecting.

Mr. Cross responded that he had the same question, noting that it would protect the guests and the property owner but that he is not sure how it would protect the neighborhood. He stated the concern was raised specifically by Queens Lake residents who were concerned that the Community Association could be liable if an STR guest were to get hurt on the community playground or on one of the common areas or other community facilities.

Mr. Criner responded that liability insurance would not cover those areas anyway and would only cover care for the person who owns the house and the people who are renting the house, which he said is a private agreement between the owner and renter.

Mr. Cross agreed.

Mr. King recalled that at the work session, one of the STR owners mentioned that one or more of the online platforms allow people to pay for extra insurance.

Mr. Cross stated that the owner of the Yorktown Cottages had mentioned something along those lines but that the Commission should not focus on the policies of Airbnb, VRBO, and other online platforms. He noted that the County has tourist homes that have their own websites for making reservations and do not advertise on those other platforms.

Chair Titus said he could not understand why an owner or business operator would not have liability insurance.

Mr. King said he had the same question and also wondered what it would cost to have \$500,000 or \$1 million of liability insurance.

Mr. Criner responded that it is not tremendously expensive but questioned why the County should be dictating this since it has no effect on the rest of the neighborhood or the County.

Mr. Cross responded it can be argued that it would benefit public safety by ensuring that a renter who is injured will be covered.

Mr. Criner responded that he would encourage owners to purchase insurance but felt the County should not be dictating it to them.

Chair Titus commented that it seems that by requiring insurance, the County would be getting very involved in dictating to the owners specifically how to run their business.

Mr. Holroyd responded that since it is a business, there are certain things he feels the County should insist on certain elements, such as fire and safety requirements throughout the building. He felt that liability insurance should be required.

Chair Titus responded that the County has no insurance requirements for other businesses, such as gas stations.

Mr. King stated that he feels requiring liability insurance would be overreach and agreed with Mr. Criner that it would have no effect on the community. He stated that it is up to the owner whether or not to purchase insurance and that it should not be dictated to them by the County.

Mr. Peterman commented that he believe the reason that the citizens group wanted this requirement was to add another hurdle to make it more expensive to operate an STR, thereby discouraging STR owners from using the home as an investment property He stated that any responsible homeowner would want to have liability insurance to protect themselves whether it is dictated to them by the County or not.

Chair Titus stated the consensus of the Commission that is that liability insurance should be encouraged but not required.

Mr. Holroyd said in that case it would be a guideline and not a mandate.

Mr. King added that the Commission can always ask the applicants if they have liability insurance and consider that when evaluating a proposed STR.

Chair Titus stated that the next topic on the list has to do with zoning enforcement fees, penalties, and renewal requirements for STRs. He recalled that the citizens group had recommended that application fees be increased to cover the total staff costs associated with zoning enforcement for STRs.

Mr. King asked what the current application fee is for a Special Use Permit.

Mr. Cross responded that effective July 1st, the use permit application fees were raised to \$560 except for home occupations and accessory apartments, for which the fee is \$500. He stated that the standard use permit fee was \$450 for a number of years and that it did not even cover the advertising costs. He stated that years ago, staff had recommended to the Board consider raising the fees to at least come closer to paying for the advertising but that the Board was not interested in that.

Mr. King asked what the average cost is today for advertising an application.

Mr. Cross responded that staff had compiled that information to show the Board how the fees were falling short of the advertising costs and that since then, the Daily Press ad rates have risen considerably while the application fees stayed the same, at least until July 1 of this year.

Mr. King asked how raising the fees would protect the community.

Mr. Cross responded that the citizens group's concern is not the cost of advertising but rather

the cost of increased staffing resources needed to implement its recommendations for additional zoning enforcement, which the group felt should be borne by the STR owners and not the taxpayers. He said the group also recommends increased penalties for violators.

Mr. Holroyd asked what the penalty is for an illegal operator.

Mr. Cross responded that there are civil fines spelled out in the code. He explained that the owner would first receive a Notice of Violation and then be taken to court if the violation is not addressed and that there has to be legal action before any fines are paid.

Mr. Barnett explained that if there is a financial penalty to be imposed, it is imposed by the court. He stated that the County has in the past taken illegal STRs to court and gotten injunctions against them but that he didn't recall if any monetary penalties were handed down. He stated that for a first offense the courts tend not to weigh heavily unless there has been a record of willful violation such as someone who has simply ignored violation notices and attempts by the County to bring them into compliance.

Mr. King asked if the County charges applicants for use permit inspections for other uses.

Mr. Cross responded that other than the two exceptions previously noted, home occupations and accessory apartments, the use permit fee is the same for all uses, except that there is an additional acreage fee for sites that are larger than five acres.

Mr. King commented that charging a fee to cover the cost of sending zoning inspectors out every so often to visit each site would effectively kill the STRs because the cost would be outrageous.

Chair Titus commented that it raises the issue of what is the role of government and what costs should be absorbed by the government as part of its normal operations.

Mr. Criner noted that these facilities are being taxed and are entitled to a certain level of service for their tax money.

Chair Titus agreed, adding that the government should not be in the business of making a profit.

Mr. King stated he is not against raising the application fee but that it could never be high enough to cover all the costs.

Mr. Cross clarified that the citizens group's recommendations were not limited to the application fees but to other fees as well, such as a \$250 annual use permit renewal fee. He stated that there are a lot of localities in Virginia that charge an annual STR registration fee in the range of \$150 to \$200 but that in those localities, STRs are typically permitted administratively without having to go through a public hearing process.

Mr. Holroyd stated that it sounds like the fees are basically set by the Board of Supervisors and the penalties are set by the court, so there is nothing for the Commission to discuss.

Chair Titus summarized the discussion, stating that the consensus is for zoning fees to stay as they are. He asked if the Commissioners have any additional items they want to bring up.

Mr. Holroyd introduced two additional items that he wanted to discuss, the first of which is a requirement for prior residency on the property before a person can apply for a Special Use Permit

for an STR, and the second of which is the issue of neighborhood agreement or disagreement and how much that should weigh into whether a Special Use Permit goes forward.

Chair Titus recollected that the citizens group had recommended a residency requirement of two years.

Mr. Holroyd stated that he felt it was a legitimate request to prevent people from buying property and immediately flipping it for rental purposes. He said this would control the spread of STRs and prevent the problem of people buying and flipping properties into rental properties, as in Virginia Beach.

Mr. King replied he is not opposed to some sort of minimum residency requirement so that people have to live there for at least a certain period of time to have a connection to the neighborhood.

Chair Titus countered that there is nothing to prevent people from buying homes and immediately flipping them for long-term rental purposes. He questioned why the County should care as long as the residential character of the property is maintained.

Ms. Leedom stated that she felt there should be a residency requirement for STRs. She reiterated her belief that a single STR changes the character of the neighborhood.

Mr. King stated that he feels long-term rentals are different from short-term rentals because the long-term renters become part of the neighborhood.

Chair Titus stated that with a residency requirement, a person could buy a property, live six blocks away, and never be around their neighbors and yet would have to wait two years before applying for a use permit to operate an STR even though that person was never part of the neighborhood. He stated that many neighborhoods are not close-knit and in many cases people do not know their neighbors.

Mr. Cross brought up the example of the STR on Goosley Road, which the owners purchased with the intent of offering it as an STR. He said that with a residency requirement, they would just have to hold the property for two years before they could do anything with it.

Ms. Leedom responded that since there are no neighbors near the property, that case could have been treated differently.

Mr. Cross responded that if there is a two-year mandatory waiting period, then the Commission and Board would have no latitude to consider extenuating circumstances.

Chair Titus stated that he would not be against allowing STRs as a matter of right, subject to certain requirements.

Ms. Leedom replied that York County is not a tourist community like Nags Head where four out of five houses are rentals.

Mr. King replied that people who live in Yorktown would not agree that the County is not a tourist community.

Mr. Cross commented that there are more than twenty thousand homes in the County, only eleven of which are being operated as STRs, which is a very small proportion. He said that outside of the

Yorktown Village, they are generally scattered all over the County, although there is a small cluster of properties in Queens Lake that were unsuccessfully proposed for STRs.

Mr. King stated that if the consensus of the Commission is that there should be no waiting period, he would go along with it.

Mr. Criner stated that he would like to use prior residency as a guideline that the Commission can take into consideration, but he added that there are certain circumstances where it would be justifiable to allow a new owner to operate an STR. For example, he stated, there could a property owner whose spouse dies shortly after purchasing the property and might need to rent rooms for income. He said he would rather err on the side of giving people more rights than taking them away.

Chair Titus expressed his agreement with Mr. Criner.

Mr. Holroyd stated that the neighbors also have rights and that he would rather side with the neighbors.

Mr. Peterman responded that the Commission takes the neighbors' interests into consideration. He said that neighborhood opposition carries a tremendous amount of weight, and that the history has been that when the neighbors have strong concerns that a proposed STR would change the character of the neighborhood, the application is not approved.

Mr. King stated that the process is for everyone and that there are multiple opportunities for all residents to participate. He stated that all citizens' rights are well represented under the current process.

Mr. Cross commented that Mr. Peterman is correct in saying that in every case of an STR being approved, the one common denominator was that there was no significant opposition, and in every case of one that has been denied or withdrawn, there was significant neighborhood opposition. He stated that none of the traditional planning considerations such as lot size and density have entered into the decisions to approve or deny.

Mr. Holroyd raised the question of whether or not an STR applicant should have to have the agreement of the neighborhood in order for the proposal to go forward or if the Commission is only considering opposition.

Chair Titus responded that the Commission hears from neighbors who are in support as well as those who are opposed and that sometimes the neighbors are evenly divided.

Mr. Peterman recalled an application where all the surrounding neighbors expressed support and that everything else about the application was satisfactory but that the key factor was that his neighbors supported it.

Mr. Cross commented that when prospective STR operators approach the Planning Division about applying for a use permit, staff strongly encourages them to talk to the neighbors and the HOA, if there is one, or in a subdivision like Queens Lake, the community association. He added that there have been cases where people have included with their applications signed letters of support from their neighbors.

Mr. King stated that he feels the totality of citizen input is taken into consideration under the current process.

Mr. Holroyd responded that he feels strong neighborhood support should be a guideline for evaluating STR application.

Mr. King replied that it already is used as a guideline that he and the other members take into consideration. He said he does not want to force an STR on a neighborhood that is strongly opposed to it.

Mr. Cross clarified that neighborhood support or opposition comes out of the public hearing process and is not something that would be embedded in the Zoning Ordinance. He explained that staff serves as technical advisors to the Commission and the Board, so citizen input does not enter into the staff's recommendations but that it does legitimately enter into the Commission's recommendations and the ultimate decisions of the Board.

Chair Titus asked Mr. Cross if staff has the guidance it needs from the Commission to move forward.

Mr. Cross said it does and that there are also a number other, less significant, recommendations put forth by the citizens group that have not been discussed, such as requiring STRs to be regulated as hotels. He said he did not include the issue of signs in the discussion topics because that issue has been settled by the U.S. Supreme Court, which has greatly reduced localities' latitude in regulating signs.

Ms. Leedom asked Mr. Cross about applicants' obligations to notify their neighbors when they apply for a Special Use Permit.

Mr. Cross responded that notification of the neighbors is done by the County and not the applicant. He explained that staff sends letters to all immediately adjacent property owners, including those across the street, as required by the Code of Virginia. He stated that the County advertises the public hearings for both the Commission and the Board twice in the Daily Press, which is also a state code requirement. In addition, Mr. Cross stated, the staff posts a sign on every property that is the subject of an application so that residents and property owners in the general area can be aware that an application has been submitted. He added that the application materials and public notices are also posted on the County's website, and that for sites that are in a neighborhood that has an HOA or a duly constituted community association, notification letters are sent to the association.

**MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
December 8, 2021

MEMBERS

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

CALL TO ORDER

Chair Titus called the meeting to order at 7:00 p.m. and stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. He explained that this responsibility is exercised through recommendations conveyed by resolutions or other official means, all of which are matters of public record. He stated that the Commission is comprised of seven citizen volunteers appointed by the Board, including one representative from each voting district and two at-large members.

ROLL CALL

The roll was called and all Commissioners were present with the exception of Mr. Smith. Staff members present were Timothy C. Cross, Deputy Director of Planning and Development Services; Richard E. Hill, Jr., Deputy County Attorney; Amy Parker, Senior Planner; Earl W. Anderson, Senior Planner; Jeanne Sgroi, Management Analyst Intern, and Cathy Tartabini, Planning Assistant. Also in attendance was Susan D. Kassel, Director of Planning and Development Services.

OLD BUSINESS

Chair Titus opened the discussion of STR regulations. He stated that the staff had prepared a set of draft Zoning Ordinance excerpts and is looking for feedback from the Commission.

Mr. Cross stated that there was extensive discussion at the Commission's August 11 meeting about ten specific proposals related to STR regulations. He stated that based on the consensus of the Commission – or the majority of the Commission – on each item, staff prepared the draft amendments for the Commission to review. He stated that the most significant change is to allow STR use permits to run with the property owner rather than with the property. He stated that staff has been doing this as a matter of policy for months through use permit conditions but is recommending that it be added to the code as a general requirement. He said other suggested changes include a requirement that STR owners maintain a guest log book as well as additional language clarifying that onsite residency is preferred but not required as long as applicants can demonstrate that they have adequate provisions in place to monitor guest behavior.

Mr. Cross stated that most of the ten proposals that were discussed at the August meeting are not reflected in the draft language because the majority of Commissioners were not in favor of them.

He stated that the one that remains undecided is whether or not to impose a limit on the number of rental nights per year. Mr. Cross stated that in response to a request from the Commission, staff contacted the eleven existing STR owner/operators in the County to get their feedback and that there were four responses, all of which were included in the agenda materials. He said this is an issue the Commission will need to discuss and reach closure on so staff can move forward with any actual Zoning Ordinance text amendments.

Chair Titus stated that the Commission needs to decide what the maximum number of rental nights per year should be, leave it to the Board of Supervisors to decide on a case-by-case basis, or not have a maximum limit. He said he would rather set the limit at 365 days than have the Board set a limit for each individual case. He said any other number would be arbitrary and capricious and would have no justification.

Mr. Peterman referred to the feedback from the current STR owners who stated that such a restriction would cause a hardship that could require them to cease operation. He said there would need to be a good reason for any limit because it could put people out of business. He said there are enough regulations and procedures in place to deal with any complaints that arise and that he did not see a need for a limit.

Chair Titus responded that there are localities that do limit the number of rental nights and yet the STRs are able to stay in business somehow.

Mr. King agreed with Chair Titus's comment that to impose a limit on the number of rental nights would be arbitrary. He said there are some cases where the Commission might feel no limit is necessary and others where a limit might make sense. Mr. King said he would like to leave it as it is where each case is decided on its own merits. He stated that an alternative would be to give the Board of Supervisors the option of restricting the number of rental days per calendar year. He said he opposes a blanket restriction on the number of rental days. With regard to the other proposed amendments, Mr. King said he thought the staff did a good job of incorporating the Commission's comments. He noted that the major change is to tie STR use permits to the property owner rather than the land.

Chair Titus suggested that the limit could be set at 365 days unless the Board decides to change it in a particular case.

Mr. Criner said he agrees with that approach.

Mr. Holroyd stated that he believes there needs to be a tier system with guidelines that have to be met before an applicant moves up to the next tier. He advocated a probationary period, as was done in Mr. Moberley's case, in which applicants have to demonstrate that they are responsible business owners who follow the rules and pay the taxes. He stated that under such a system, STRs could be limited to 90 days in the first year and then be allowed to increase to 180 days in the second year if they are in compliance with all the regulations and conditions, and ultimately to 365 days by year four. He stated that a limit of 104 days, as some communities have, would be a good starting point because that would establish that they can screen candidates, control renters' behavior, and ensure that neighbors are in support of it.

Chair Titus asked if applicants would have to come back to the Board periodically for approval.

Mr. Holroyd said that is for staff to decide, and he noted that that is what happened in Mr. Moberley's case. He stated that instead of starting with a 365-day limit, applicants should earn the right to be unlimited by proving that they are meeting the County's expectations.

Mr. Criner responded that he is glad there were no such restrictions in place to force him to earn the right to make money when he started his home-based business.

Mr. Holroyd responded that an STR is not the same as a business in that it involves a homeowner deciding to utilize spare space in the home to rent out to tourists.

Ms. Leedom agreed with Mr. Holroyd that there should be some limit initially and that 365 days is too many. She stated that STRs should be monitored and the applicants should have to come back to the Commission periodically and demonstrate that they are in compliance and that the neighbors are happy.

Chair Titus asked Ms. Leedom what makes a short-term rental different from the multitude of other home-based businesses that the County has approved.

Ms. Leedom responded that with home-based businesses, the owner is on the premises and able to monitor it and that is not necessarily the case with STRs.

Mr. Cross commented that there are provisions in place to revoke use permits when there are problems. He said that years ago, the County had a system similar to what Mr. Holroyd is proposing. He stated that home occupations with non-resident employees were required to come back to the Board every two years and either go through the process again or submit letters from all the neighbors saying they had no objection to the continuation of the business. He said that over time it came to be a pointless exercise that was burdensome to the business owners, some of whom complained. He said that ultimately the Board of Supervisors took that provision out of the ordinance because it was not serving any purpose.

Mr. Criner, said that as a business owner who was in that position, he was grateful to the County for removing that provision.

Richard Hill, Deputy County Attorney, pointed out in response to the comment that was made earlier regarding sex offenders that the sex offender registry is public and searchable. He stated that STR owners can search the registry to make sure prospective renters are not on it. In addition, he stated that the County Attorney's office would have concerns about requiring STR owners to make their guest logs available to staff on demand. He stated such provision would pose serious Constitutional problems in light of existing Supreme Court precedent. He asked the Commission to take that into consideration.

Mr. Cross explained that this provision was included in the draft amendments because a lot of other localities have the same requirement and it seemed reasonable to staff. He added that Mr. Hill had conveyed his comments to staff earlier but they were not received until after the agenda package was sent to the Commission, which is why the language was included as is in the draft document.

Mr. King recommended removing the language based on the advice of the Deputy County Attorney. There was no objection.

Mr. King commented that there is a process that gives the Planning Commission the opportunity to impose additional restrictions on an STR if it believes there is a need. He added that as was pointed out by Mr. Cross, the County has mechanisms in place to deal with any STR that is being operated in an inappropriate manner. Mr. King stated that regardless of what might be the rule in some other locality, to establish some numerical limit on the number of rental nights would be arbitrary and have no rational basis. He said the Commission should base its recommendations on the unique facts of each case and the comments from the neighbors and not on some arbitrary number.

Mr. Hill stated that he and Mr. Cross talked about requiring STR owners to keep a guest log but not requiring that it be available on demand to County staff. He said that would ensure that the information is available in the event that suspicion developed that would justify issuance of a search warrant, so he felt that was a possibility.

Mr. Cross said the language can be changed to require a guest log but not require that it be made available on demand to County staff.

Mr. King said that is a great idea so that if there is a crime or a complaint, the guest information can be provided with a search warrant.

Chair Titus stated with regard to the number of rental days, it could be left unlimited while giving the Board the authority to reduce it in approving a use permit.

Mr. King responded that he was not opposed to having language that would say that the number of calendar days could be limited based on the circumstances of the application. He said this would make it clear to the applicants that they are not guaranteed to have up to 365 rental days and there could be factors that dictate a limit on the number of rental days.

Mr. Cross commented that such a provision would give the Board of Supervisors some leeway, when there are controversial applications, to adopt a compromise position where the applicants are willing to limit the number of rentals per year. In addition, he stated that at its August 11 meeting, the majority of the Commission did not want to prohibit whole-house rentals but as a practical matter, that is what a limit of 60, 90, or 100 rental nights would do in most cases.

Chair Titus summarized the discussion, stating that the proposed amendments should not include a numerical limit but should include language to allow the Board to establish one in any particular case if it deems it necessary.

Mr. Holroyd commented that a person could rent his or her home for 90 days or more, which would not be considered a short-term rental, and if they were in a first-year probationary period, restricting the STR use to 100 days would not prevent them from renting out their house for the rest of the year as long as the rental is for at least 90 days.

Chair Titus asked Mr. Cross if the Commission has given staff the guidance it needs in order to proceed.

Mr. Cross responded that it appears to be the desire of the Commission to make two modifications regarding the guest log and the number of rental nights and sponsor the rest of the amendments as written.

Mr. Holroyd expressed his disagreement with language in the staff report that states that the consensus of the Commissioners was that the zoning fees and penalties should remain as they are. He said his recollection is that the Commission said that fines are set by the courts and fees are set by the Board of Supervisors and that the Planning Commission has no voice on it, not that the Commission agreed that they should stay the same.

Mr. Cross responded that the Commission agreed not to make any changes and the statement to which Mr. Holroyd was referring reflected his own opinion.

Mr. King responded that the bottom line is that the Commission is not recommending any changes.

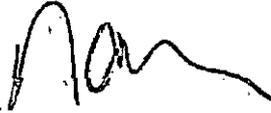
Mr. Holroyd said that is true but that he disagreed with the wording in the memo.

Chair Titus stated that in his opinion, the proposed amendments represent guidelines for STRs, and he asked Ms. Leedom and Mr. Holroyd if they agree, since he has heard them say there are no guidelines.

Mr. Holroyd responded that once these recommendations are adopted by the Board of Supervisors, there will be guidelines in place.

COUNTY OF YORK

MEMORANDUM

DATE: June 7, 2023 (BOS Mtg. 6/20/23)
TO: York County Board of Supervisors
FROM: Neil A. Morgan, County Administrator 
SUBJECT: Draft Zoning Ordinance Text Amendments – Short-Term Rental Homes

ISSUE

At its December 14, 2022, meeting, the Planning Commission voted to forward Application No. ZT-194-22 to the Board with a recommendation of approval. This application, initiated by the Commission in accordance with Section 24.1-113(a)(2)b of the Zoning Ordinance, is to amend the Zoning Ordinance provisions applicable to short-term rentals (STRs). The proposed amendments are shown in the attached ordinance in strikethrough/underline format. Most of the proposed changes are relatively modest because most of the Commissioners have indicated that they are not in favor of making major changes. The most significant change is to require tourist home use permits and YVA approvals to run with the property owner rather than with the property. Allowing STR approvals to run with the land has been the major bone of contention among STR opponents ever since 2015 when the Airbnb phenomenon began to take hold in the County. The proposed amendment would stipulate that all STR approvals automatically expire when the property is transferred to a new owner.

Other recommended changes include the following:

- Require STR owners maintain a guest log book.
- Clarify that onsite residency is preferred but not required if the applicants can adequately demonstrate to the Commission and the Board that they have satisfactory provisions in place to monitor guest behavior.
- Specifically authorize the Commission and the Board to consider the presence of other legally operating short-term rental homes within the same general area when evaluating STR applications.
- Add language stating that there is no set limit on the number of rental nights a year but specifying that the Board can establish such a limit if it deems it necessary when approving an application for an STR.
- Add language stating that exterior cooking appliances used by guests must have a fuel source of either propane or natural gas and that the use of charcoal is prohibited. This stipulation from the Department of Fire and Life Safety has become a standard condition for tourist home approvals, so it would make sense to add this to the performance standards.

- Remove language requiring the owner of a bed-and-breakfast to be the on-site operator/provider. This is based on the Commission's feeling that as long as there is a manager either on the premises or in an adjacent premises, it should not matter if he or she is the owner. For example, the Hornsby House Inn bed-and-breakfast in Yorktown was approved before this requirement was in place and has operated without incident since 2011 with an on-site manager who was not the owner.

CONSIDERATIONS/CONCLUSIONS

1. Over the years, the Planning Commission has spent a considerable amount of time and effort grappling with the issue of STRs. Indeed, this is the second set of STR text amendments initiated by the Commission and forwarded to the Board for consideration. The first group of amendments, which were unanimously adopted by the Board on March 17, 2020, were developed in response to Board members' requests for additional guidelines to assist them in evaluating STR proposals. The current set of proposed amendments was initiated not by the Board but by the Commission, which conducted a work session in July 2021 to meet and have dialogue with a group of citizens advocating various changes to the County's STR regulations. Several STR owners and others were also in attendance and participated in the discussion. As a follow-up to that work session, the Commission dedicated its August 11 meeting and a good portion of its December 8 meeting to extensive discussions of the group's recommendations. The proposed amendments now before the Board represent the culmination of that effort. They reflect the general – albeit not unanimous – consensus of the members of the Planning Commission.
2. Although most of the suggestions made by the citizens group ultimately were not accepted by the Commission, each was given full and serious consideration. The recommendations that were discussed are listed below, along with the general consensus of the Commission on each.
 - **Expiration Requirements.** Probably the most frequently cited concern that citizens have raised about STRs is that Special Use Permits and YVA (Yorktown Village Activity) approvals for STRs run with the land and not with the property owner. The general consensus of the Commission was that STR approvals should run with the property owner, although one Commissioner felt they should run with the land just as all other land use approvals do. In all recent tourist home applications, staff has included a condition of approval stipulating that the approval will become null and void at such time as the property changes hands to a new owner. Since this has become standard procedure, I agree with the Commission that it makes sense to make this a general requirement for all STRs, and such a requirement is included in the proposed amendments.
 - **Residency Requirements.** Another major concern that typically arises with regard to STR applications and STRs in general is that without any on-site monitoring of guests' behavior, STRs could be used for 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. To address this concern, the Zoning Ordinance currently requires that the owner/proprietor of a tourist home either reside in the home or in an adjacent premises *or* designate a responsible party (who may be the owner) who must be available to promptly respond to and resolve problems or complaints that arise while rentals are taking place. The Planning Commission had extensive discussion on whether or not this provision should be revised to eliminate the opportunity to designate a “responsible party” and to require the owner to live on the premises or in an adjacent premises. While there was general agreement that the most effective way to monitor guests’ behavior is to have the owner physically present in the home, it was also noted that for every rule, there are exceptions, such as the tourist home on Goosley Road that is surrounded by National Park Service property and has no adjacent neighbors, or the tourist home on Penniman Road where the owner’s mother lived next door and was able to keep an eye on the home while rentals were taking place. In the end, the general consensus of the Commission was that while it is preferable for the owner/operator to reside in the home or in an adjacent premises, it should be treated not as a requirement but as something the Commission and Board should consider when evaluating an application for a tourist home. The Commission has recommended modifying the language slightly to clarify that on-premises residency is preferred.

- **Whole-House Rentals.** The concerns that have been expressed about whole-house rentals are similar to the previously discussed concern about requiring the owner to be in the house while rentals are taking place in order to avoid problems with parties, noise, and trash and to maintain the residential character of the neighborhoods. The general consensus of the Planning Commission was that there should not be an absolute ban on whole-house rentals since there can be situations where the owner lives next door or across the street and would be able to monitor guests’ behavior from their homes. In fact, the Board has approved three whole-house rental STRs that were located next door to the owner’s residence; and a fourth where the owner’s mother lives next door.
- **STR Density Caps.** One suggestion that has been made is that the County should set some sort of limit on the number or density of STRs in a given area. The intent of such a provision would be to preserve the character of the County’s residential neighborhoods and keep them from being dominated by tourist homes, which are a quasi-commercial use. This strategy is not commonly employed in Virginia; in fact, staff has been unable to find a single locality in the state that has such a provision, although there are a number of localities in the western states that limit the density by limiting the distance between STRs. One city in California, for example, prohibits an STR within 300 feet of another STR on the same street, while another limits the total number of STRs in the city to 250 and prohibits them from being within 110 feet of another property. Other examples include Austin, Texas, where the number of permitted STRs is limited to three percent of the homes in a given Census Tract, and Santa Fe, New Mexico, where permits will not be issued for more than two STRs directly adjoining each other on a residentially zoned street.

The opinion of most of the Planning Commissioners was that in many cases it would be difficult to define the boundaries of the “neighborhood” and that the County should not try to control STR density with a specific numerical standard, which would be inherently arbitrary. The general consensus was that the presence of other STRs in close proximity or in the same neighborhood or general area should be treated as a consideration when reviewing STR proposals, consistent with the goal of preserving the residential character of the neighborhood. Two Commissioners held the opposite opinion and felt that there should be some kind of density limit.

- **Neighborhood “Opt-outs.”** One idea that has been advanced is that “defined neighborhoods” should be allowed to essentially “opt out” of having any STRs by a 60% “super majority” vote of the residents. This concept raises the age-old question of majority rule vs. minority rights, and staff is not aware of any locality that has such a provision. More importantly, Section 15.2-2282 of the Code of Virginia states that all zoning regulations must be uniform for uses throughout each zoning district. For example, if STRs are permitted with a Special Use Permit in one neighborhood that is zoned Rural Residential (RR), then they must be allowed with a use permit in other RR-zoned neighborhoods as well. During the Planning Commission’s deliberations over this idea, the (now former) County Attorney expressed concern that such a provision would have the appearance of divesting the Board of Supervisors, who are the elected officials, of the ability to control zoning, and that he would have a problem with allowing a group of people who are not elected officials to simply say by vote that they are going to control what the County can allow under its ordinances. It was also noted that the public hearing process already gives affected residents the opportunity to make their views known with regard to a proposed STR, and the Board and Commission have consistently given considerable weight to neighborhood input in evaluating these applications. After discussion, the general consensus of the Planning Commissioners was that neighborhoods should not have the ability to opt out of having STRs, although one Commissioner felt they should have this ability.
- **Rental Limits.** Another suggestion was to limit the number of rental nights to ninety (90) per year and also limit the number of rooms offered for rent in order to ensure that the principal use of the home continues to be residential. There are a number of localities that set such limits on STRs. Fairfax County, for example, limits STR rentals to 60 days per year and a maximum of six adult guests per stay, while the City of Williamsburg limits them to 104 days per year and a maximum of one room with two adults. The consensus of the Commission was that the Zoning Ordinance should not have a specific limit on the number of rooms or occupants. With regard to limiting the number of rental nights per year, the Commission decided that imposing a blanket restriction would be arbitrary and would place an undue financial hardship on the proprietors. Two of the Commissioners, however, recommended that there should be a limit, at least initially, that could be increased incrementally over time if the STR operates without any problems and in accordance with all County requirements. There was general agreement that the

Board should have the ability to limit the number of rental nights in individual cases if the circumstances warrant it, and language is included in the proposed ordinance language that would give the Board this authority.

- **Liability Insurance.** Another recommendation would require STR operators to maintain liability insurance coverage in the amount of \$1 million. According to staff's research, such requirements are not common in Virginia localities and are more common in other states, with a typical minimum coverage of \$500,000. While the Planning Commissioners felt that it would be wise for anyone operating an STR to carry insurance for their own protection and that of their guests, it is not something the County should mandate, especially since it would do nothing to protect the surrounding neighborhood. One Commissioner, however, felt that there should be an insurance requirement.
- **Zoning Enforcement – Fees, Penalties, Renewal, Etc.** The citizens group recommended a variety of special zoning enforcement requirements for STRs above and beyond those that apply to other Special Use Permits. These include a higher application fee for STRs, periodic permit renewal requirements (with a "maintenance fee" of \$250), additional financial and other penalties for non-compliance, and others. The justification for the additional fees and fines was to offset the cost of additional County resources dedicated to zoning enforcement for STRs. During the Planning Commission's discussion of these ideas, it was noted that civil penalties for zoning violations are set not by the County but by the courts in accordance with the limits set forth in the Code of Virginia. Another concern that was expressed is that zoning enforcement costs are absorbed by the County and that STR owners pay transient occupancy taxes in addition to their property taxes and are entitled to a certain level of service from the County. Ultimately, the Commission decided not to recommend any changes to zoning fees or penalties for STRs, although it did agree with one suggestion, which is to require STR operators to maintain a guest log, and this has been included in the proposed amendments.
- **Other Recommendations.**

Two additional recommendations were 1) that anybody wishing to apply for a Special Use Permit to operate an STR should first have to live in the house for a minimum of two years, and 2) that a property owner submitting an application for an STR should have to have the support of the neighborhood before applying to operate an STR. The intent of the prior residency requirement is to deter people from buying homes and then "flipping" them for rental purposes. The general consensus of the Commission was that prior residency could be used as a consideration when evaluating STR proposals but that there should be no specific requirement. However, two Commissioners did feel there should be such a requirement.

On the question of neighborhood support, the general consensus of the Commission was that demonstrations of neighborhood support should not be a prerequisite for an application to go forward since the public hearing process

provides ample opportunity for neighbors to offer their opinions and those opinions are given serious consideration by both the Board and the Commission.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered the proposed amendments at its December 14, 2022, meeting and, subsequent to conducting a public hearing at which eight citizens spoke, voted 4:2 (Mr. Holroyd and Ms. Leedom dissenting; Mr. King absent) to recommend approval. (For details, please see the attached minute's excerpts.)

COUNTY ADMINISTRATOR RECOMMENDATION

Since its first work session on the topic of short-term rentals in August 2019, the Planning Commission has dedicated many, many hours to this issue and has received considerable input from County citizens with a variety of perspectives on this issue. The end result is a series of proposed Zoning Ordinance text amendments that, for the most part, are relatively modest. This approach reflects the Commission's feeling that very detailed and specific performance standards, which are often necessary for by-right uses over which the Commission and Board have no approval authority and no ability to apply conditions, are generally not needed for STRs since York County, unlike many other Virginia localities, requires a Special Use Permit for STRs in all residential zoning districts. While I recognize that there are some citizens who feel strongly that the County needs tighter standards and restrictions for short-term rentals, I tend to agree with the Commission that STRs do not lend themselves to a "one size fits all" regulatory approach. This is why the County requires a case-by-case review through the Special Use Permit (or, in the case of STRs in Yorktown, YVA) process, thereby ensuring that affected neighbors will have an opportunity to express their views on any proposed STR and allowing the Board and the Commission to consider those views and use their best judgment in evaluating each application on its particular merits. I believe that approach is preferable to adopting a highly prescriptive ordinance that does not allow for consideration of the unique aspects of each STR proposal.

Therefore, based on the considerations and conclusions as noted, I recommend that the Board approve the proposed amendments through the adoption of proposed Ordinance No. 23-8.

Cross/3496

Attachments:

- Planning Commission work session minutes, July 27, 2021
- Planning Commission minutes excerpts, August 11, 2021
- Planning Commission minutes excerpts, December 8, 2021
- Planning Commission minutes excerpts, December 14, 2022
- Proposed Ordinance No. 23-8

MINUTES
YORK COUNTY PLANNING COMMISSION
Work Session
Tabb Library, 100 Long Green Blvd, Yorktown, VA 23693
July 27, 2021

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

CALL TO ORDER

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

ROLL CALL

The roll was called and all members were present. Staff members present were Timothy C. Cross, Deputy Director of Planning and Development Services; Richard E. Hill, Jr., Deputy County Attorney; Susan D. Kassel, Director of Planning and Development Services, Amy Parker, Senior Planner; Earl W. Anderson, Senior Planner; Jeanne Sgroi, Management Analyst Intern, and Cathy Tartabini, Planning Assistant. Richard Howell, Dana deJager, Richard Toth, and Dianne Howell were also in attendance.

OPENING REMARKS

Chair Titus explained that the purpose of the work session was to discuss the regulation of short term rentals (STRs) in York County. He offered his perspective on the issue, stating that the County needs to balance homeowners' property rights with the right of neighbors to enjoy their residential quality of life. He explained the format of the meeting, stating that the goal is to have an open discussion of the issue and that there would be no time limits on speakers. He then turned the floor over to Dana deJager.

PRESENTATION/DISCUSSION

Dana deJager introduced herself, stating that she is a member of a group of around 250 Queens Lake residents dedicated to preserving the fabric of the neighborhood. She said the group has grown over the years in response to each successive STR proposal in the subdivision, and that based on their discussions with most of the homeowners in Queens Lake, 80% would like to see changes to the Zoning Ordinance. Specific concerns cited by Ms. deJager included a lack of uniform standards for STRs, which she said creates uncertainty about what can be allowed, and the potential commercialization of residential neighborhoods, particularly with "whole house" rentals where the owner/proprietor is not on the premises. Other concerns, she said, include safety, noise, traffic, and crime. She stated that she would like to know the Commissioners' thoughts regarding STR goals and the needs of the community.

Chair Titus asked if there is any STR that would be acceptable to their group.

Ms. deJager responded that an acceptable STR would be one that has limits and is not financially viable as a stand-alone business but rather is operated as an ancillary use to the principal use of the home as a residence. She said residents are concerned that investors might purchase homes in Queens Lake strictly for commercial use.

Chair Titus responded that he could only recall a few cases of STRs that have been approved in the County where the owners were not required to live on the premises, one of which was in a fairly isolated area. Mr. Cross stated that the property he was referring to is on Goosley Road and has no neighbors adjacent to the property. He also mentioned one located on Tom Thomas Road in the Skimino area and the Yorktown Cottages on Ballard Street in the Yorktown village.

Mr. Peterman stated that he felt the approval process has not been accurately characterized. He explained that specific limits for each STR are spelled out in the conditions of approval of the Special Use Permit and that the use cannot be expanded without going through an approval process. Dr. Toth stated that after a year an STR owner can apply for a use permit to allow weddings, and he asserted that STRs can be expanded simply by memorandum.

Dr. Toth introduced himself as a member of the team and stated that the single most important investment most people make is their home and that many of them look at zoning laws before purchasing a home. He stated that he strongly disagrees that promotion of free enterprise should be a goal of the County's zoning provisions relating to STRs, as stated in the staff's briefing memo, while he agrees with the other two goals named – preserving the quality of life in residential areas and protecting private property rights. Dr. Toth stated that overtly commercial activities should not be allowed in residential areas and that he is looking forward to working with the Commission to develop rules to protect existing neighborhoods such as Queens Lake.

Mr. Howell introduced himself as a member of the team and stated that the community's major concerns are preservation of community character and safety; enforcement of zoning codes; and placing the burden of paying for enhanced enforcement on the owners rather than the taxpayers. Mr. Howell mentioned that other localities in Virginia and around the country are dealing with the same issues. He stated that in previous meetings, staff had indicated that excluding STRs in individual neighborhoods is not possible but that he believes Chesapeake does it and that Virginia Beach is considering something similar. Mr. Howell stated that the group's recommendations are intended to work in tandem with one another and were developed after researching other localities' ordinances across Virginia and the country.

Chair Titus responded that zoning laws need to be uniform across the County and that the best way to prohibit STRs in a neighborhood is through the homeowners' association (HOA), although he understood that in Queens Lake that is not possible. Dr. Toth said he didn't understand why applicants cannot be required to obtain permission from the neighborhood.

Mr. Holroyd stated that the Commission must follow state law, adding that it is difficult to change HOA covenants and bylaws. He said in most cases a two-thirds or three-quarters vote is needed.

Mr. Howell also stated that he feels short-term rentals and long-term rentals should be treated differently. He said long-term renters become part of the community.

Dianne Howell introduced herself and described her role in the group as the primary researcher of the code and the history of STRs in the County. She stated her research included reviewing the various STR applications that have been submitted in the County and reviewing Planning

Commission and Board of supervisors meetings. She felt the neighborhood canvas was important and demonstrated that most Queens Lake residents oppose STRs in their neighborhood. She stated that residents want more clarity as to the maximum scope of STR operations. Chair Titus stated that the more restrictive the rules are, the less flexibility there is to consider the unique circumstances of each application. Ms. deJager stated that the team wants narrowly defined limits and not broad regulations.

Mr. King commented that if Chesapeake is indeed regulating neighborhoods differently, it might not be doing so lawfully. He cautioned that if prescriptive regulations are adopted, an applicant who meets all the requirements but gets denied could question the fairness of the process. He said that doing so would weaken the role of the public and the Commission's flexibility in considering neighborhood input. Mr. Howell responded that he understands and agrees that there needs to be flexibility and that every application is different based on the location of property. Dr. Toth agreed that the Planning Commission needs to have latitude in evaluating applications but added that there still need to be rules.

Christie Van Cleave, 1304 Dandy Loop, stated that she and her husband own and operate the Yorktown Cottages on Ballard Street in Yorktown. She said she understood some of the concerns about STRs because she had similar concerns about a proposed B&B in her neighborhood of Dandy that she felt would harm the rural feel of community. She said her application was closely scrutinized when she went through the application process, so she put a lot of effort into preparing her application materials to improve her chances of approval. She also mentioned that Yorktown Cottages is a business and pays sales tax. She added that when Yorktown Cottages expanded, she had to go through the application process again. Ms. Van Cleave stated that she has reviewed many of the use permit applications that come before the Planning Commission and feels that some have a lack of detail. She added that she hopes existing approved STRs will be grandfathered from any changes to the Zoning Ordinance.

Mr. Holroyd asked for input from the team regarding whole-house rentals versus individual room rentals. Mr. Howell responded the team thinks whole-house rentals should not be allowed and that the owner should have to reside on-site. He said that it has been shown that STRs that run well have the owner on-site.

Ryan Moberley, 113 Edale Avenue, stated that he operates a short-term rental out of his home in Nelson Park, not far from Queens Lake. He stated that he is in the home while rentals are taking place and that he is very careful about who stays in his home. He stated that he is glad that STRs are reviewed on a-case by-case basis, adding that in his case all of his neighbors supported his application. Mr. Moberley stated that there have been no complaints about his tourist home and that it is the rentals that are operated illegally that cause problems.

Mr. King stated that as part of the approval process, the Planning Commission has to make judgement call with the intent of causing no harm to citizens. He stated that applicants have two opportunities to present their case, first before the Planning Commission and then the Board of Supervisors. He also told Mr. Moberley that his STR would be grandfathered.

Ms. Van Cleave discussed the benefits of long-term versus short-term renters, noting that long-term renters can be great but can also be difficult to remove if there is a problem. She stated that although she doesn't live on the premises, she does make sure to meet her guests upon arrival.

Chair Titus commented that there are high-tech electronic monitoring systems that can enable the

owner to monitor the house even when he or she is not on the premises.

Michelle White stated that she is the owner of an approved tourist home on Goosley Road. She said she and her husband do not live on the premises and mostly rent to families who do not want to stay in a hotel either because they are looking for a different type of lodging experience or because they have special needs, such as allergies. She stated that she likes the fact that applications are reviewed on a case-by-case basis, noting that in her case, there are no neighbors adjoining the property. Ms. White stated that the use permit process allowed the Commission and Board to take her unique circumstances into consideration. She stated that she carefully screens her guests, adding that the Airbnb platform requires renters to be at least 25 years old. Chair Titus commented that Ms. White's case is a good example of the value of the case-by-case approval process, noting that her property is almost entirely surrounded by National Park Service property, which helped to mitigate concerns about the fact that the owners do not live on premises. He said in that particular case, it seemed like a reasonable location for an STR with off-premises management.

Mr. King stated that he feels strongly that the property owner should live on the premises and that use permits for STRs should run with the property owner and not the land. He stated that if a property is sold, the new owner should have to go through the same approval process. Regarding the idea of limiting the number or density of STRs in a given area, he said he would prefer to make that an evaluation criterion rather than imposing a numerical limit. With regard to requiring the owner to be on the premises, Mr. Criner commented that if someone owns property, they have just as much incentive as someone who lives on the premises to make sure that renters don't cause any problems. He agreed that there is technology to help monitor the property, but that doesn't mean the owner will necessarily use it. Ms. Howell responded that she felt a house becomes a commercial use if the owner does not reside in it. Mr. Criner responded that community character cannot always be protected even when property is used for residential purposes. He cited the case of his father's house, which was not properly maintained by the new owners after it was sold.

Ms. deJager stated that the primary use of a home in a residential neighborhood should be residential. She stated that if it becomes a commercial property, neighbors have concerns about noise and people coming and going at all hours of the night. Mr. Criner asked the STR owners in the audience if the character of their neighborhoods had changed since they began operating. They responded that there has been no change.

Dr. Toth stated that the Sandbridge area of Virginia Beach began as a residential area but changed over time and cannot turn back. He stated that Queens Lake is ten minutes from the Colonial Williamsburg Visitors Center and that they do not want it to become the Sandbridge of York County.

Mr. Howell stated that he wanted to talk about specific changes that the team would like to see in the zoning provisions for STRs, which include a requirement for the owner to live on the premises, a ban on whole-house rentals, maximum STR density limits in any given neighborhood, and the ability for neighborhoods to prohibit STRs by a vote of the residents.

Stephen Orlando, 102 Hemlock Court, stated that safety is a concern for him and that he would like to see a requirement for background checks. He stated that he understands that a STR is currently operating in his neighborhood and that all the neighbors in the cul-de-sac are opposed to it. He added that he had seen a van run a STOP sign and that same van was parked and unloaded in front of the property late in the evening. Mr. Criner responded that such problems are not unique to STRs and that many homeowners have teenagers and generate noise late in the evening with

cars coming and going. He stated that residential uses can be much more intrusive than STRs. Ms. deJager countered that the difference is that an STR is making a profit. Mr. Criner and Mr. Cross asked why that should make a difference. Ms. deJager responded that short-term renters come and go and do not have the best interests of the neighborhood in mind.

Ms. Van Cleave stated a well-run STR can add value to the neighborhood in addition to bringing revenue to the County. She added that she feels families want privacy and do not want to vacation at a place where the owner is required to stay on the property. She stated that the Yorktown Cottages cater to families with children and that she has had no problems with any of her renters. Chair Titus asked Ms. Van Cleave if she felt the location of the rental property makes a difference. He stated that Yorktown Cottages is in Yorktown and Queens Lake is ten minutes from Williamsburg. Christy Van Cleave responded that she didn't know but that she has found that visitors to Williamsburg have discovered Yorktown during their vacation.

Mr. King stated that in many cases, such as Dare, it would be difficult to define the boundaries of the neighborhood. He also stated that when the owner does not live on the property, the Commission takes many factors into consideration, such as owner's proposed measures for monitoring property and how they are going to meet the renters, and that the Yorktown Cottages exceeded all requirements and was approved. Dr. Toth stated that there should be limits or guidelines for those areas that are defined neighborhoods.

Ms. Howell stated that there have been several STR applications in Queens Lake, which is ten minutes from Williamsburg. She asked how many is enough and how many applications will be approved before the STR revenues start to fall. Ms. Howell stated that three STRs were approved after they were found to be operating illegally and that she didn't understand why they were eventually approved with no penalty for operating illegally. Ms. Van Cleave responded that often owners are unaware of the zoning requirements, which she said was the case when the Yorktown Cottages applied for approval. She said she had to slow down and take time to get through the application process.

Ryan Moberley commented that anyone can become a renter on Airbnb and other online platforms and continue to reserve bookings. He also stated that these sites should be monitored. Ms. Howell stated that she feels that platforms should not list a property unless there is notarized documentation that the owner has gone through the proper channels for approval.

Dr. Toth wanted to discuss the requirement for the owners to live on the property. He said if that is not feasible, exceptions should be based on the size and location of the home. Chair Titus responded that there might a home monitoring system required of the property owner. Dr. Toth asked who would respond to the alarm, and Chair Titus responded that the property owner would be notified that the number of people exceeds the allowed number of occupants. Mr. Holroyd noted that home monitoring systems register all devices including smartphones, laptops, tablets, etc. and would notify the owner that there are more people in the home when actually there might be the correct number of occupants. Mr. Cross stated that the Zoning Ordinance requires STR applicants to submit a plan detailing how the owner would handle complaints and monitoring. He added that contrary to what had been stated, not all zoning enforcement is complaint-driven. He explained that County zoning staff reviews all active use permits once a year.

Returning to the specific recommendations, **Mr. Howell** stated that the team would like to limit rentals to a maximum of 90 days per year, and **Ms. deJager** added that they would also like to limit the number of rooms. They stated that these limits would discourage people from simply

operating homes for commercial purposes. Mr. Howell stated also that they would like all STRs to be reviewed for compliance every two or three years.

Susan Kassel, Director of Planning and Development Services, responded that every property with an active Special Use Permit is inspected every year and that if the use is not in compliance with the conditions of approval, the owners would be cited and taken to court.

Mr. Howell stated that the team does not feel STRs should be allowed to be expanded after one year. Mr. Cross asked Mr. Howell what he was referring to. Mr. Howell and Dr. Toth stated that after a year of operation, the owner of a legally approved STR can apply for another use permit to operate the site as a venue for weddings and receptions. Mr. Cross responded that while they can apply, that does not mean such a use permit would be approved, and he added that it is extremely unlikely that any property in Queens Lake would be approved to host weddings.

Ms. Van Cleave stated that the annual review of approved STRs ensures that the owner is running the business properly. She asked if there have been any cases of problems with a legally approved STRs. Mr. Cross responded there are currently eleven approved, legal tourist homes and B&Bs operating in the County and that there have been no complaints or zoning violations associated with any of them. He also stated that the ones that have problems are the ones that were operating illegally. Mr. Cross asked Dr. Toth what he meant when he said that some STRs have been allowed to expand simply by memorandum. Dr. Toth responded that an approved STR owner was allowed to add a room for rent by a memo to the Board of Supervisors. Mr. Cross said that is not correct, explaining that in the case he was referring to, where an approved B&B owner was permitted to convert a bedroom into a guest room, the expansion had to be approved by the Board of Supervisors. He said an approved STR cannot be expanded without Board approval.

Ms. Leedom asked what would be an acceptable number of percentage of STRs allowed in a neighborhood. Dr. Toth discussed a suggestion to set a threshold of STRs per neighborhood and address what makes sense as guidance for number of STRs. He stated this could be no more than two STRs within 500 feet, for example. Mr. King responded that any numerical limit on the number of STRs would be arbitrary. He spoke about traffic and parking, noting that many travelers do not have a vehicle and rely on Uber or Lyft instead. Dr. Toth stated that traffic is a concern in Queens Lake because of the rated capacity of the dam separating Queens Lake from Queens Creek, which is owned by the Community Association.

Mr. King commented that last year there was a proposed tourist home in Queens Lake where the applicant did everything right and addressed every concern and yet she was still denied. He said some people are simply opposed to STRs. Dr. Toth responded that residents are concerned that if one STR is allowed in the neighborhood, it will open the door for more, which could change the character of the neighborhood.

Dr. Toth expressed opposition to allowing signs in connection with STRs. Mr. Cross responded that because of a Supreme Court ruling, the County cannot regulate signs based on their content and that if the County allows yard sale, political, or other signs in residential districts, it must also allow identification signs for STRs. He added that signage has never been an issue since most STR applicants have not wanted signs placed in the yard.

Mr. Howell commented that homeowners want to protect their investment and that the biggest issue is how many STRs will be allowed in the neighborhood.

Dr. Toth recommended that STR owners be required to show proof of liability insurance coverage, and he recommended a minimum coverage of \$1 million. Mr. Criner asked Dr. Toth if he would also require all homeowners to carry the same amount of coverage. Dr. Toth responded that he would recommend that only if the property used as a business. Chair Titus commented that he contacted his homeowner's insurance company and asked if he would need additional insurance coverage if he were to rent out 40% of his home and live on the property. He said the insurance company responded that no additional coverage would be needed.

Dr. Toth discussed health and safety concerns, stating that he feels STRs should be subject to the same regulations as hotels. He noted that in the recent past, hotel rooms in Williamsburg were required to be quarantined for 24 to 48 hours following check-out. Mr. King noted that there are various performance standards in the Zoning Ordinance relative to fire extinguishers, smoke alarms, and emergency evacuation procedures. Mr. Moberley stated that for his tourist home, the County required a fire exit plan and annual property inspections to ensure property meets fire code which includes requirements of fire extinguishers.

Mr. King thanked the team and the citizens who spoke during the meeting, adding that he needs some time digest all the information provided tonight.

Mr. Howell briefly summarized the remaining recommendations pertaining to code enforcement, use permit renewals, and application fees.

Mr. Criner stated that he wanted to hear the staff's reaction to the proposals presented by the team.

Mr. Cross responded that the staff's position is spelled out in the briefing memo, which specifies which of the group's recommendations – i.e., tying STR use permits to the property owner, requiring the owner to be on the premises or in an adjacent premises, mandatory liability insurance, and requiring the owner to maintain a guest log – staff feels are worthy of consideration. He noted an earlier comment that zoning provisions for STRs should not be changed in a way that harms existing residents, but he noted that the changes adopted last year actually made the rules stricter. He agreed with Mr. Criner's earlier statement to the effect that lawful, unregulated residential uses can be just as intrusive in a residential setting as an STR and that the County can only do so much to preserve community character. Mr. Cross stated that although a few changes might be in order, as stated in the staff memo, the staff feels the current ordinance works, as evidenced by the fact that there have been no problems or complaints about the STRs that are running legally. Lastly, he reiterated that STRs cannot be expanded without going through an approval process.

Mr. Howell thanked the Commission for giving them the opportunity to present their ideas and that he felt the discussion had been productive. He said he and the team would welcome the opportunity for further discussion of some of the specific details of their suggestions.

Mr. Holroyd asked Mr. Howell how long he feels a resident should be required to own their home before they can apply for a use permit to establish an STR. Mr. Howell responded that the team suggests a two-year waiting period.

Chair Titus thanked the citizens, including those in the audience, for participating in this meeting. He assured the STR owners that they are grandfathered and he encouraged them to stay involved in this process.

ADJOURN

There being no further business to discuss, the meeting was adjourned at 9:15 PM.

SUBMITTED: 
Catherine G. Tartabini
Planning Commission Secretary

APPROVED: 
Glen D. Titus, Chair

DATE: August 11, 2021

MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
August 11, 2021

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

CALL TO ORDER

Chair Titus called the meeting to order at 7:00 p.m. and stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. He explained that this responsibility is exercised through recommendations conveyed by resolutions or other official means, all of which are matters of public record. He stated that the Commission is comprised of seven citizen volunteers appointed by the Board, including one representative from each voting district and two at-large members.

ROLL CALL

The roll was called and all members were present. Staff members present were Timothy C. Cross, Deputy Director of Planning and Development Services; James Barnett, County Attorney; Amy Parker, Senior Planner; Earl W. Anderson, Senior Planner; Jeanne Sgroi, Management Analyst Intern, and Cathy Tartabini, Planning Assistant. Also in attendance was Susan D. Kassel, Director of Planning and Development Services.

NEW BUSINESS

Chair Titus stated that the Commission would be discussing potential Zoning Ordinance amendments pertaining to short-term rentals. He stated that a group of Queens Lake residents had provided the Commission with a document outlining their proposed changes and that staff had prepared a list of discussion topics based on that document and on the discussion at the July 27 work session. He suggested that the Commission discuss each item in turn as outlined on the list of discussion topics and give staff some direction on each.

Chair Titus stated that the first discussion topic is whether Special Use Permits for STRs should run with the land or with the property owner.

Mr. King stated he is in favor of having use permits for STRs run with the property owner since the Commission makes its recommendations based largely on the information presented by the applicant and so if the property changes hands, the new owner should have to go through the same process.

Mr. Criner asked staff if there is a mechanism by which the County would be notified if the property is sold.

Earl Anderson responded that a change in property owners would come up as part of the County's annual inspection of all use permits.

Ms. Leedom asked if STR owner/operators could be required to notify the County if they sell the property, which she felt would give some layer of protection to the neighbors.

Mr. Criner responded that since there is already a trigger in place with the annual inspections, he is confident that sufficient protections are in place to ensure that a new owner would eventually get caught if they are running an STR without approval. He added that he agrees with Mr. King that the use permits should run with the owner.

Mr. Cross added that use permit resolutions are a matter of public record and are recorded at the courthouse, so any potential buyer should be aware that there is a condition tying the use permit to the property owner and all other conditions of approval. He added that there is a quarterly tax reporting requirement, so the Commissioner of the Revenue's Office would know if a report was received from somebody who was not registered as a short-term rental operator.

Chair Titus asked if the proposed change would also apply to bed-and-breakfast establishments (B&Bs).

Mr. Cross responded that the term "short-term rental" encompasses both tourist homes and B&Bs, so it would apply to B&Bs as well as tours homes.

Chair Titus stated that he feels the use permits should run with the land, noting that use permits should not be approved on the basis of personalities. He said there are procedures in place to deal with those who violate material conditions, and he questioned whether the identity of the operator constitutes a material condition.

Mr. King responded that he understands Chair Titus's concerns but that he is concerned that there is no guarantee that a new owner might not operate an STR in the same manner as the original applicant, which he felt would place an additional burden on Zoning and Code Enforcement staff.

Mr. Holroyd commented that most use permits for STRs are approved when the neighbors are in agreement, which he said only happens when the property owner is a long-time resident whom the neighbors trust. He stated that a new owner would not have that same level of trust, so he believes the use permit should be tied to the owner.

Chair Titus responded that the same logic would seem to apply to home occupations. He asked why STRs should be treated differently.

Mr. King asked the County Attorney if the County can have different requirements for different types of use permits.

Mr. Barnett responded that there is nothing in the Code of Virginia that requires use permit conditions to be uniform for all use permits.

Mr. Peterman stated that he agrees that use permits for STRs should be tied to the owner and not the property.

Chair Titus summarized the discussion, stating that the consensus is that STR use permits should

run with the owner.

Chair Titus introduced the next topic, which was whether or not STR owners should be required to be on the premises – or in an adjacent premises – while rentals are taking place.

Mr. King expressed his opposition to such a requirement, stating that although he tends to look more favorably upon STRs that have on-site management, there are exceptions, such as the one that was approved on Goosley Road where the owners did not live on or near the premises. He said he does not want to make the standards overly restrictive and take away the flexibility to evaluate each case on its own merits.

Mr. Criner stated that in considering STR proposals, he gives a lot of weight to the fact that the owner lives in the home or next door but that he does not want to make it an absolute requirement since there can be extraordinary circumstances that can be considered on a case-by-case basis.

Ms. Leedom asked if such a requirement would apply to whole-house rentals or just room rentals, noting that it would be difficult to have the owner living in a whole-house rental.

Mr. King said that is a good point, stating with a whole-house rental, the owner cannot live in the house but could live next door.

Mr. Peterman responded that whether the owner lives next door or across the street or a block away, each case has to be considered individually. He stressed that the Commission's main concern is that the person operating the short-term rental must be responsible to the neighborhood and able to respond to any situation that arises.

Mr. Holroyd commented that having a physical presence in or near the home is the most effective way of monitoring the situation, more so than electronic surveillance. He stated that he feels the owner should remain in the local area, however that is defined.

Mr. King responded that the term "local" is subjective.

Chair Titus commented that this discussion is centered specifically on tourist homes since the Zoning Ordinance requires B&B owners to live on the premises or in an adjacent premises.

Mr. King stated that case-by-case review allows the Commission and the Board to decide whether or not the owner is in sufficient proximity to the STR and avoids the problem of having to define it in the Zoning Ordinance.

Mr. Titus stated that the general preference appears to be that on-site residency should be treated as a consideration rather than a requirement.

Mr. Cross responded that in fact, it is already included as a consideration in the Zoning Ordinance, which states that applicants must either be on the premises or in an adjacent premises or designate a responsible party who can respond promptly to any complaints or problems that arise. He mentioned the case of the Yorktown Cottages, where the owners lived in Marlbank when the application was approved but later moved to Dandy, which is much further away. He said it is impossible to anticipate and control for every scenario, but it is something to keep in mind when considering use permits for STRs.

Chair Titus asked if it would be fair to recommend that STR owners have some kind of electronic

surveillance mechanisms in place if they are not living on the property or nearby. He commented that designating a manager to monitor STR can put a tremendous burden on somebody designated to go to a trouble spot when they don't know how to handle the situation other than to call the Sheriff's Office.

Mr. Cross said that might be the way to address those situations, whether or not the owner is on-site.

Mr. King stated that the County needs to be careful not to dictate what kind of surveillance is used, and he added that requiring someone to be on the premises in all cases is simply not practical. As an example, he cited the STR approved on Goosley Road, which is a house by itself and not in a neighborhood.

Chair Titus stated that the challenge is in allowing STRs in residential areas while ensuring that they do not become investment properties. He said that in this case, no change to the code is needed since on-site residency is already included as a consideration.

Mr. Cross asked the Chair to clarify if the consensus is that the Commission does not want to require the owner to be on the premises or in an adjacent premises.

Chair Titus said that is correct, that the Commission wants to retain the flexibility because there are some places in the County where a stand-alone STR would be acceptable, especially if the owner/operators can be next door or a short distance away or have mechanisms that will allow real-time surveillance of the property.

Mr. Holroyd added that there was general agreement that the owner should be reasonably close.

Mr. Criner asked Mr. Barnett what the rules are regarding video surveillance on a rental house. He stated that his understanding is that it is not allowed.

Mr. Barnett responded that he would have to study this question. He stated that any activity on the exterior of the house is open and obvious to anyone and therefore might not raise a privacy issue. He stated that he would have to research the issue but that he was not aware of any prohibition on a property owner videotaping in his or her own home.

Chair Titus stated that the next question is whether or not whole-house rentals should be prohibited, which he felt was addressed in the previous discussion.

Mr. Cross responded that this issue was raised in staff's discussions with the citizens group, which felt that whole-house rentals should not be allowed.

Mr. Anderson stated that based on the Commission's consensus that the owners should not be required to be in the home while rentals or taking place, any proposed whole-house rentals would be reviewed on a case-by-case basis.

Mr. King stated that the Commission would follow the evaluation criteria discussed previously and that if the Commission is not satisfied that the owners are in close enough proximity, then it can recommend denial.

Mr. Peterman stated that he has no objection to whole-house rentals as long as there is adequate supervision of the property. He stated that a prohibition on whole-house rentals could be

problematic since an owner could claim that some part of the house is not going to be rented and therefore it is not a whole-house rental. He stated that he feels whole-house rentals should continue to be evaluated on a case-by-case basis.

Chair Titus agreed and said that the consensus is that a ban on whole-house rentals is not necessary.

Chair Titus introduced the next subject, which was whether or not there be some sort of numerical limit on the number or density of STRs in a given area.

Mr. Peterman stated that the problem with this proposal is that “community” and “neighborhood” are not defined terms. He said he was unable to find a definition in the County Code.

Mr. King said he had the same concern, stating that it would be difficult to define the boundaries of a neighborhood.

Mr. Cross responded that the citizens group referred specifically to “defined neighborhoods,” which would be easy to define in the case of a subdivision but difficult to define in other cases. He stated that the staff did a lot of research into this issue and found that setting limits on the number of STRs in a given area is not commonly done in Virginia. In fact, he stated, staff was unable to find a single locality in the state that does it, although the City of Virginia Beach is considering capping the percentage of STRs in its two proposed STR overlay districts to roughly 10% of the homes. He said there are a number of localities in the western states, such as California and Oregon, that limit the density by limiting the distance between STRs. Mr. Cross cited a few examples, including one city that prohibits an STR within 300 feet of another STR on the same street, another city that limits the total number of STRs to 250 and prohibits them from being within 110 feet of another property, and another locality that limits the number of STRs to 3% of the homes in a given Census Tract.

Mr. King stated that he is reluctant to set arbitrary limits on STR density and that if there are too many STRs in a given neighborhood, the Commission will know about it. He stated that the staff does a good job at pointing out where the existing ones are and that the presence of an existing STR nearby would be a factor for the Commission to consider. He agreed with Mr. Peterman about the difficulty of defining a community, and he noted that homes can be in separate but adjacent subdivisions.

Chair Titus commented that his subdivision of Patriot Village is inter-connected with Tabb Lakes, York Meadows, The Greenlands, and Coventry all within a mile of each other, resulting in several individual neighborhoods that overlap. He said it would be possible to have two STRs adjacent to each other because they are in separate neighborhoods. Chair Titus added that Yorktown Village is fairly dense already.

Mr. Cross noted that if there were density caps, the Yorktown Village would likely be excluded since STRs are actually encouraged there by the Yorktown Master Plan.

Mr. Criner recommended that the existence of other STRs nearby be identified as a consideration and that the Commission not try to rewrite the rules.

Mr. Holroyd disagreed, stating that he feels there needs to be a minimum distance between STRs, which would effectively serve as a density cap.

Ms. Leedom added that a single STR can change the neighborhood in terms of added traffic, more people, and more strangers. She stated that she would like to see some sort of cap.

Mr. King responded that examples cited by staff of 110, 300, and 500 feet would not be much of a limit.

Mr. Cross commented that if the Commission wants to go in that direction, it can pick whatever minimum distance it feels is reasonable.

Mr. King noted that some neighborhoods are denser than others, which makes it difficult to come up with a uniform distance that would make sense in every area.

Mr. Criner stated that the presence of other STRs nearby should be treated as a factor for the Commission and Board to take into consideration when evaluating STR applications.

Mr. Holroyd disagreed, reiterating that he feels there should be a limit.

Ms. Leedom stressed that it will be important for the Commission to watch the numbers to make sure no neighborhood has an over-abundance of STRs.

Chair Titus summarized the discussion, stating that most of the members agree that it should be a consideration and that the County should not try to control STR density with a specific numerical standard.

Chair Titus stated that the next issue is whether or not neighborhoods should be able to essentially opt out of having any STRs by majority – or super-majority – vote of its residents. He addressed a question to Mr. Cross stating that he was under the impression that this would not be allowable.

Mr. Cross responded that there is language in the Code of Virginia stating that all zoning regulations must be uniform for uses throughout each particular zoning district such that, for example, if STRs are permitted with a use permit in one neighborhood that is zoned Rural Residential, the same would apply to all other neighborhoods that are zoned Rural Residential. He stated that the only way to get around that would be to create a different zoning district for each neighborhood, which he said would be problematic.

Mr. Barnett agreed with Mr. Cross and added that such a provision would have the appearance of divesting the Board of Supervisors, who are the elected officials, of the ability to control zoning. He said it was a novel idea but that the uniformity issue would be a problem. He said he would have a problem with allowing a group of people who are not elected officials to simply say by vote that they are going to control what the County can allow under its ordinances.

Mr. Peterman commented that once again, the problem of trying to define neighborhoods would be an issue.

Chair Titus stated that the mechanism for neighborhoods to disallow STRs is to regulate them through their homeowners' association (HOA) covenants. He noted that the Coventry HOA is, in fact, pursuing such a change, although he acknowledged that this is not an option in subdivisions that do not have an HOA.

Mr. King added that neighbors can also attend the public hearings to make their views known.

Mr. Barnett commented that pursuant to the Code of Virginia, any vote would have to be done without the assistance of the Electoral Board or the Registrar's office.

Chair Titus stated that the consensus appears to be that neighborhoods should not be able to opt out.

Ms. Leedom stated that she believes that neighborhoods should be able to opt out through their HOA or whatever association they have in place.

Chair Titus explained that if a neighborhood prohibits STRs in its covenants, that rule would supersede the County's ability to authorize an STR.

Mr. King asked about the definition of a super majority.

Mr. Cross responded that the central issue is the concept of opting out by vote and that if the Commission wants to allow this, the staff can come back with specific suggestions on how such a provision would be implemented.

Mr. Holroyd asked Mr. Cross how the City of Chesapeake handles this issue, noting that STRs are not allowed in certain areas.

Mr. Cross responded that Chesapeake regulates it through zoning. He explained that the city only allows B&Bs and tourist homes as a conditional use in its Agricultural zoning district and in its Historic and Cultural Preservation overlay district. He reiterated that the only way to prevent STRs in a given area would be by zoning.

Chair Titus asked the Commissioners if they wanted to address this issue through zoning, and the consensus was in the negative.

Chair Titus introduced the next topic, which was whether or not there should be limits on the number of rentals per year for an approved STR and whether there should be a limit on the number of rooms available for rent.

Mr. King asked for clarification regarding a limit on the number of rentals.

Mr. Cross responded that at the July 27 work session, the citizens group had suggested that STRs be limited to a maximum of 90 days of the year. He noted that other localities in Virginia have similar provisions, with the number of rentals ranging from 60 to 104 days, while others have no limit at all. He explained that the rationale for the citizens [KS1] group recommendation of a 90-day limit is that it would ensure that the commercial aspect of the home is ancillary to the principal use, which is residential.

Mr. King asked if the County received any feedback from existing STR owners of STRs as to whether a three-month limit on rentals is a business model that works.

Mr. Cross responded that it clearly would not work for the approved STR on Goosley Road since it is basically a commercial venture and the owners do not live in the house and that it would probably be problematic for the Yorktown Cottages as well. He recalled that there was some negative feedback from the STR owners in the audience when the topic was discussed at the work session but stated that the Planning Division has not received any formal feedback.

Mr. Criner asked if there have been any complaints or problems.

Mr. Cross responded that there have been no problems or complaints about any of the legally approved STRs.

Mr. Holroyd stated that he feels there should be a limit to prevent people from buying up homes in their neighborhoods for investment purposes. He stated that he feels this is the best way to limit the number of STRs in our neighborhoods.

Mr. King responded that he would like to hear from the STR owners and find out if an arbitrary 90-day limit would put them out of business, and he added that the tourist season in this area is longer than 90 days.

Mr. Criner stated, based on his experience as the owner of a beach house, that the rental season is four months.

Mr. Cross commented that 90 days just happens to be the number that was suggested by the citizens group. He said that if the Commission feels a limit makes sense it can pick whatever number seems appropriate. He agreed that the tourist season exceeds 90 days, noting the season schedule for Busch Gardens, William & Mary's graduation in May, and the fact that a lot of tourists visit Williamsburg at Christmastime.

Mr. Criner stated that he is not opposed to a limit but that he does not know what the number should be.

Mr. King said he feels the same way and would like to hear more input from the STR numbers.

Mr. Peterman stated that while he understands the concern, he is generally opposed to placing a limit on the number of rentals. He agreed that it would be good to hear from the current STR owners and get some feedback before moving forward on this question.

Mr. King suggested that this issue be tabled until the Commission can receive input from the STR owners.

Chair Titus agreed that there would have to be a rational basis for any such limitation.

Mr. Cross noted that the Commission has said it does not want to require the owners to live in the home or in an adjacent premises, which raises the question of what a non-resident STR owner is supposed to do with the house for the rest of the year if there is a limit on the number of rental nights.

Chair Titus responded that in that situation, the limitation would probably force the STR to close.

Following discussion, **Chair Titus** stated that the matter would be tabled pending the receipt of additional information.

Mr. Cross stated that the Commission also needs to address the question of whether or not to limit the number of rooms that can be rented in a home that is not a whole-house rental.

Mr. Criner stated that if whole-house rentals are allowed, he does not see the point in limiting

the number of rooms rented.

Chair Titus stated that the Commission appears to agree.

Chair Titus raised the next discussion topic, which was whether or not STR operators should be required to maintain liability insurance. He recollected that the amount of coverage recommended was \$1 million.

Mr. Cross said that was the number that was suggested by the citizens group. He stated the only localities he could find in Virginia that have an insurance requirement are the City of Williamsburg, which has a very restrictive ordinance and requires \$500,000 of coverage, and the City of Virginia Beach, which requires a million dollars in coverage. He added that insurance requirements are more common outside Virginia, especially in the western states, where the minimum coverage is typically half a million dollars.

Mr. Criner asked who the coverage would be protecting.

Mr. Cross responded that he had the same question, noting that it would protect the guests and the property owner but that he is not sure how it would protect the neighborhood. He stated the concern was raised specifically by Queens Lake residents who were concerned that the Community Association could be liable if an STR guest were to get hurt on the community playground or on one of the common areas or other community facilities.

Mr. Criner responded that liability insurance would not cover those areas anyway and would only cover care for the person who owns the house and the people who are renting the house, which he said is a private agreement between the owner and renter.

Mr. Cross agreed.

Mr. King recalled that at the work session, one of the STR owners mentioned that one or more of the online platforms allow people to pay for extra insurance.

Mr. Cross stated that the owner of the Yorktown Cottages had mentioned something along those lines but that the Commission should not focus on the policies of Airbnb, VRBO, and other online platforms. He noted that the County has tourist homes that have their own websites for making reservations and do not advertise on those other platforms.

Chair Titus said he could not understand why an owner or business operator would not have liability insurance.

Mr. King said he had the same question and also wondered what it would cost to have \$500,000 or \$1 million of liability insurance.

Mr. Criner responded that it is not tremendously expensive but questioned why the County should be dictating this since it has no effect on the rest of the neighborhood or the County.

Mr. Cross responded it can be argued that it would benefit public safety by ensuring that a renter who is injured will be covered.

Mr. Criner responded that he would encourage owners to purchase insurance but felt the County should not be dictating it to them.

Chair Titus commented that it seems that by requiring insurance, the County would be getting very involved in dictating to the owners specifically how to run their business.

Mr. Holroyd responded that since it is a business, there are certain things he feels the County should insist on certain elements, such as fire and safety requirements throughout the building. He felt that liability insurance should be required.

Chair Titus responded that the County has no insurance requirements for other businesses, such as gas stations.

Mr. King stated that he feels requiring liability insurance would be overreach and agreed with Mr. Criner that it would have no effect on the community. He stated that it is up to the owner whether or not to purchase insurance and that it should not be dictated to them by the County.

Mr. Peterman commented that he believe the reason that the citizens group wanted this requirement was to add another hurdle to make it more expensive to operate an STR, thereby discouraging STR owners from using the home as an investment property He stated that any responsible homeowner would want to have liability insurance to protect themselves whether it is dictated to them by the County or not.

Chair Titus stated the consensus of the Commission that is that liability insurance should be encouraged but not required.

Mr. Holroyd said in that case it would be a guideline and not a mandate.

Mr. King added that the Commission can always ask the applicants if they have liability insurance and consider that when evaluating a proposed STR.

Chair Titus stated that the next topic on the list has to do with zoning enforcement fees, penalties, and renewal requirements for STRs. He recalled that the citizens group had recommended that application fees be increased to cover the total staff costs associated with zoning enforcement for STRs.

Mr. King asked what the current application fee is for a Special Use Permit.

Mr. Cross responded that effective July 1st, the use permit application fees were raised to \$560 except for home occupations and accessory apartments, for which the fee is \$500. He stated that the standard use permit fee was \$450 for a number of years and that it did not even cover the advertising costs. He stated that years ago, staff had recommended to the Board consider raising the fees to at least come closer to paying for the advertising but that the Board was not interested in that.

Mr. King asked what the average cost is today for advertising an application.

Mr. Cross responded that staff had compiled that information to show the Board how the fees were falling short of the advertising costs and that since then, the Daily Press ad rates have risen considerably while the application fees stayed the same, at least until July 1 of this year.

Mr. King asked how raising the fees would protect the community.

Mr. Cross responded that the citizens group's concern is not the cost of advertising but rather

the cost of increased staffing resources needed to implement its recommendations for additional zoning enforcement, which the group felt should be borne by the STR owners and not the taxpayers. He said the group also recommends increased penalties for violators.

Mr. Holroyd asked what the penalty is for an illegal operator.

Mr. Cross responded that there are civil fines spelled out in the code. He explained that the owner would first receive a Notice of Violation and then be taken to court if the violation is not addressed and that there has to be legal action before any fines are paid.

Mr. Barnett explained that if there is a financial penalty to be imposed, it is imposed by the court. He stated that the County has in the past taken illegal STRs to court and gotten injunctions against them but that he didn't recall if any monetary penalties were handed down. He stated that for a first offense the courts tend not to weigh heavily unless there has been a record of willful violation such as someone who has simply ignored violation notices and attempts by the County to bring them into compliance.

Mr. King asked if the County charges applicants for use permit inspections for other uses.

Mr. Cross responded that other than the two exceptions previously noted, home occupations and accessory apartments, the use permit fee is the same for all uses, except that there is an additional acreage fee for sites that are larger than five acres.

Mr. King commented that charging a fee to cover the cost of sending zoning inspectors out every so often to visit each site would effectively kill the STRs because the cost would be outrageous.

Chair Titus commented that it raises the issue of what is the role of government and what costs should be absorbed by the government as part of its normal operations.

Mr. Criner noted that these facilities are being taxed and are entitled to a certain level of service for their tax money.

Chair Titus agreed, adding that the government should not be in the business of making a profit.

Mr. King stated he is not against raising the application fee but that it could never be high enough to cover all the costs.

Mr. Cross clarified that the citizens group's recommendations were not limited to the application fees but to other fees as well, such as a \$250 annual use permit renewal fee. He stated that there are a lot of localities in Virginia that charge an annual STR registration fee in the range of \$150 to \$200 but that in those localities, STRs are typically permitted administratively without having go through a public hearing process.

Mr. Holroyd stated that it sounds like the fees are basically set by the Board of Supervisors and the penalties are set by the court, so there is nothing for the Commission to discuss.

Chair Titus summarized the discussion, stating that the consensus is for zoning fees to stay as they are. He asked if the Commissioners have any additional items they want to bring up.

Mr. Holroyd introduced two additional items that he wanted to discuss, the first of which is a requirement for prior residency on the property before a person can apply for a Special Use Permit

for an STR, and the second of which is the issue of neighborhood agreement or disagreement and how much that should weigh into whether a Special Use Permit goes forward.

Chair Titus recollected that the citizens group had recommended a residency requirement of two years.

Mr. Holroyd stated that he felt it was a legitimate request to prevent people from buying property and immediately flipping it for rental purposes. He said this would control the spread of STRs and prevent the problem of people buying and flipping properties into rental properties, as in Virginia Beach.

Mr. King replied he is not opposed to some sort of minimum residency requirement so that people have to live there for at least a certain period of time to have a connection to the neighborhood.

Chair Titus countered that there is nothing to prevent people from buying homes and immediately flipping them for long-term rental purposes. He questioned why the County should care as long as the residential character of the property is maintained.

Ms. Leedom stated that she felt there should be a residency requirement for STRs. She reiterated her belief that a single STR changes the character of the neighborhood.

Mr. King stated that he feels long-term rentals are different from short-term rentals because the long-term renters become part of the neighborhood.

Chair Titus stated that with a residency requirement, a person could buy a property, live six blocks away, and never be around their neighbors and yet would have to wait two years before applying for a use permit to operate an STR even though that person was never part of the neighborhood. He stated that many neighborhoods are not close-knit and in many cases people do not know their neighbors.

Mr. Cross brought up the example of the STR on Goosley Road, which the owners purchased with the intent of offering it as an STR. He said that with a residency requirement, they would just have to hold the property for two years before they could do anything with it.

Ms. Leedom responded that since there are no neighbors near the property, that case could have been treated differently.

Mr. Cross responded that if there is a two-year mandatory waiting period, then the Commission and Board would have no latitude to consider extenuating circumstances.

Chair Titus stated that he would not be against allowing STRs as a matter of right, subject to certain requirements.

Ms. Leedom replied that York County is not a tourist community like Nags Head where four out of five houses are rentals.

Mr. King replied that people who live in Yorktown would not agree that the County is not a tourist community.

Mr. Cross commented that there are more than twenty thousand homes in the County, only eleven of which are being operated as STRs, which is a very small proportion. He said that outside of the

Yorktown Village, they are generally scattered all over the County, although there is a small cluster of properties in Queens Lake that were unsuccessfully proposed for STRs.

Mr. King stated that if the consensus of the Commission is that there should be no waiting period, he would go along with it.

Mr. Criner stated that he would like to use prior residency as a guideline that the Commission can take into consideration, but he added that there are certain circumstances where it would be justifiable to allow a new owner to operate an STR. For example, he stated, there could a property owner whose spouse dies shortly after purchasing the property and might need to rent rooms for income. He said he would rather err on the side of giving people more rights than taking them away.

Chair Titus expressed his agreement with Mr. Criner.

Mr. Holroyd stated that the neighbors also have rights and that he would rather side with the neighbors.

Mr. Peterman responded that the Commission takes the neighbors' interests into consideration. He said that neighborhood opposition carries a tremendous amount of weight, and that the history has been that when the neighbors have strong concerns that a proposed STR would change the character of the neighborhood, the application is not approved.

Mr. King stated that the process is for everyone and that there are multiple opportunities for all residents to participate. He stated that all citizens' rights are well represented under the current process.

Mr. Cross commented that Mr. Peterman is correct in saying that in every case of an STR being approved, the one common denominator was that there was no significant opposition, and in every case of one that has been denied or withdrawn, there was significant neighborhood opposition. He stated that none of the traditional planning considerations such as lot size and density have entered into the decisions to approve or deny.

Mr. Holroyd raised the question of whether or not an STR applicant should have to have the agreement of the neighborhood in order for the proposal to go forward or if the Commission is only considering opposition.

Chair Titus responded that the Commission hears from neighbors who are in support as well as those who are opposed and that sometimes the neighbors are evenly divided.

Mr. Peterman recalled an application where all the surrounding neighbors expressed support and that everything else about the application was satisfactory but that the key factor was that his neighbors supported it.

Mr. Cross commented that when prospective STR operators approach the Planning Division about applying for a use permit, staff strongly encourages them to talk to the neighbors and the HOA, if there is one, or in a subdivision like Queens Lake, the community association. He added that there have been cases where people have included with their applications signed letters of support from their neighbors.

Mr. King stated that he feels the totality of citizen input is taken into consideration under the current process.

Mr. Holroyd responded that he feels strong neighborhood support should be a guideline for evaluating STR application.

Mr. King replied that it already is used as a guideline that he and the other members take into consideration. He said he does not want to force an STR on a neighborhood that is strongly opposed to it.

Mr. Cross clarified that neighborhood support or opposition comes out of the public hearing process and is not something that would be embedded in the Zoning Ordinance. He explained that staff serves as technical advisors to the Commission and the Board, so citizen input does not enter into the staff's recommendations but that it does legitimately enter into the Commission's recommendations and the ultimate decisions of the Board.

Chair Titus asked Mr. Cross if staff has the guidance it needs from the Commission to move forward.

Mr. Cross said it does and that there are also a number other, less significant, recommendations put forth by the citizens group that have not been discussed, such as requiring STRs to be regulated as hotels. He said he did not include the issue of signs in the discussion topics because that issue has been settled by the U.S. Supreme Court, which has greatly reduced localities' latitude in regulating signs.

Ms. Leedom asked Mr. Cross about applicants' obligations to notify their neighbors when they apply for a Special Use Permit.

Mr. Cross responded that notification of the neighbors is done by the County and not the applicant. He explained that staff sends letters to all immediately adjacent property owners, including those across the street, as required by the Code of Virginia. He stated that the County advertises the public hearings for both the Commission and the Board twice in the Daily Press, which is also a state code requirement. In addition, Mr. Cross stated, the staff posts a sign on every property that is the subject of an application so that residents and property owners in the general area can be aware that an application has been submitted. He added that the application materials and public notices are also posted on the County's website, and that for sites that are in a neighborhood that has an HOA or a duly constituted community association, notification letters are sent to the association.

MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
December 8, 2021

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

CALL TO ORDER

Chair Titus called the meeting to order at 7:00 p.m. and stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. He explained that this responsibility is exercised through recommendations conveyed by resolutions or other official means, all of which are matters of public record. He stated that the Commission is comprised of seven citizen volunteers appointed by the Board, including one representative from each voting district and two at-large members.

ROLL CALL

The roll was called and all Commissioners were present with the exception of Mr. Smith. Staff members present were Timothy C. Cross, Deputy Director of Planning and Development Services; Richard E. Hill, Jr., Deputy County Attorney; Amy Parker, Senior Planner; Earl W. Anderson, Senior Planner; Jeanne Sgroi, Management Analyst Intern, and Cathy Tartabini, Planning Assistant. Also in attendance was Susan D. Kassel, Director of Planning and Development Services.

OLD BUSINESS

Chair Titus opened the discussion of STR-regulations. He stated that the staff had prepared a set of draft Zoning Ordinance excerpts and is looking for feedback from the Commission.

Mr. Cross stated that there was extensive discussion at the Commission's August 11 meeting about ten specific proposals related to STR regulations. He stated that based on the consensus of the Commission – or the majority of the Commission – on each item, staff prepared the draft amendments for the Commission to review. He stated that the most significant change is to allow STR use permits to run with the property owner rather than with the property. He stated that staff has been doing this as a matter of policy for months through use permit conditions but is recommending that it be added to the code as a general requirement. He said other suggested changes include a requirement that STR owners maintain a guest log book as well as additional language clarifying that onsite residency is preferred but not required as long as applicants can demonstrate that they have adequate provisions in place to monitor guest behavior.

Mr. Cross stated that most of the ten proposals that were discussed at the August meeting are not reflected in the draft language because the majority of Commissioners were not in favor of them.

He stated that the one that remains undecided is whether or not to impose a limit on the number of rental nights per year. Mr. Cross stated that in response to a request from the Commission, staff contacted the eleven existing STR owner/operators in the County to get their feedback and that there were four responses, all of which were included in the agenda materials. He said this is an issue the Commission will need to discuss and reach closure on so staff can move forward with any actual Zoning Ordinance text amendments.

Chair Titus stated that the Commission needs to decide what the maximum number of rental nights per year should be, leave it to the Board of Supervisors to decide on a case-by-case basis, or not have a maximum limit. He said he would rather set the limit at 365 days than have the Board set a limit for each individual case. He said any other number would be arbitrary and capricious and would have no justification.

Mr. Peterman referred to the feedback from the current STR owners who stated that such a restriction would cause a hardship that could require them to cease operation. He said there would need to be a good reason for any limit because it could put people out of business. He said there are enough regulations and procedures in place to deal with any complaints that arise and that he did not see a need for a limit.

Chair Titus responded that there are localities that do limit the number of rental nights and yet the STRs are able to stay in business somehow.

Mr. King agreed with Chair Titus's comment that to impose a limit on the number of rental nights would be arbitrary. He said there are some cases where the Commission might feel no limit is necessary and others where a limit might make sense. Mr. King said he would like to leave it as it is where each case is decided on its own merits. He stated that an alternative would be to give the Board of Supervisors the option of restricting the number of rental days per calendar year. He said he opposes a blanket restriction on the number of rental days. With regard to the other proposed amendments, Mr. King said he thought the staff did a good job of incorporating the Commission's comments. He noted that the major change is to tie STR use permits to the property owner rather than the land.

Chair Titus suggested that the limit could be set at 365 days unless the Board decides to change it in a particular case.

Mr. Criner said he agrees with that approach.

Mr. Holroyd stated that he believes there needs to be a tier system with guidelines that have to be met before an applicant moves up to the next tier. He advocated a probationary period, as was done in Mr. Moberley's case, in which applicants have to demonstrate that they are responsible business owners who follow the rules and pay the taxes. He stated that under such a system, STRs could be limited to 90 days in the first year and then be allowed to increase to 180 days in the second year if they are in compliance with all the regulations and conditions, and ultimately to 365 days by year four. He stated that a limit of 104 days, as some communities have, would be a good starting point because that would establish that they can screen candidates, control renters' behavior, and ensure that neighbors are in support of it.

Chair Titus asked if applicants would have to come back to the Board periodically for approval.

Mr. Holroyd said that is for staff to decide, and he noted that that is what happened in Mr. Moberley's case. He stated that instead of starting with a 365-day limit, applicants should earn the right to be unlimited by proving that they are meeting the County's expectations.

Mr. Criner responded that he is glad there were no such restrictions in place to force him to earn the right to make money when he started his home-based business.

Mr. Holroyd responded that an STR is not the same as a business in that it involves a homeowner deciding to utilize spare space in the home to rent out to tourists.

Ms. Leedom agreed with Mr. Holroyd that there should be some limit initially and that 365 days is too many. She stated that STRs should be monitored and the applicants should have to come back to the Commission periodically and demonstrate that they are in compliance and that the neighbors are happy.

Chair Titus asked Ms. Leedom what makes a short-term rental different from the multitude of other home-based businesses that the County has approved.

Ms. Leedom responded that with home-based businesses, the owner is on the premises and able to monitor it and that is not necessarily the case with STRs.

Mr. Cross commented that there are provisions in place to revoke use permits when there are problems. He said that years ago, the County had a system similar to what Mr. Holroyd is proposing. He stated that home occupations with non-resident employees were required to come back to the Board every two years and either go through the process again or submit letters from all the neighbors saying they had no objection to the continuation of the business. He said that over time it came to be a pointless exercise that was burdensome to the business owners, some of whom complained. He said that ultimately the Board of Supervisors took that provision out of the ordinance because it was not serving any purpose.

Mr. Criner, said that as a business owner who was in that position, he was grateful to the County for removing that provision.

Richard Hill, Deputy County Attorney, pointed out in response to the comment that was made earlier regarding sex offenders that the sex offender registry is public and searchable. He stated that STR owners can search the registry to make sure prospective renters are not on it. In addition, he stated that the County Attorney's office would have concerns about requiring STR owners to make their guest logs available to staff on demand. He stated such provision would pose serious Constitutional problems in light of existing Supreme Court precedent. He asked the Commission to take that into consideration.

Mr. Cross explained that this provision was included in the draft amendments because a lot of other localities have the same requirement and it seemed reasonable to staff. He added that Mr. Hill had conveyed his comments to staff earlier but they were not received until after the agenda package was sent to the Commission, which is why the language was included as is in the draft document.

Mr. King recommended removing the language based on the advice of the Deputy County Attorney. There was no objection.

Mr. King commented that there is a process that gives the Planning Commission the opportunity to impose additional restrictions on an STR if it believes there is a need. He added that as was pointed out by Mr. Cross, the County has mechanisms in place to deal with any STR that is being operated in an inappropriate manner. Mr. King stated that regardless of what might be the rule in some other locality, to establish some numerical limit on the number of rental nights would be arbitrary and have no rational basis. He said the Commission should base its recommendations on the unique facts of each case and the comments from the neighbors and not on some arbitrary number.

Mr. Hill stated that he and Mr. Cross talked about requiring STR owners to keep a guest log but not requiring that it be available on demand to County staff. He said that would ensure that the information is available in the event that suspicion developed that would justify issuance of a search warrant, so he felt that was a possibility.

Mr. Cross said the language can be changed to require a guest log but not require that it be made available on demand to County staff.

Mr. King said that is a great idea so that if there is a crime or a complaint, the guest information can be provided with a search warrant.

Chair Titus stated with regard to the number of rental days, it could be left unlimited while giving the Board the authority to reduce it in approving a use permit.

Mr. King responded that he was not opposed to having language that would say that the number of calendar days could be limited based on the circumstances of the application. He said this would make it clear to the applicants that they are not guaranteed to have up to 365 rental days and there could be factors that dictate a limit on the number of rental days.

Mr. Cross commented that such a provision would give the Board of Supervisors some leeway, when there are controversial applications, to adopt a compromise position where the applicants are willing to limit the number of rentals per year. In addition, he stated that at its August 11 meeting, the majority of the Commission did not want to prohibit whole-house rentals but as a practical matter, that is what a limit of 60, 90, or 100 rental nights would do in most cases.

Chair Titus summarized the discussion, stating that the proposed amendments should not include a numerical limit but should include language to allow the Board to establish one in any particular case if it deems it necessary.

Mr. Holroyd commented that a person could rent his or her home for 90 days or more, which would not be considered a short-term rental, and if they were in a first-year probationary period, restricting the STR use to 100 days would not prevent them from renting out their house for the rest of the year as long as the rental is for at least 90 days.

Chair Titus asked Mr. Cross if the Commission has given staff the guidance it needs in order to proceed.

Mr. Cross responded that it appears to be the desire of the Commission to make two modifications regarding the guest log and the number of rental nights and sponsor the rest of the amendments as written.

Mr. Holroyd expressed his disagreement with language in the staff report that states that the consensus of the Commissioners was that the zoning fees and penalties should remain as they are. He said his recollection is that the Commission said that fines are set by the courts and fees are set by the Board of Supervisors and that the Planning Commission has no voice on it, not that the Commission agreed that they should stay the same.

Mr. Cross responded that the Commission agreed not to make any changes and the statement to which Mr. Holroyd was referring reflected his own opinion.

Mr. King responded that the bottom line is that the Commission is not recommending any changes.

Mr. Holroyd said that is true but that he disagreed with the wording in the memo.

Chair Titus stated that in his opinion, the proposed amendments represent guidelines for STRs, and he asked Ms. Leedom and Mr. Holroyd if they agree, since he has heard them say there are no guidelines.

Mr. Holroyd responded that once these recommendations are adopted by the Board of Supervisors, there will be guidelines in place.

Application No. ZT-194-22, York County Planning Commission: Consider amendments to Section 24.1-409 of the York County Zoning Ordinance, Standards for Short-Term Rentals (Boarding Houses, Tourist Home and Bed and Breakfast Establishments). The proposed amendments would require the owner/operators of short-term rentals (STRs) to maintain guest logs; authorize the Board of Supervisors to limit the number of rental nights per year when approving an STR; clarify that tourist home owner/proprietors must reside either in the home or in an adjacent premises while rentals are taking place but authorizing the Board of Supervisors, in approving an application for a tourist home, to waive this requirement when certain requirements are met and the owner/proprietor designates a responsible party to promptly resolve problems that arise while rentals are taking place; revise the criteria for evaluating proposed STRs to include proposed provisions for monitoring the operation of the STR as well as the number, percentage, and/or density of legal STRs in the same subdivision or general area, their proximity to the proposed STR, and the cumulative impact of STRs on the surrounding area; require exterior cooking appliances used by guests to have a fuel source of either propane or natural gas, and stipulate that Special Use Permits and YVA approvals for tourist homes run with the property owner and not with the land.

Timothy Cross, Deputy Director of Planning and Development Services, summarized the staff report dated December 1, 2022, stating that staff recommends that the Commission forward the application to the Board of Supervisors with a recommendation of approval through the adoption of Resolution No. PC22-27.

Mr. Smith asked for clarification regarding the proposed stipulation that any outside fire pits must be lit, supervised, and extinguished by the property owner. He said he has not come across such a requirement in any of his research or his experience staying in short-term rentals (STRs).

Mr. Cross responded that this requirement has been recommended by the Department of Fire and Life Safety in conjunction with recent tourist home applications. He stated that he doesn't know if it is specifically required by the Fire Code but that it probably is not or else there would be no need to include it as a Special Use Permit condition.

Mr. Smith responded that if it is required by the code or the NFPA (National Fire Protection Association), he would recommend that the Zoning Ordinance language be modified to simply say that short-term rentals must abide by the applicable Fire Code requirements rather than single out one specific requirement.

Mr. Cross reiterated that he does not believe it is a code requirement but would check with the Department of Fire and Life Safety. He added that based on their recommendation, staff has been including this requirement as a condition of tourist home approvals for the past year or so, and he noted that the use permit process provides for the imposition of conditions that are stricter than local, state, or national code requirements.

Mr. Holroyd asked if the code requires that the owner of a short-term rental be a resident of Virginia.

Mr. Cross responded that it does not.

Mr. Holroyd asked if there should be such a requirement. He expressed concern about outside companies buying up properties in the County to operate as STRs, which he did not feel was consistent with the intent of the ordinance, which is for the owner/operators to be local residents.

Mr. Criner responded that he owns a house that is not in Virginia and he would be upset if the state treated him differently as an out-of-state property owner.

Mr. Cross added that the owner would still be expected to designate a local resident as the responsible party who would have to be available to respond promptly to resolve any problems or complaints.

Mr. Smith noted that there are lot of businesses in the County that are owned by non-residents and that he would be concerned about treating one specific type business differently than others.

Ms. Leedom responded that the difference is that STRs are in people's homes.

Mr. Holroyd responded that he believes there needs to be a tighter set of controls for short-term rentals to avoid the problems that have been created in places like Virginia Beach. He stated that he believes that requiring the owner to be a Virginia resident is a reasonable expectation.

Mr. Titus responded that he holds the opposite view and stated that it is a matter of the property owners being able to do what they want. He said he would hate to limit it to Virginia residents.

Mr. Criner stated that he doesn't think the County should be prejudiced because of where somebody lives.

Mr. Anderson noted that someone could live in the far western part of the state and meet the requirement of being a Virginia resident yet live further away from the property than an out-of-state owner in North Carolina.

Mr. Cross added that this is the reason that every application is considered on a case by case basis because there are all kinds of scenarios. As a hypothetical example, he stated that there could be a situation with a North Carolina resident who owns a home in York County and has a relative next door who would be present to oversee the property while rentals are taking place.

Mr. Hill stated that a similar requirement was struck down by the federal Court of Appeals in New Orleans. He said he would have grave concerns about the constitutionality of such a requirement. He added that although there is no binding decision in Virginia as of yet, he suspects there will be one soon.

Mr. Holroyd asked is there a requirement that delinquent taxes be paid for any STR before a permit is granted.

Mr. Cross responded that there is a general requirement that all Special Use Permit and rezoning applicants must be current on their taxes.

Mr. Criner agreed with Mr. Smith's comment about fire pits and suggested keeping the statement that an outside fire pit must be lit, supervised, and extinguished but striking the requirement placing that responsibility on the property owner.

Mr. Titus responded that he thinks that issue would be better addressed by including the requirement in the rental agreement.

Chair Leedom opened the public hearing.

Richard Howell, 104 Horseshoe Lane, stated that he is glad to see the codification of the requirement that short-term rental approvals run with the owner and not the land as well as the requirement that the owner/operators maintain guest logs. He expressed concern that the owner is not required to live on or adjacent to the STR or even in the state of Virginia and that there is no proposed limit on the number of rental nights per year for STRs. He likened the proposed amendments to allowing a full-blown hotel as opposed to providing an opportunity for homeowners to make some extra money by occasionally renting out a room or two. Mr. Howell further stated that he continues to be concerned about the density of STRs and opined that there needs to be a limit. He stated that the proposed amendments do not provide adequate guidance to the Board of Supervisors in evaluating STR applications and recommended that the Commission send the document back to the staff with specific instructions to provide more definitive guidance and standards.

Dana deJager, 108 Horseshoe Drive, thanked the Commissioners and staff for all the time they have spent on this topic over the years. She said she has been working with the County on these issues with the goal of preserving the County's neighborhoods by ensuring that STRs operate as an ancillary use of the home, protecting the residents and ties that bind the community together. She asked the Commission to protect residential neighborhoods from divisive business expansion and stated that businesses don't need protection because she felt there are plenty of commercially-zoned homes that can be converted in STRs without infringing on the rights as homeowners. Ms. deJager urged the Commission to require that STR owners and operators live in or adjacent to the home in order to ensure minimal disruption to the neighborhoods. She stated that homeowners have invested their life savings in their homes and need to be protected from the adverse impacts of STRs in their neighborhoods.

Ann Grigorian, 117 Baldric Place, thanked everyone who has been working on this issue, stating that she knows it is a difficult task to balance the needs and desires of all parties concerned. She said that seventeen years ago her family purchased a home that was zoned R20 because it encouraged the traditional subdivision environment with a low rate of transients and a high rate of stability. She stated that STRs allow a steady stream of strangers next door to the homes where families live and are not consistent with the spirit of a medium-density single-family residential neighborhood. She stated that R20 zoning is intended for homes for families rather than motels for tourists. Ms. Grigorian requested that the proposed amendments be revised to allow established neighborhood community associations to register a point of contact to be notified of any STR applications in the neighborhood, just as homeowners' associations are notified. She also requested that any STR located in a medium-density single-family residential areas be subject to the same restrictions as bed-and-breakfast inns outlined in Section 24.1-409(d) of the proposed ordinance, which would require the owner or operator to reside in the home or adjacent to it. She stated that there is little difference between a B&B and a tourist home relative to oversight issues, and she felt they should be treated similarly.

Jonny Grigorian, 117 Baldric Place, expressed concern about the language in the document stating that tourist home owners and proprietors must reside either in the home or in adjacent premises while rentals are taking place but authorizing the Board of Supervisors, when approving an application for tourist home, to waive this requirement when certain requirements are met. He said that in the absence of a specific metric to measure against, this provision places faith and hope

in the Commission and Board of Supervisors to make the right decision. Mr. Grigorian stated that he does not want tourist homes in his neighborhood, and he asked the Commission to require the owner to live in the home.

Ron Struble, 205 Shady Bluff Point, thanked the Planning Commission members for their service, adding that this has been a challenging issue and that there are strong feelings on both sides. He said he is president of the Conserve York County Foundation, which grew out of the neighborhood opposition to the Fenton Mill rezoning application two years ago. He said at that time, the Commission was very sensitive to the concerns of the community, and he asked that the Commission continue that respect for the community in whatever it decides on the proposed amendments. He stated that he thinks there needs to be some resolution of the density issue, although he didn't know what a good solution might be. Lastly, he stated that he agrees with the comments made by Mr. Howell, Ms. deJager, and the Grigorians.

Christie Van Cleave, 1304 Dandy Loop Road, stated that she and her husband own the property at 301 Ballard Street in the Yorktown Village Activity (YVA) district, which is occupied by two STRs. She said she would not be commenting on the issues surrounding STRs in residential areas and that she does not necessarily disagree with the comments that were made previously on that issue. She said she understands the concerns raised about having transients in residential neighborhoods but that she feels the YVA district is different since it caters to tourists. Ms. Van Cleave stated that their primary goal is to make sure their STRs are grandfathered and would not be subject to changes in the Zoning Ordinance. She noted that the proposed amendments do not address the use of boats as short-term rentals, which is something she felt needs to be addressed. Regarding the proposed requirement to maintain a guest log, she stated that VRBO (Vacation Rental By Owner) provides an electronic log book, which helps them to know what taxes they need to pay. Lastly, she stated that she agrees with the restrictions on fire pits, stating that they stopped using grills at their STRs because there was too much risk.

Diane Howell, 104 Horseshoe Drive, stated that she appreciates the work that has taken place on the part of the Commission and staff but does not feel the amendments are ready to be referred to the Board of Supervisors. She noted the use of such terms as owner/proprietor and operator/provider, and she recommended that the document be simplified for consistency and clarity. She expressed concern about the proposal to eliminate the requirement that the owner of a B&B live on or adjacent to the premises, which would allow B&Bs that are authorized as event venues to have as many guests as Board of Supervisors permits with only a resident manager onsite. Ms. Howell stated that she felt the Board needs detailed metrics. She said that it seems the rights of STR owners are overriding the rights of homeowners to be free from the adverse impacts that STRs can have.

Kevin Grunkemeyer, 1000 Cary's Chapel Road, spoke on the question of fire pits. He stated that he felt it would be reasonable to require the owner to provide the means for extinguishing a fire pit.

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

Mr. Peterman stated that the Commission has discussed this issue many times and that he feels the proposed amendments are sufficient and give the Planning Commission the flexibility to consider the individual circumstances surrounding STR proposals. He reminded the Commission of a situation a few years ago when it recommended approval of a short-term rental on a parcel that was surrounded by National Park Service property and had no neighbors. He said in that case,

the applicants had proposed a mechanism to ensure that any problems were addressed. He stated that neighborhoods need to be protected but there needs to be flexibility, and he felt the proposed amendments accomplish that.

Mr. Criner said he agreed with most of Mr. Peterman's comments. He stated that he hoped the Commissioners would exercise good judgment when reviewing STR proposals, and he stated that the citizens who spoke raised good points, all of which are considered by the Commission in its review of these applications. He added that the fire pit issue needs to be addressed but that he did not see that as a major hurdle.

Mr. Titus stated that the staff has done a good job putting this document together and that citizens in the audience should understand that there are also citizens who think STRs should be permitted a matter of right with some restrictions. He stated that there is no statistical evidence that STRs have a negative impact on neighborhood property values and that he believes homeowners' associations as well as adjacent property owners are notified of tourist home applications. With regard to density, he stated that the Commission struggled with the challenge of trying to define what an appropriate limit would be within a certain radius of an existing or proposed STR.

Mr. Cross confirmed that homeowners' associations are notified as a matter of policy.

Mr. Holroyd stated that as a frequent user of STRs, what he is looking for from the owner is a strong commitment that they are present and able to address any issues and answer any questions he might have before deciding to rent. He said he looks for that commitment when evaluating a proposed STR and that he wants to see an owner who is committed to running a business and has a strong business case. Mr. Holroyd said the overall document is well-written but that there are some issues, such as density, which he said has been debated at great length. He said it is the job of the Commission and the Board of Supervisors to determine when there are too many STRs in a given area and that it would be difficult to come up with a practical numerical standard. In addition, he stated that he feels the amendments should address the issue of enforcement and what happens when a short-term rental is being operated in violation of the ordinance or approval conditions.

Mr. Smith thanked the residents who spoke during the meeting and others who have participated in this process over the years. He said the Commission is trying to do what is right for the citizens and the business owners. He stated he feels the proposed amendments accomplish that, there will probably be a need for more adjustments in the future.

Mr. Smith moved the adoption of Resolution No 22-27(R).

A RESOLUTION TO RECOMMEND ADOPTION OF A SERIES OF AMENDMENTS TO SECTION 24.1-409, STANDARDS FOR BOARDING HOUSES, TOURIST HOME AND BED AND BREAKFAST ESTABLISHMENTS, OF THE YORK COUNTY ZONING ORDINANCE HEAVY TRUCK AND EQUIPMENT SALES, RENTAL, AND SERVICE

WHEREAS, pursuant to Section 24.1-113(a)(2) of the York County Zoning Ordinance, amendments to the Zoning Ordinance may be initiated by the York County Planning Commission whenever the public necessity, convenience, general welfare, or good zoning practice so requires; and

WHEREAS, the Planning Commission has determined that in accordance with good zoning practice, it is necessary to amend portions of the Zoning Ordinance relative tourist homes and bed-and-breakfast inns;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 14th day of December, 2022, that Application No. ZT-194-22 be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval to amend Section 24.1-409 of the York County Zoning Ordinance to read and provide as follows:

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 short-term rental homes (STRs) shall be permitted in accordance with section 24.1-703(b)(2).
- (c) 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 or the operator/provider 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. Alternatively, in approving a Special Use Permit for a tourist home, the Board may waive this requirement in consideration of the proximity of the owner/proprietor's residence to the tourist home, proposed measures for monitoring guests' behavior, and the character of the surrounding area. ~~or~~ In such cases, the owner/proprietor 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/operator shall maintain a guest log that includes the names, addresses, and rental dates of all transient guests occupying the STR on a rental basis.~~
- ~~(g) There shall be no limit on the number of rental nights per calendar year unless otherwise specified by the Board in its approval of a Special Use Permit for such use.~~
- ~~(hf)~~ 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.
- ~~(ig)~~ 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.

- (jh) 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.
 - ~~(4)~~(5) Any exterior cooking appliances used by guests shall have a fuel source of either propane or natural gas. The use of charcoal shall be prohibited. Any outside fire pits must be lit, supervised, and extinguished by the property owners.
- (ki) 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.
- (lj) 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.
- (mk) In addition to the items set forth in Section 24.1-115(b)(3) of this chapter, the commission and board shall consider the following when evaluating any special use permit application for a short-term rental home; ~~the commission and board shall consider~~

- (1) proposed provisions for monitoring the operation of the short-term rental home while rentals are taking place and promptly responding to incidents or complaints.
 - (2) 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.
 - (3) the number, percentage, and/or density of legally operating short-term rental homes within the same subdivision, neighborhood, or general area, and their proximity to the proposed short-term rental home, but only to the extent that those factors have a cumulative impact on the residential character of the surrounding area.
- (n) Any special use permit or Yorktown Village Activity approval for the establishment of a tourist home shall become null and void upon the transfer of the ownership of the tourist home.
- (eo) 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.

On a roll call the vote was:

Yea: (4) Titus, Criner, Smith, Peterman
Nay: (2) Holroyd, Leedom

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Ordinance

At a regular meeting of the York County Board of Supervisors held in York Hall, Yorktown, Virginia, on the ____ day of _____, 2023:

Present

Vote

Thomas G. Shepperd, Jr., Chairman
G. Stephen Roane, Jr., Vice Chairman
Walter C. Zaremba
Sheila S. Noll
W. Chad Green

On motion of _____, which carried ___, the following ordinance was adopted:

AN ORDINANCE TO AMEND SECTION 24.1-409, STANDARDS FOR BOARDING HOUSES, TOURIST HOME AND BED AND BREAKFAST ESTABLISHMENTS, OF THE YORK COUNTY ZONING ORDINANCE

WHEREAS, pursuant to Section 24.1-113(a)(2) of the York County Zoning Ordinance, amendments to the Zoning Ordinance may be initiated by the York County Planning Commission whenever the public necessity, convenience, general welfare, or good zoning practice so requires; and

WHEREAS, the Planning Commission has determined that in accordance with good zoning practice, it is necessary to amend portions of the Zoning Ordinance relative tourist homes and bed-and-breakfast inns;

NOW, THEREFORE, BE IT ORDAINED by the York County Board of Supervisors that Application No. ZT-194-22 be, and it is hereby, approved to amend Section 24.1-409 of the York County Zoning Ordinance to read and provide as follows:

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 short-term rental homes (STRs) shall be permitted in accordance with section 24.1-703(b)(2).
- (c) 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 or the provider 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. Alternatively, in approving a Special Use Permit for a tourist home, the Board may waive this requirement in consideration of the proximity of the owner/proprietor's residence to the tourist home, proposed measures for monitoring guests' behavior, and the character of the surrounding area. ~~or~~ In such cases, the owner 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/operator shall maintain a guest log that includes the names, addresses, and rental dates of all transient guests occupying the STR on a rental basis.
- (g) There shall be no limit on the number of rental nights per calendar year unless otherwise specified by the Board in its approval of a Special Use Permit for such use.
- (h~~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.
- (i~~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.
- (j~~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.

(4)(5) Any exterior cooking appliances used by guests shall have a fuel source of either propane or natural gas. The use of charcoal shall be prohibited. Any outside fire pits must be lit, supervised, and extinguished by the property owners.

(k) 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.

(l) 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.

(m) In addition to the items set forth in Section 24.1-115(b)(3) of this chapter, the

commission and board shall consider the following when evaluating any special use permit application for a short-term rental home; ~~the commission and board shall consider~~

- (1) proposed provisions for monitoring the operation of the short-term rental home while rentals are taking place and promptly responding to incidents or complaints.
- (2) 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.
- (3) the number, percentage, and/or density of legally operating short-term rental homes within the same subdivision, neighborhood, or general area, and their proximity to the proposed short-term rental home, but only to the extent that those factors have a cumulative impact on the residential character of the surrounding area.

(n) Any special use permit or Yorktown Village Activity approval for the establishment of a tourist home shall become null and void upon the transfer of the ownership of the tourist home.

(eo) 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.
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- (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.
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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.

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From: Cross, Tim <tcross@yorkcounty.gov>

Sent: Monday, January 29, 2024 8:39 AM

To: Bellamy, Mark <bellamy@yorkcounty.gov>; Kassel, Susan <Susan.Kassel@yorkcounty.gov>; Sgroi, Jeanne <Jeanne.Sgroi@yorkcounty.gov>; Whittaker, Gail <whittgl@yorkcounty.gov>

Subject: 2023 Population

FYI, the Weldon Cooper Center has released the official 2023 population estimates for Virginia localities. The figure for York County is 71,806 – a very small increase of 0.4%, or 315 residents, since 2022. As usual, JCC led the Peninsula with an increase of 1,190 (1.5%), while Newport News and Williamsburg experienced net declines. The vast majority of York’s growth since 2020 – 85% – is the result of net migration as opposed to net natural increase (births minus deaths).

The state as a whole also increased by only four tenths of one percent between 2022 and 2023.

TCC

Intercensal Estimates for Virginia, Counties, and Cities: 2020-2023						
<i>Published on January 29, 2024 by the Weldon Cooper Center for Public Service, Demographics Research Group, www.demographics.coopercenter.org</i>						
FIPS Code	Locality	2020 Census	Intercensal Estimate for July 1			
			2020	2021	2022	2023
	Virginia	8,644,727	8,646,905	8,655,608	8,696,955	8,729,032
095	James City County	78,254	78,317	78,567	79,488	80,678
199	York County	70,045	70,100	70,319	71,491	71,806
650	Hampton City	137,148	137,035	136,581	136,387	136,895
700	Newport News City	186,247	186,014	185,082	183,504	182,268
735	Poquoson City	12,460	12,471	12,514	12,624	12,648
830	Williamsburg City	16,017	16,017	16,015	16,224	15,675

COUNTY OF YORK

MEMORANDUM

DATE: January 24, 2024

TO: York County Board of Supervisors

FROM: Mark L. Bellamy, Jr., Interim County Administrator 

SUBJECT: Special Use Permit Request

As you may recall, at our January 16, 2024, meeting, Mr. Holroyd requested that staff develop a resolution for the Board, which would amend the current language in the County code to require a Special Use Permit (SUP) for the proposed York 64 development. Additionally, Mr. Holroyd's request asked to change the County Zoning Ordinance allowing industrial parks in EO zoning as a matter of right. Subsequently, staff met to discuss the requests. The result of that discussion is that the County Attorney believes, as does Ms. Kassel, that Ms. Kassel's January 2023 letter accurately reflects the intent of the Zoning Ordinance as it is currently written. Ms. Kassel does not wish to change the conclusion she stated in that letter that the development as proposed qualifies as an industrial park and that warehousing is, therefore, allowed by right as set forth in County Code § 24.1-482(a)(1)(p). Even if Ms. Kassel did wish to change her conclusion, such a decision could subject the County to legal jeopardy should a decision be made to challenge that conclusion in Court.

Changing the ordinance by removing County Code § 24.1-482(a)(1)(p) going forward is possible. Should it be the Board's desire to make the change in the ordinance, please communicate that to me. As you know, any proposed change to the language of the Zoning Ordinance requires appropriately advertised public hearings before the Planning Commission and the Board. Additionally, the members of the Economic Development Authority are aware of the request and asked me to advise you against making this change. They believe the ordinance as it exists is a valuable tool for their mission.

COUNTY OF YORK

MEMORANDUM

DATE: February 2, 2024

TO: York County Board of Supervisors

FROM: Mark L. Bellamy, Jr., Interim County Administrator 

SUBJECT: Waterfront Facilities

We have been soliciting feedback on several options for the Dockmaster's Office and associated buildings for the waterfront. A public engagement forum was held on January 18 from 5:00 to 8:00 p.m. to discuss the proposed architectural options. In addition, the public's input has been gathered through social media platforms such as Facebook and the County's webpage.

I thought it would be beneficial for the Board to have the building history previously provided to the Board in July. This was included in the Information Folder dated July 28, 2023. Additionally, I have included links below where the Board discussed this matter at the Work Session and Regular Meeting.

- Discussed at the opening of the September 5 Work Session under item 2, 45:04 minutes into the meeting.

<https://yorkcountyva.new.swagit.com/videos/270714>

- Discussed this at the September 19 Regular Meeting under item 2, 1:48 minutes into the meeting.

<https://yorkcountyva.new.swagit.com/videos/271957>

If you have any questions, please feel free to contact me.

Attachment:

- Memorandum on the Dockmaster Building dated July 27, 2023

COUNTY OF YORK

MEMORANDUM

DATE: July 27, 2023
TO: York County Board of Supervisors
FROM: Neil A. Morgan, County Administrator 
SUBJECT: Dockmaster's Building History Recap and Review

As you may recall, the need for a renovated and expanded Dockmaster Building has been discussed and reviewed with the Board since 2018, and the money allocated for the design and build has been included as part of the County's Capital Improvements Program (CIP). The Dockmaster Building is the guest services hub for all waterfront activity. Since its construction in the 1970s as a lifeguard base of operations, we have experienced increased activities at the Riverwalk Landing Piers, more visitation to the waterfront, paid events at the Freight Shed, and an increase in staff to manage and maintain those facilities. Thousands of residents and visitors use the Dockmaster Building as a point of contact in case of emergencies, first aid, lost and found, and any local information they may need. The building also serves as an operations and logistics headquarters for major events and supports staff across five key waterfront operational areas.

This information was relayed previously in the attached detailed memo dated February 14, 2020. In the memo, I also referenced the importance of making the building ADA-compliant. Yorktown stands out by being the first on the Peninsula with a handicap-accessible MobiMat, MobiChair, and lift-enabled trolleys, yet we don't have appropriate handicap-accessible restroom facilities. Furthermore, the existing facilities must be closed during the winter months due to the absence of climate control which is required to prevent the plumbing from incurring freeze damage.

It is important to be mindful that the Dockmaster Building is not a new project and the need has significantly increased since it was first allocated in the approved 2018-2023 CIP and all approved CIPs since then. If not for the pandemic, the building would already be completed per the construction timeline memo dated April 22, 2019.

Olsen/3525

Attachments:

- Memorandum dated: April 22, 2019
- Memorandum dated: February 14, 2020
- FY2018-FY2023 Adopted CIP

COUNTY OF YORK

MEMORANDUM

DATE: April 22, 2019
TO: York County Board of Supervisors
FROM: Neil Morgan, County Administrator 
SUBJECT: Construction Timelines

Background

With the Board's acceptance of the principal recommendations produced by the 2018 Space Study, and your subsequent support of the proposed FY 2020 – 2025 Capital Improvement Plan, staff is proceeding with a range of actions necessary to implement the various design, construction, and renovation projects. In addition to the plans addressed in the Space Study, the County is also working on other important projects including Fire Station #1 construction, the Yorktown Library expansion, and the Dock Master's building at Riverwalk Landing. The purpose of this memorandum is to provide you in a single document our current projected time line for all of this work.

Current Timing and Financial Plan

Given your concurrence on the CIP, the following is the timeline of construction: Fiscal year 2020 includes design funds for the Law Enforcement Building, design funds for the Dock Master's Building, and renovation funds for the Finance Building in Yorktown. Design services for the Public Safety Building and Planning and Development Services Building follow in FY2021. Resources for the Law Enforcement Building construction would be available in FY2022. The Public Safety Building renovations and the enhanced Planning and Development Services Building could be constructed by FY2023. Staff and I believe this to be a workable plan given the current economy. However, should we experience a down turn in the economy, one or more of these projects may need to be delayed.

Projects outside the CIP include: Lease space in two locations for the Registrar; lease space for Parks and Recreation, and short-term lease space for the Yorktown Library operations during construction. Resources for these leases are included in the FY2020 operating budget. Renovations include: the House on the Hill and the space in the County Administration Building vacated by the Registrar and Planning and Building Regulations (which will be moving to the enhanced Planning and Development Services Building). These projects may be accomplished with some combination of carry-over/year-end or reserve monies.

York County Board of Supervisors
April 22, 2019
Page 2

Attached to this report is a spreadsheet that attempts to capture all of the critical, interrelated dates for the above referenced projects over the next several years. Given the range of projects, as well as their scale and complexity, you should anticipate updates and changes as schedules, costs, the local economy, and limited staff resources will likely require modifications as we progress.

NAM:mlb 3309

Attachment

COUNTY OF YORK

MEMORANDUM

DATE: February 14, 2020
TO: York County Board of Supervisors
FROM: Neil A. Morgan, County Administrator 
SUBJECT: New Dockmaster Building

The design of the new Dockmaster Building, which has been previously approved by the Board of Supervisors during the CIP process, is nearing completion; and I have included pictures of the exterior model for your visual reference. The Department of Planning and Development Services will be presenting the planned Dockmaster Building to the Historical Yorktown Design Committee on February 19, 2020.

The new Dockmaster Building will replace the existing Dockmaster Building and Public Restrooms at the intersection of Water Street and Ballard Street. The construction is scheduled to start this November after the busy waterfront seasonal activities and after the celebration of Yorktown Day. The demolition of the existing structures and the construction of the new building will take approximately six to eight months.

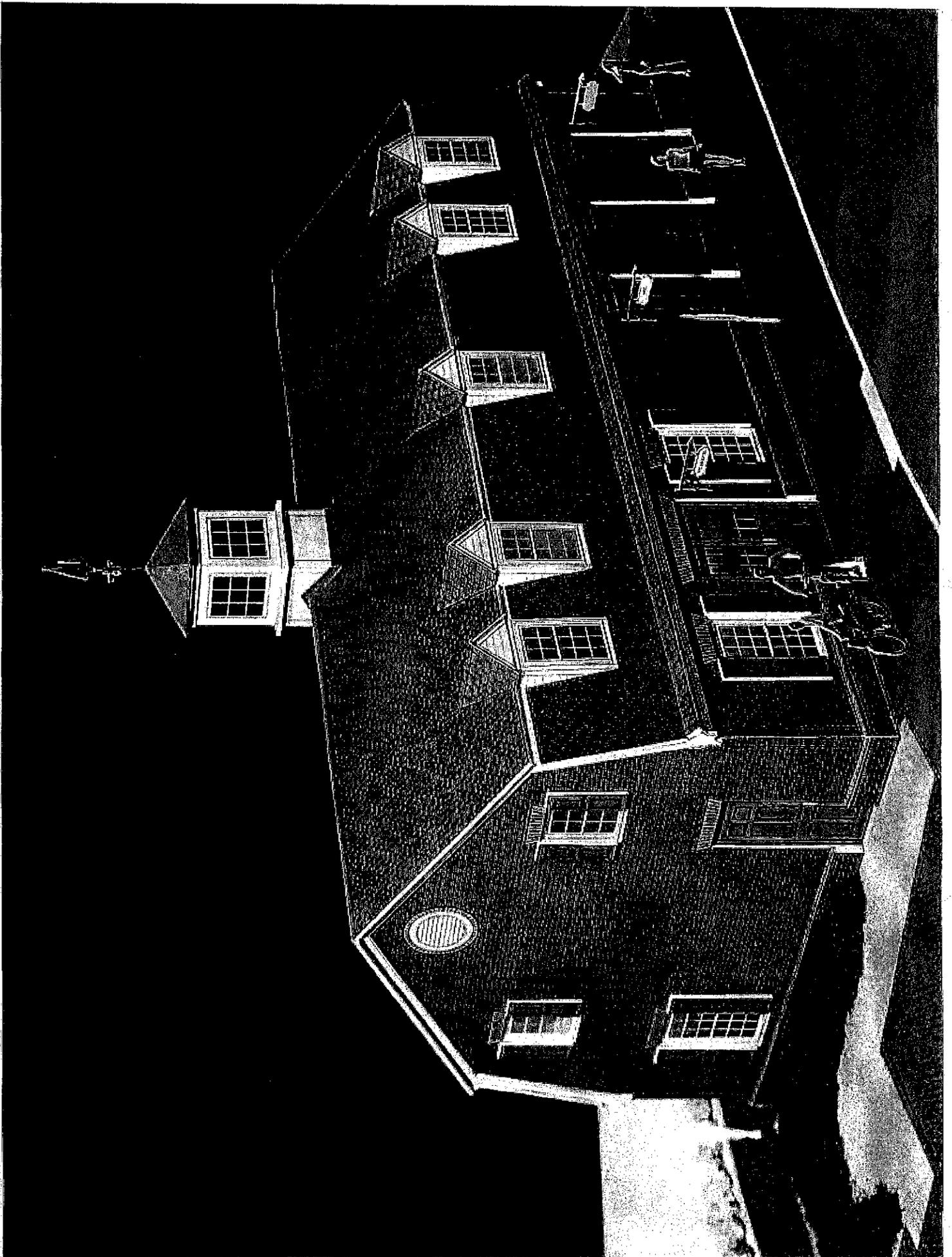
The new Dockmaster Building will support the activities of five operations in addition to providing ADA accessible public restrooms. These operations include the Riverwalk Landing Pier Operations, Parking Services, Ambassador Services, Freight Shed Logistics, and Event Logistical Support. Additionally, the Dockmaster Building serves as a lost and found location, the Mobi-Chair checkout station, first aid station, year-round event command, and serves as the sole location for visitors to gain information from a County representative at the Yorktown Waterfront. An additional benefit of the new Dockmaster Building is the ADA accessible public restrooms that will remain open all year long and will not have to be shut down from November through March to be winterized like the existing restroom facilities.

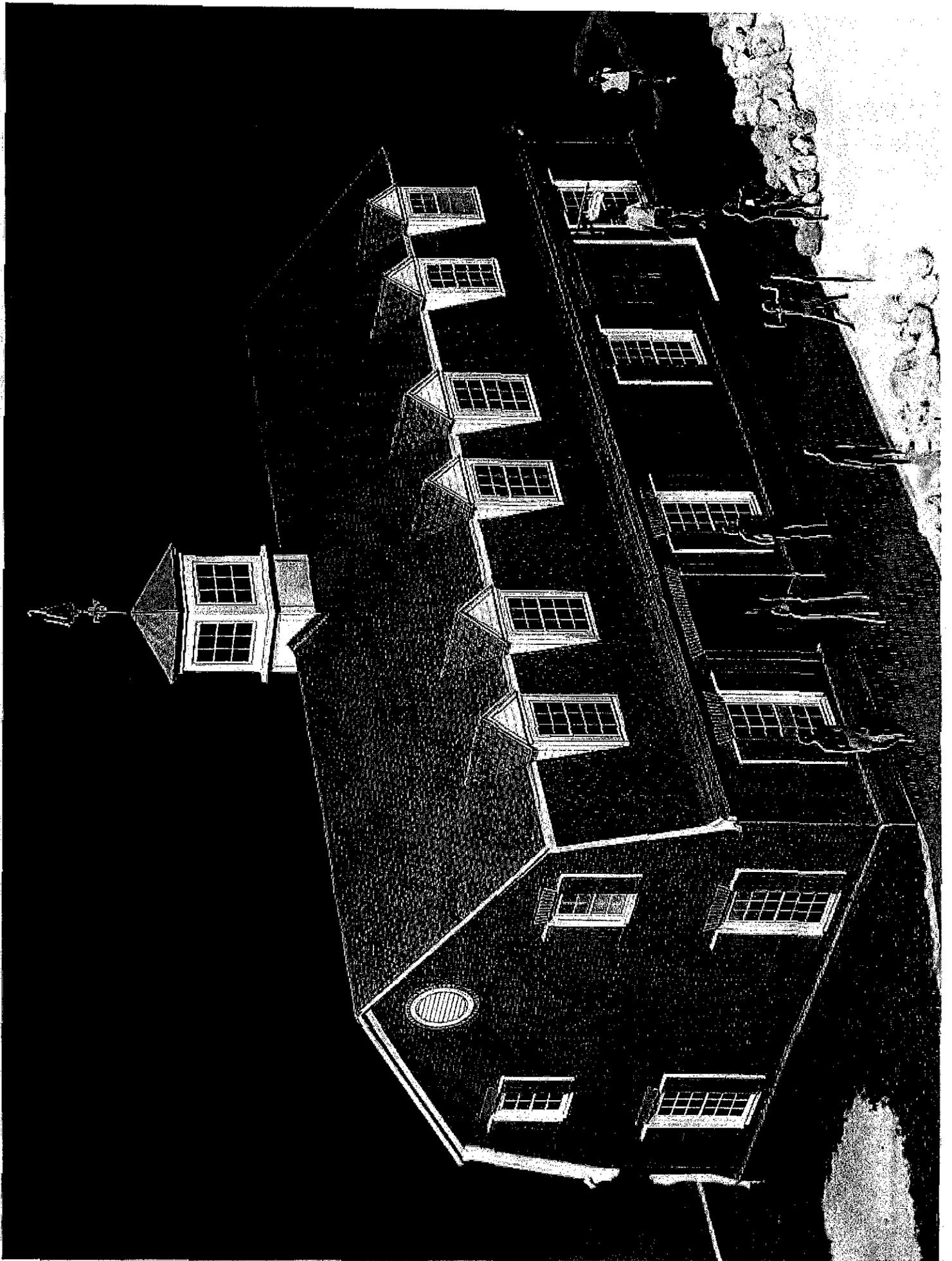
In summary, the new Dockmaster Building will architecturally be an extension of the Riverwalk Landing buildings and will provide efficient functional space for the waterfront operations and for the visiting public.

Woodward: 3241

Attachments:

- Dockmaster Building Front View
- Dockmaster Building Rear View





Capital Improvement Program Submission Fiscal Years 2018 - 2023

PROJECT NUMBER: CS-New-02	PROJECT NAME: Tourism Information, Dockmaster Office and Restroom	STATUS: Approved
CATEGORY: Comm Svcs	DEPARTMENT: Community Services	DIVISION: PRT
PROJECT TYPE: Building to house Dockmasters office, restroom and serve as Tourism Information Center		FUND: 79 - Tourism Fund
PROJECT LOCATION: Yorktown Waterfront (Water and Ballard Streets)		

Requested Total Project Cost	Appropriated To Date	Programmed Funding					Future Funding
		FY2018	FY2019	FY2020	FY2021	FY2022	
\$ 600,000	\$ -	\$ -	\$ -	\$ 50,000	\$ 550,000	\$ -	\$ -
FY2018 Approved Funding	\$ -	\$ -	\$ -	\$ -	\$ 250,000	\$ -	\$ -
FY2017 Approved Funding	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Description and Scope:
 Replace the current restroom and dockmaster's building that were constructed in the mid-1970's.

Purpose and Need:
 The current restroom is extremely small, not handicapped accessible and does not have any family restrooms or changing areas for guest with young children that are visiting the area or beach. The dockmaster's office is only 347 sq ft and houses multiple functions as it serves as the dockmaster's office where boaters check in and pay for docking and also is the office for the Facilities Support Assistant that is responsible for the Freight Shed and other waterfront activities. One of the unintended uses of the building that has occurred since the opening of Riverwalk Landing is that building serves as a visitor center for guest visiting the area, a first aid station for beachgoers with jellyfish stings or minor cuts and lost and found for the waterfront. Many times these staff are the only County staff on the waterfront and serve as front line tourism ambassadors to the visitors. Plans would be to design a multifunction building that could encompass all of these components and possibly become a state certified visitor center.

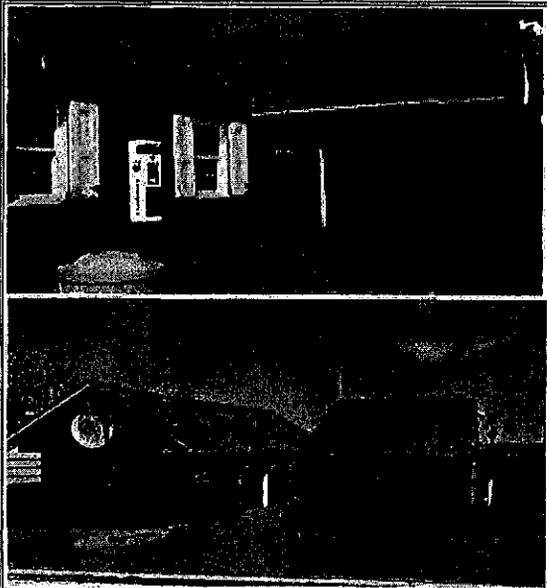
History and Current Status:
 These buildings were constructed in the mid 1970's and designed only for seasonal use from Memorial Day to Labor Day. The restrooms are not handicapped accessible and the "dockmaster's office" was originally the lifeguard building. These buildings were not designed for year round use or climate controlled. Renovations and improvements have been made but the design and functionality of these buildings do not meet the current needs or year-round use of these buildings. The current condition of the cinderblock inside the restroom is deteriorating and making repairs to plumbing fixtures difficult and costly. Currently, the restroom building is open from March until December and the Dockmaster office is staffed year-round by the dock staff as well as the Facilities Support Assistant that oversees the Freight Shed.

Operating Budget Impacts:
 While the proposed building will be a lot larger with current design technologies and the fact that it will be designed for year-round use should provide more energy efficiency than the present buildings.

Anticipated Performance/Outcome Measures:
 The new building would provide ample space for staff working on the waterfront but more importantly provide handicapped accessible restrooms and office space to meet the needs of our visitors. The family restroom and changing areas will also provide an area where parents can take children. The larger area would also allow the staff to store informational brochures and materials to be distributed to guests visiting the waterfront.

STRATEGIC PRIORITIES: (Check all applicable)

<input checked="" type="checkbox"/>	Effective & Outstanding Communications & Civic Engagement		Exemplary Public Safety
<input checked="" type="checkbox"/>	Excellent Customer Service	<input checked="" type="checkbox"/>	Environmental Stewardship
	Quality Educational Opportunities		Economic Development



Schedule of Activities			Amount
Project Activities	From	To	
A&E	FY2020	FY2020	\$ 50,000
Land			\$ -
Building - 2,000 sq ft @\$250 a foot	FY2021	FY2021	\$ 500,000
Furnishings	FY2020	FY2020	\$ 25,000
Equipment			\$ -
Contingencies	FY2021	FY2021	\$ 25,000
Other: Please explain below			\$ -
			\$ -
			\$ -
Total Budgetary Cost Estimate:			\$ 600,000

Means of Financing		Amount
Funding Subclass		
Program Support/Revenue		\$ -
Financing/Debt Issuance		\$ -
Federal & State (i.e. grants, compensation board, etc.)		\$ -
Local Funding		\$ 600,000
Total Funding:		\$ 600,000

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