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A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR A SPECIAL USE PERMIT TO AUTHORIZE A CAR WASH FACILITY AND AUTOMOBILE FUEL DISPENSING ESTABLISHMENT AT 1920 GEORGE WASHINGTON MEMORIAL HIGHWAY

WHEREAS, SXCW Properties II, LLC has submitted Application No. UP-925-19 to request a Special Use Permit to authorize the establishment of a car wash facility and automobile fuel dispensing establishment on a 3.3-acre site located at 1920 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 37-28 (GPIN S03d-4118-0676); and

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2019, that Application No. UP-925-19 be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval to authorize the establishment of a car wash facility and automobile fuel dispensing establishment on a 3.3-acre site located at 1920 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 37-28 (GPIN S03d-4118-0676) subject to the following conditions:

1. This Special Use Permit shall authorize a car wash facility and automobile fuel dispensing establishment on a 3.3-acre site located at 1920 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 37-28 (GPIN S03d-4118-0676).
2. A site plan prepared in accordance with the provisions set forth in Article V of the York County Zoning Ordinance shall be submitted to and approved by the Development Services Division prior to the commencement of any land clearing or development activities on the property. Said site plan shall be in substantial conformance with the sketch plans titled "Sam's Xpress Car Wash" prepared by Triangle Site Design, PLLC and dated May 21, 2019, except as modified herein.
3. With the exception of any modifications deemed necessary by the Virginia Department of Transportation, the developer shall construct a two-hundred foot (200') left turn lane on southbound Route 17 at its intersection with Production Drive in accordance with Virginia Department of Transportation standards.
4. With the exception of any modifications deemed necessary by the Zoning Administrator to ensure compliance with the Route 17 Corridor overlay requirements of the Zoning Ordinance, building architecture and design shall be in substantial conformance with the building elevations submitted by the applicant and prepared by ESD and dated May 17, 2019, a copy of which shall remain on file in the office of the Planning Division.

5. A Type 35 (35') Transitional Buffer shall be installed along the property's boundary with the R13 zoning district boundary. The existing vegetation within the 35-foot buffer shall remain undisturbed during the site development process and shall be supplemented as necessary to provide sufficient quantities of evergreen trees and shrubs to provide and maintain year-round screening. The Transitional Buffer shall be supplemented with an 8-foot tall wood screening fence installed on the inside edge of the buffer.
- ~~5.6.~~ There shall be maintained on the property an auxiliary generator or generators sufficient in size and capacity to operate all fueling stations during electrical system outages or the facility shall be pre-wired for and provided with mobile generator(s) by contract or by transfer of generator(s) owned by the applicant to the site. The mobile generator(s) and the facility shall be operable within twelve (12) hours of the National Weather Service posting a warning for the County of York, Virginia of a named tropical storm or named hurricane or within twelve (12) hours of the occurrence of a storm which disrupts power to the property.
- ~~6.7.~~ In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for a building permit.

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

On roll call the vote was:

Yea: (4) Phillips, Criner, Jons, Peterman
Nay: (2) Titus, King

Application No. UP-927-19, Jeanne Fiocca, dba Cookie Text LLC: Request for a Special Use Permit, pursuant to Section 24.1-283(e) of the Zoning Ordinance, to authorize a home occupation with nonresident employees on a 0.4-acre parcel located at 101 Freemans Trace (Route 1661) and further identified as Assessor's Parcel No. 37-28-1-10. The property is zoned R20 (Medium Density Single-family Residential) and designated Medium Density Residential in the Comprehensive Plan.

Amy Parker, Senior Planner, summarized the staff report dated June 3, 2019, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC19-11.

Dr. Phillips asked how many trips are involved in the delivery of the cookies and what kind of vehicle is used.

Ms. Parker stated that the applicant would be able to answer that question, adding that commercial vehicles would not be permitted.

Mr. Titus asked if this kind of business would have any unusual impact on trash collection.

Ms. Parker responded that she did not believe there would be.

Mr. Titus asked if the kitchen is residential or commercial.

Ms. Parker responded that it is a commercial kitchen.

Mr. King asked where the employees would park if they cannot park on the street.

Ms. Parker responded that they would park in the driveway.

Mr. King asked where the residents would park.

Ms. Parker responded that five parking spaces would be required – two for the home and three for the home occupation.

Chair Peterman opened the public hearing.

Jeanne Fiocca, 101 Freemans Trace, spoke as the applicant. She explained that customers order cookie cakes from the business, Cookie Text, online and that all the cookies are delivered at the same time. She stated that ordinarily she has two people helping her on busy days and that rarely is a third employee needed. She stated that she started the business to supplement her family's income and that as the business grew she brought in friends to help with the work, and because of the amount of time involved, she paid them. Ms. Fiocca stated that when she learned that the employees were not allowed to park on the street, they started parking in the driveway, which she said can accommodate up to six vehicles. She stated that originally, being able to work from home allowed her to earn money while raising her children but that it became more of a financial necessity two years ago following her divorce. She stated that she hopes the business will continue to grow and that ultimately she would like to move to a commercial location and franchise the business. With regard to trash, she stated that after she moved to the property she turned in the second trash toter and ordered a second toter for recyclables, so trash is not a problem. Lastly, she stated that the business has little impact on the neighborhood.

Mr. Criner asked how the homeowners association (HOA) feels about the business.

Ms. Fiocca responded that her brother, who owns the home, received a letter from the HOA expressing concern about the home occupation but that she knows there are others in the neighborhood. She added that the HOA president lives across the street and was unaware that she was operating the business.

Mr. King asked how the cookies are transported to the customers.

Ms. Fiocca responded that one of the employees personally delivers all the cookies to the customers once a day.

Mark Suiter, 306 Autumn Way, stated that he is an officer of the HOA. He stated that the HOA objects to the nonresident employees but not to the business itself. Mr. Suiter expressed concern about the access arrangement, noting the curvature of the driveway and its proximity to a school bus stop. He stated that the HOA covenants do not allow businesses that have nonresident

employees. Stating that he understands the County does not enforce private covenants, he stated that he hoped the County would support the association's efforts to maintain the residential character of the neighborhood, which he said is a quiet neighborhood with no cut-through traffic. Mr. Suiter expressed concern that approving this use permit would set a precedent for more such businesses in the neighborhood. He asked the Commission to recommend denial.

Donn Brockington, 116 Stone Lake Court, stated that he has known the applicant since 2009 and that she is an upstanding citizen and a person of high character. He added that his wife is one of her nonresident employees. He stated that it is a very low-impact, unobtrusive business, and he urged the Commission to recommend approval.

There being no one else wishing to address the Commission on this application, **Chair Peterman** closed the public hearing.

Dr. Phillips stated that it seems like a fairly non-intrusive business that does not generate significant traffic.

Mr. Titus stated that all of his questions have been answered.

Mr. Jons stated that the home occupation does not appear to have any adverse impacts. He added that he would like to see homeowners associations and home occupations find a path toward coexistence.

Mr. King stated that since the application conflicts with the HOA covenants and the HOA does not support it, he cannot support the application.

Mr. Titus moved adoption of Resolution No. PC19-11.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR
A SPECIAL USE PERMIT TO AUTHORIZE A HOME OCCUPATION WITH
NONRESIDENT EMPLOYEES AT 101 FREEMANS TRACE

WHEREAS, Jeanne D. Fiocca, dba Cookie Text LLC, has submitted Application No. UP-927-19 requesting a Special Use Permit to authorize the establishment of a catering kitchen as a home occupation with three nonresident employees on a 0.4-acre parcel located at 101 Freemans Trace (Route 1661) and further identified as Assessor's Parcel No. 37-28-1-10 (GPIN T03a-1296-3116); and

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2019 that Application No. UP-927-19 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize the

establishment of catering kitchen as a home occupation with three nonresident employees on a 0.4-acre parcel located at 101 Freemans Trace (Route 1661) and further identified as Assessor's Parcel No. 37-28-1-10 (GPIN T03a-1296-3116), subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of a catering kitchen as a home occupation with three nonresident employees on a 0.4-acre parcel located at 101 Freemans Trace (Route 1661) and further identified as Assessor's Parcel No. 37-28-1-10 (GPIN T03a-1296-3116).
2. Not more than three (3) nonresident employees shall be permitted.
3. The home occupation shall be conducted in accordance with the provisions of the York County Zoning Ordinance, Sections 24.1-281 and 24.1-283(e), except as modified herein.
4. No on-premises customer/client contact or sales of goods or materials to the general public shall be permitted.
5. The applicant 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 York County Department of Fire and Life Safety in order to conduct the home occupation within the existing 400-square foot attached garage on the site.
6. A fire extinguisher shall be installed with a minimum rating of 2A10BC. The location shall be determined by the Fire Code Official.
7. A fire prevention inspection shall be conducted prior to issuance of an occupancy certificate for the catering kitchen use, and annually thereafter by the Department of Fire and Life Safety.
8. The home occupation shall be conducted in accordance with all applicable state and federal licensing, permitting, and regulatory requirements.
9. In accordance with the terms of the Zoning Ordinance, three (3) off-street parking spaces shall be provided on the premises to accommodate the nonresident employees. These spaces shall be in addition to the two (2) spaces that are otherwise required for the single-family residence.
10. On-premises employees shall be permitted between the hours of 7:30 AM and 4:00 PM daily.
11. Approval of this Special Use Permit shall not be construed to supersede or negate the effect and application of any private covenants that may be applicable to the proposed use/activity nor the authority of any property owner's association to enforce compliance with any applicable covenants.
12. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court no later than thirty (30) days following approval of the Special Use Permit.

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

On roll call the vote was:

Yea: (5) Phillips, Criner, Jons, Titus, Peterman
Nay: (1) King

Application No. UP-929-19, Heather Phillips: Request for a Special Use Permit, pursuant to Section 24.1-306 (category 1, no. 6) of the Zoning Ordinance, to authorize the establishment of a tourist home in an existing single-family detached house on a 0.6-acre parcel located at 105 Sherwood Drive (Route 1315) and further identified as Assessor's Parcel No. 11B-2EJ-12. The property is zoned RR (Rural Residential) and designated Low Density Residential in the Comprehensive Plan.

Earl W. Anderson, Senior Planner, summarized the staff report dated June 3, 2019, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC19-12.

Mr. Jons asked how long the applicant had been operating the tourist home prior to being notified that she was in violation.

Mr. Anderson responded that he does not know but that the applicant is present and would be able to answer the question.

Chair Peterman opened the public hearing.

Heather Phillips, 105 Sherwood Drive, spoke as the applicant, stating that she moved to Queens Lake in 2009 and has made more than \$100,000 worth of improvements to her home over the years. She stated that she is in the home when rentals are taking place, and that the length of stay ranges between one night and one week. She stated that no more than two guests per room are permitted and that children under age twelve are not allowed except by special request. In addition, she stated that there is a second bedroom, so the tourist home can accommodate up to four guests; however, the two rooms would not be rented out to separate families or groups at the same time. She stated that parties and visitors are not allowed. Ms. Phillips explained that guests typically leave for the day to visit the various attractions in the area and return in the evening, so the amount of traffic generated is minimal.

Mr. Jons asked Ms. Phillips how long she was operating before being made aware that a use permit was required.

Ms. Phillips responded that she started in the summer of 2018 and then took the Airbnb site down in September when she became aware of the requirements. She added that while going through the use permit process since March, she has not been actively marketing the tourist home.

Mr. King asked why children under twelve are not permitted.

Ms. Phillips responded that she has a large dog and some valuable antiques, so her personal preference is not to have young children in her house, although she is willing to make exceptions.

Richard Toth, 241 East Queens Drive, stated that he objects to people running mini-motels in a residential neighborhood that is zoned Rural Residential. He said Queens Lake is a fairly private community with narrow streets and no streetlights. He noted that past applications for short-term rentals in Queens Lake have been denied.

Caroline Broun, 122 Copse Way, stated that she decided to live in Queens Lake because of its uniqueness. She expressed concern that not all of the specifics of the proposal are spelled out in the proposed resolution of approval. She also asked if the use permit would be transferable to future owners in the event that Ms. Phillips were to sell her home. Lastly, she expressed concern that approval of the application would set a precedent for other applications, which she said could potentially change the character of the neighborhood.

Mr. Cross responded that Special Use Permits run with the land. He stated that while it is feasible to tie a use permit to the applicant, that has not been the practice in York County since use permit approval is for the use itself and not for a specific individual. Regarding the resolution, he noted that Condition No. 2 references the narrative submitted by the applicant, so all the standards spelled out in the narrative would become conditions of approval.

LeAnn Bunch, 105 Sherwood Drive, stated that the applicant has allowed her to live in her house for the past six months while she is making a job transition to Richmond. She stated that Ms. Phillips takes good care of her home and property and has had guests of high quality. She said the applicant is a great hostess and she encouraged the Commission to recommend approval.

Patricia Albert, 109 Holcomb Drive, stated that she also owns the property at 107 Sherwood Drive, which is next door to the applicant's property. She stated that if the use permit would run with the land, then whether or not the applicant is a great person is irrelevant. She stated that there are a lot of accessory apartments in Queens Lake, which she said is different from a tourist home. She stated that approval of the application would open the door for other use permits that would alter the character of the neighborhood. In addition, she expressed a safety concern about people speeding through the neighborhood.

Larry Armstrong, 298 East Queens Drive, stated that he lives adjacent to and behind the applicant's property. He stated that he has known the applicant for seven years and that she has had guests, none of whom have affected him personally. He stated that he is in favor of the application.

Bob Davis, 281 East Queens Drive, stated that he thinks the proposal is good for York County and for Williamsburg. He said the tourist home brings in very high-quality visitors and he echoed Dr. Bunch's comments.

David Dafashy, 105 Willoughby Drive, stated that he was born and raised in Queens Lake and moved back there less than a year ago. He said it is a very special, beautiful, and quiet neighborhood. He stated that he understands some of the concerns that have been expressed but that he feels that concerns that this application would open the floodgates for short-term rentals are unfounded. He noted that other bed-and-breakfasts in the Williamsburg area are well taken care of and do not generate huge traffic volumes. He stated that he did not think a small country inn would be inherently incompatible with the bucolic character of Queens Lake. In addition, he stated that it takes a special kind of person to host transient guests in their home. He said that most people do not want strangers in their home and that people who operate tourist homes do it because they love it. He stated that he was in favor of the application.

Stephen Alberts, 123 Horseshoe Drive, stated that he addressed the Commission two years ago with respect to another tourist home application next door to his home in Queens Lake. He stated that there were no impacts in terms of crime or speeding and that the guests were all high-quality people. He added that he sees a positive economic impact from tourist homes, noting that guests spend money at local businesses and that he knows of one guest who eventually purchased a home in Queens Lake. In addition, he stated that this application meets the criteria for approving a short-term rental.

Richard Toth, 241 East Queens Drive, stated that he would urge the Commission to tie the use permit specifically to Ms. Phillips if it is approved since many of the positive comments about the application were based on the speakers' high opinion of her as a person.

There being no one else wishing to address the Commission on this application, **Chair Peterman** closed the public hearing.

Mr. Criner stated that he would like to see specific guidelines established for tourist homes and that currently he is undecided.

Dr. Phillips stated that he does not feel the concern about opening the floodgates to tourist homes in Queens Lake is valid. He stated that the use permit process allows the Commission to take into consideration factors that are not written in stone. In addition, he stated that he believes Queens Lake is a very nice neighborhood, as is his own neighborhood, but that he does not think the County can set apart individual neighborhoods for special consideration. He said he supports the application.

Mr. Titus stated that he also does not see this as opening the floodgates. He asked if use permits can include a condition that they be rescinded at such time as the property is sold.

Mr. Cross responded that the County has taken that approach once or twice in the distant past, so there is some precedent for it. He stated that when the Marl Inn bed-and-breakfast in Yorktown was approved years ago, a condition was included stating that the approval would no longer be valid once the owner sold the property. He added that the owner later applied successfully to have that condition removed.

Mr. Jons stated that one of his primary concerns about tourist homes is that the owner is not required to be there when rentals are taking place. He stated that having the owner on the premises helps to protect the residential character of the neighborhood, so he said he likes that aspect of this application. He added that he also likes the idea of requiring the use permit to expire if and when the property is sold.

Mr. King stated that he thinks the applicant has addressed all concerns and that he likes the idea of tying the use permit to the applicant.

Chair Peterman stated that the sense of the Commission appears to be that a condition should be added specifying that the use permit shall become null and void if the property is sold.

Mr. Titus moved adoption of Resolution No. PC19-12(R) as revised to include a condition tying the use permit to the current property owner.

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A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR
A SPECIAL USE PERMIT TO AUTHORIZE A TOURIST HOME AT 105
SHERWOOD DRIVE

WHEREAS, Heather Phillips has submitted Application No. UP-929-19 to request a Special Use Permit, pursuant to Section 24.1-306 (category 1, no. 6) of the York County Zoning Ordinance to authorize the establishment of a tourist home in an existing single-family detached house on a 0.6-acre parcel of land located at 105 Sherwood Drive (Route 1315) and further identified as Assessor's Parcel No. 11B-2EJ-12 (GPIN G15d-4666-1843); and

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2019 that Application No. UP-929-19 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize the establishment of a tourist home in an existing single-family detached house on a 0.6-acre parcel of land located at 105 Sherwood Drive (Route 1315) and further identified as Assessor's Parcel No. 11B-2EJ-12 (GPIN G15d-4666-1843), subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of a tourist home in an existing single-family detached house on a 0.6-acre parcel of land located at 105 Sherwood Drive (Route 1315) and further identified as Assessor's Parcel No. 11B-2EJ-12 (GPIN G15d-4666-1843).
2. The tourist home shall be operated in accordance with the application description and floor plan provided by the applicant and received by the York County Planning Division on April 29, 2019, copies of which shall remain on file in the office of the Planning Division.
3. The applicant 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 York County Department of Fire and Life Safety prior to use of the dwelling as a tourist home.
4. Not more than four (4) guests shall occupy the tourist home at any one time.
5. The owner/operator of the tourist home shall be in residence on the premises overnight on all occasions when the property is rented to overnight guests.
6. Parking shall be limited to the existing driveway and parking area on the property. On-street parking shall not be permitted.
7. The following emergency/life safety requirements shall apply to the operation of the tourist home:

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- a) 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.
- b) A fire extinguisher with a minimum rating of 2A10BC shall be installed on the first and second floors. The location shall be determined by the fire code official.
- c) The tourist home 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 tourist home use and annually thereafter.
- d) All smoke detectors shall be interconnected and installed in accordance with the 2012 Virginia Residential Code, Section R314.

8. Approval of this application shall not be construed to supersede or negate the effect and application of any private covenants that may be applicable to the proposed use/activity nor the authority of any property owners association to enforce compliance with any applicable covenants.

~~8.9. This Special Use Permit authorizing the operation of a tourist home at 105 Sherwood Drive shall remain only as long as the applicant, Heather Phillips, shall own the subject property and shall transfer to any other owner(s) of the property. The Special Use Permit authorizing the establishment of a tourist home at 105 Sherwood Drive shall continue only so long as Heather Phillips shall own the subject property and shall not transfer to any other owner of the property.~~

9.10. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for a building permit.

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

On roll call the vote was:

Yea: (6) King, Criner, Jons, Titus, Phillips, Peterman
Nay: (0)

Application No. UP-930-19, Fraternal Order of the Eagles, Williamsburg 4548: Request for a Special Use Permit, pursuant to Section 24.1-306 (category 9, no. 4) of the Zoning Ordinance, to authorize the establishment of an approximately 2,400-square foot bingo hall within an existing shopping center (Palace Plaza) on a 2.2-acre parcel located at 113-K and 113-L Palace Lane (Route 690) and further identified as Assessor's Parcel No. 9-14. The property is zoned GB (General Business) and designated General Business in the Comprehensive Plan.

Amy Parker, Senior Planner, summarized the staff report dated June 4, 2019, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC19-13.

Mr. Criner asked if a new use permit would be required in the event that the applicant were to decide to expand into another unit.

Ms. Parker responded that any expansion would be treated as an amendment to the use permit. She explained that minor expansions of 5% to 25% can be approved by the Board of Supervisors without a public hearing but that an expansion greater than 25% would be considered a major amendment and would have to go through the entire Special Use Permit process.

Mr. Criner asked if the space could be expanded incrementally to avoid having to go before the Board for approval.

Ms. Parker responded that it could not.

Mr. Titus asked if the proposed bingo hall's proximity to two churches creates a conflict with any state gaming regulations.

Ms. Parker responded that she was not aware of any such restrictions.

Mr. Jons asked what the hours of operation are for the hookah lounge located in the shopping center.

Ms. Parker responded that the hookah lounge is open until 1:00 or 2:00 AM, She added that the lounge is located in a very small unit, which limits the occupancy.

Mr. King asked what the maximum occupancy of the bingo hall would be.

Ms. Parker responded that it would be 120 occupants, based on the Building Code.

Mr. King asked if the parking requirement for the bingo hall was based on the maximum occupancy.

Ms. Parker responded that the parking standard is based on square footage.

Mr. King asked if there have been any parking problems at the shopping center.

Ms. Parker responded that the County has received no complaints about insufficient parking at the center.

Chair Peterman opened the public hearing.

Andrew Potter, 111 Alabama Lane, stated that he is Secretary of the Fraternal Order of Eagles Williamsburg 4548, which is applying for the Special Use Permit. He explained that they would like to use their existing space for bingo, and he introduced Barry Eanes, former Secretary and current Vice President of the organization, to provide additional information and answer questions.

Barry Eanes, 4236 Birdella Drive, Williamsburg, stated that the Fraternal Order of Eagles currently operates as a social club, opening at 5:00 PM and closing at 11:00 PM, although he said some members arrive a little later but typically stay no later than 1:00 AM. He stated that the Order is a 123-year old international organization that is not very well-known. He stated that the Williamsburg chapter has been in place since 2015 and has been operating a meeting hall in the retail center since 2016. He explained that the Order is seeking to operate bingo in two of the five units that it occupies. In response to Mr. Criner's question about expansion, Mr. Eanes stated that further expansion is not possible because the adjacent unit is occupied by a church. He stated that unlike most bingo halls, there would not be multiple organizations conducting bingo games on multiple days; he stated that the Order is a single entity seeking to hold bingo in the space it currently occupies. He explained that the objective is to raise money to donate to non-profit organizations, including children's organizations, police and fire departments, hospices, and numerous others. Mr. Eanes stated that so far this year, the Order has donated more than \$34,000 to such groups. He stated that the proposed hours of operation are actually more extensive than the hours they plan to operate. He stated that the doors would open at 5:30 PM and bingo would cease around 9:15 PM. Mr. Eanes stated that state law allows a maximum of two sessions over seven days, to the plan is to hold bingo on Sundays in the beginning and, if feasible, add another session during the week, depending on how many people show up. In addition, he stated that there are no regulations prohibiting bingo halls in proximity to churches. He noted that there are a private school and a church located across the street from the shopping center, and that the Order makes monthly donations to the school and has been told that it can use their parking lot whenever they need to.

Mr. Jons asked for clarification that the applicant will not use the entire window of hours of operation that have been requested.

Mr. Eanes responded that the Order will not since it can only hold two sessions over a seven-day period. He stated that they requested to operate on Tuesdays, Thursdays, and Fridays because they do not know at this point which of those days they will operate the second session.

Mike Lechman, 101 Swinley Forest, Williamsburg, stated that he and his wife are present as parishioners at Ascension of Our Lord Byzantine Catholic Church but not as official representatives of the church. He applauded the applicant's charitable works. He expressed concern about parking, noting that there are after-church activities on Sundays that run until 2:00 or 3:00 as well as services during Lent that run from 5:30 until 7:00 or later, which would overlap with the bingo hall hours of operation. He stated that traffic is also a concern, noting that nearby residents have complained about church-related traffic on Caran Road, which is a residential street with children. He added that Palace Lane is a fairly quiet, narrow street that can be difficult to maneuver when there is significant traffic. Mr. Lechman stated that he and his wife used to live in Marlbank Cove and frequented the Grafton Shopping Center, where he observed firsthand the parking problems created on Saturdays by Airline Bingo.

There being no one else wishing to address the Commission on this application, **Chair Peterman** closed the public hearing.

Mr. Criner stated that the availability of the school parking lot helps to alleviate concerns about parking, and he noted that the situation will be evaluated after a year to make sure there are no problems.

Dr. Phillips noted that Airline Bingo is significantly larger than the proposed bingo hall and that

with the initial one-year term, he is comfortable with recommending approval of the application.

Mr. Jons moved adoption of Resolution No. PC19-13.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION FOR
A SPECIAL USE PERMIT TO AUTHORIZE A BINGO HALL WITHIN AN
EXISTING RETAIL CENTER AT 113-K AND 113-L PALACE LANE

WHEREAS, Fraternal Order of Eagles 4548 has submitted Application No. UP-930-19 requesting a Special Use Permit, pursuant to Section 24.1-306 (category 9, no. 4) of the York County Zoning Ordinance, to authorize the establishment of an approximately 1,800-square foot bingo hall within an existing retail center (Palace Plaza) on a 2.2-acre parcel located at 113-K and 113-L Palace Lane (Route 690) and further identified as Assessor's Parcel No. 9-14 (GPIN D15a-2344-2638); and

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2019 that Application No. UP-930-19 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize the establishment of an approximately 1,800-square foot bingo hall within an existing retail center (Palace Plaza) on a 2.2-acre parcel located at 113-K and 113-L Palace Lane (Route 690) and further identified as Assessor's Parcel No. 9-14 (GPIN D15a-2344-2638), subject to the following conditions:

1. This use permit shall authorize the establishment of an approximately 1,800-square foot bingo hall within an existing retail center (Palace Plaza) on a 2.2-acre parcel located at 113-K and 113-L Palace Lane (Route 690) and further identified as Assessor's Parcel No. 9-14 (GPIN D15a-2344-2638).
2. The interior layout of the bingo hall shall be designed in substantial conformance with the floor plan submitted by the applicant and received by the Planning Division on April 30, 2019, a copy of which shall remain on file in the office of the Planning Division.
3. Prior to issuance of a Certificate of Occupancy for the bingo hall use, a detailed parking tabulation for the retail center shall be submitted to and approved by the Development Services Division. The tabulation shall take into account all current uses as well as the proposed use with their corresponding parking requirements based on peak hours of operation and demand. Depending on the results of the parking analysis, the Zoning Administrator shall determine whether the occupancy limits for the bingo hall operation need to be reduced from the otherwise applicable Building Code/Fire Code limits.

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4. Noise from the proposed use shall be contained within the subject retail center units, and noise shall not be audible outside the confines of the units.
5. The hours of operation of the bingo hall shall be limited to the period between 3:00 PM and 9:00 PM on Sundays and 5:30 PM and 11:00 PM on Tuesdays, Thursdays, and Fridays.
6. There shall be no loitering of patrons outside the facility or in the adjacent parking lot, and the applicant shall be responsible for monitoring the immediate area to prevent loitering.
7. Parking lot lighting shall remain active until at least one hour after closing time for the bingo hall.
8. Prior to issuance of a Certificate of Occupancy for the bingo hall use, the subject portion of the retail center shall be brought into conformance with all applicable Virginia Uniform Statewide Building Codes and Virginia Statewide Fire Prevention Codes.
9. The provisions of Section 24.1-115(c)(2) notwithstanding, the initial term of this use permit shall be one year. Renewal of the use permit shall require authorization by Resolution adopted by the Board of Supervisors. In the event the Board decides to renew the use permit, the term may be set, at the Board's discretion, at such time period as deemed appropriate. In addition, at the Board's discretion, the process for renewal may be set to again require Board action or, alternatively, to allow renewals in accordance with the terms of Section 24.1-115(c)(2).
10. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, prior to issuance of a Certificate of Occupancy for the bingo hall use, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

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

On roll call the vote was:

Yea: (6) Criner, Jons, Titus, Phillips, King, Peterman
Nay: (0)

Application No. UP-931-19, Two Tiger Investments LLC: Request for a Special Use Permit, pursuant to Section 24.1-306 (category 12, no. 18) of the Zoning Ordinance, to authorize the establishment of an automobile storage/impound yard in the Ewell Industrial Park located at 5676 Mooretown Road (Route 603). The property, located at the intersection of Mooretown Road and Ewell Road (private street) and further identified as a portion of Assessor's Parcel No. 5-25, is zoned IL (Limited Industrial) and designated Limited Industrial in the Comprehensive Plan.

Timothy C. Cross, Deputy Director of Planning and Development Services, summarized the

staff report dated May 29, 2019, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC19-14.

Mr. Criner noted that the parking lot has a gravel surface, which would not prevent leaching of fluids into the soil.

Mr. Cross responded that the developer would be required to submit an impact study that details the methods to be employed for complete containment of a spill or leaching of any fluids.

Dr. Phillips asked how such procedures are enforced.

Mr. Cross responded that on an annual basis, Zoning and Code Enforcement staff visit all properties that are subject to an active Special Use Permit to ensure that all conditions of approval are being met.

Chair Peterman opened the public hearing.

Bill Carr, 316 Indian Springs Road, Williamsburg, spoke as the super-majority owner and managing member of the applicant, Two Tiger Investments. He stated that because he serves on several municipal boards and one civic board, he wanted to read the following disclosure statement into the record:

“The following statements, view, opinions, comments, and, indeed, facts that I share with you tonight do not represent nor are to be associated with my employer, Village Bank, nor the City of Williamsburg EDA, of which I am the former Vice Chairman and have been a member for seven years, the Greater Williamsburg Partnership, of which I am currently Vice Chairman and have been a member of the Board since 2016, nor the Eastern Virginia Regional Industrial Facility Authority, of which I am a member since its inception in March of this year and represent the City of Williamsburg, and finally, the Peninsula Fine Arts Center, of which I am Chairman of the Board and have been a member of the Board for three years. I also need to disclose that I have purchased the property adjacent to Ewell Industrial Park. It’s about four acres near Nevalou Court, and I own that fully, 100%. I bought so that in future years I can hopefully expand Ewell Industrial Park.”

Mr. Carr stated that he purchased Ewell Industrial Park in May 2018 and has been dealing with deferred maintenance issues over the past thirteen months. He stated that many of the tenants have been in the park for fifteen to twenty years and have provided good service to both the County and the general public. Three of the tenants, he stated, are towing companies, and based on their positive experience, he was contacted by a friend, Carolyn Brown, who owns and operates ASAP Towing and had heard that he had purchased the industrial park. Ms. Brown asked if her towing company could move to Ewell Industrial Park, so for that reason – to help the Browns – he submitted this application. He said he considers the storage/impound yard to be a temporary use, and that he expects ultimately to build an industrial building on the site. He stated that if he is required to have extensive stormwater engineering work and analysis performed for the storage yard, he probably will not go forward with the application. Mr. Carr noted that the site is already being used as a parking lot, so the use of the property will not change significantly. With regard to the proposed condition requiring opaque fencing, he asked the Commission to consider allowing

fencing with fabric rather than chain-link with slats, which can deteriorate over time, and he displayed photographs of various alternative types of fences. He assured the Commission that the fencing would be maintained in good condition and repaired as needed. In addition, he asked that consideration be given to waiving the requirement for landscaping between the fenced storage yard and the adjacent auto repair garage.

There being no one else wishing to address the Commission on this application, **Chair Peterman** closed the public hearing.

Mr. Criner stated that he has no particular concerns about the application and he felt that the applicant's requests regarding landscaping and fencing were reasonable and can be worked out with staff.

Dr. Phillips stated that he is always concerned about protecting the watersheds, but he noted that this is an existing use and that the safety of the watershed may be improved with the proposed conditions. He stated that he was in favor of the application.

Mr. Titus stated that he liked the applicant's suggestions about fencing.

Mr. Jons agreed and said he thought it was a good application.

Mr. King stated that he has no objection to the proposed use.

Mr. Jons moved adoption of Resolution No. PC19-14.

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE THE ESTABLISHMENT OF AN AUTOMOBILE STORAGE YARD AT 5676 MOORETOWN ROAD

WHEREAS, Two Tiger Investments LLC has submitted Application No. UP-931-19 to request a Special Use Permit, pursuant to Section 24.1-306 (category 12, no. 18) of the York County Zoning Ordinance, to authorize the establishment of an automobile storage/impound yard in the Ewell Industrial Park located at 5676 Mooretown Road (Route 603) and further identified as an approximately 0.22-acre portion of Assessor's Parcel No. 5-25; and

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of June, 2019 that Application No. UP-931-19 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-306 (category 12, no. 18) of the York County Zoning Ordinance, for the establishment of an automobile storage/impound yard in the Ewell Industrial Park located

at 5676 Mooretown Road (Route 603) and further identified as an approximately 0.22-acre portion of Assessor's Parcel No. 5-25, subject to the following conditions:

1. This Special Use Permit shall authorize the establishment of an automobile storage/impound yard in the Ewell Industrial Park located at 5676 Mooretown Road (Route 603) and further identified as an approximately 0.22-acre portion of Assessor's Parcel No. 5-25.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the York County Development Services Division prior to the commencement of any construction or land disturbing activities on the site. Except as modified herein, said site plan shall be in substantial conformance with the sketch plan titled "CONCEPTUAL LAYOUT FOR EWELL INDUSTRIAL IMPOUND LOT" prepared by AES Consulting Engineers and dated May 1, 2019, a copy of which shall remain on file in the office of the York County Planning Division.
3. Existing vegetation along the Mooretown Road frontage of the subject parcel south of Ewell Road shall be supplemented with additional trees and shrubs sufficient to meet the standards for a front landscape yard set forth in Sections 24.1-242(h) and 24.1-244(a)(1) of the Zoning Ordinance.
4. The storage/impound yard shall be enclosed by opaque fencing at least eight feet (8') in height. Evergreen trees and shrubs of sufficient type and number to meet the requirements for a Type 25 transitional buffer set forth in Section 24.1-243(a)(1) of the Zoning Ordinance shall be planted along the perimeter of the fence.
5. The address of the vehicle storage location, business name, and emergency contact numbers for the business shall be posted on the fence at the entrance to the vehicle storage area.
6. Storage of hazardous materials shall not be permitted without prior approval from the York County Department of Fire and Life Safety.
7. The storage or parking of operable motor vehicles in the storage yard shall be for a period generally not exceeding ninety (90) days.
8. Not more than one (1) vehicle that is not capable of operating under its own power or from which parts have been removed for reuse or sale shall be stored or parked in any of the storage lots for a period exceeding thirty (30) days.
9. At no time shall vehicles in the storage lots be stored or stacked on top of one another.
10. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to the approval of a site plan for the impound yard.

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

On roll call the vote was:

Yea: (6) Jons, Titus, Phillips, King, Criner, Peterman
Nay: (0)

OLD BUSINESS

There was no old business.

NEW BUSINESS

Dr. Phillips noted that it had been suggested that the Commission conduct a work session to discuss tourist homes.

Mr. King said he thought it was a good idea.

Chair Peterman stated that his understanding is that the Commission's desire is to come up with a framework for evaluating proposed tourist homes but not to allow them as a matter of right.

Mr. King said that is correct. He felt there should be some minimum criteria that would have to be met before a person could apply for a use permit to operate a tourist home but that the Commission would still have discretion to evaluate each application on its merits.

Mr. Criner stated that he would like to see a matrix that could be used to grade each application.

Chair Peterman asked for input from the staff.

Mr. Cross stated that staff has collected information from other localities on how they deal with short-term rentals. He stated that the value of the use permit process is that it allows the Commission and Board to evaluate each proposal because each one is unique. He stated that staff can provide the information it has collected to the Commission and possibly come up with some suggestions. He asked if the Commission has any particular timeline in mind for having a work session.

Mr. Criner clarified that the matrix he has in mind would be for informational purposes to ensure the Commission is being consistent in its evaluation process. He mentioned that one useful piece of information would be to know how many short-term rentals are already in the area.

Mr. Jons asked Mr. Criner if he was suggesting there should be a limit on the number of short-term rentals in a given area.

Mr. Criner stated that his desire is that the Commission have the same body of information on each application, and how the members use that information to make a decision is up to them.

Dr. Phillips added that another possible criterion to consider might be whether or not the owner/operator resides in the home and that it might be advisable to amend the Zoning Ordinance.

Chair Peterman stated that he does not have a specific schedule in mind.

Mr. Cross suggested that the staff send the information to the Commission to review and then it could decide when it wants to meet.

STAFF REPORTS

Mr. Cross referred to the June Development Activity Report, stating that at its May 21 meeting, the Board of Supervisors approved the Special Use Permit application for a home beauty shop on Faulkner Road that the Commission recommended approval of in April. He added that at its June 18 meeting, the Board will consider the tourist home on Goosley Road that the Commission considered favorably in May. Mr. Cross also reported that there are two applications tentatively scheduled for the July 10 Planning Commission meeting: a use permit application to allow mini-storage warehouses on the former Farm Fresh property on Merrimac Trail and a use permit application to allow the keeping of more than sixteen domestic chickens. He explained that several years ago the County adopted a backyard chicken-keeping ordinance that limited the number of chickens to sixteen but provided an opportunity to apply for a use permit to allow more. In addition, he reminded the Commission that the election of officers will take place at the July meeting. Finally, Mr. Cross highlighted several projects that have come before the Commission that are now moving through the site plan review and approval process, including the Caliber Collision center, Tractor Supply Company, the two Wawa convenience stores, the Sam's Xpress Car Wash on Bypass Road on Route 17, the expansion of European Cars of Williamsburg, and additional sections of Whittaker's Mill.

Mr. King asked about the site plan for an additional turn lane at the intersection of Routes 17 and 171.

Mr. Cross responded that as a condition of approval for The Phoenix at Yorktown senior housing project on Victory Boulevard, the developer proffered to construct a second left turn lane on westbound Victory Boulevard onto southbound Route 17.

COMMITTEE REPORTS

Mr. Titus reported that he is representing the Commission on an ad hoc committee formed by the County Administrator to consider changes to the County's home occupation regulations. He stated that the committee held its kickoff meeting last Monday and will continue to meet to review and discuss this issue and make recommendations.

Mr. King reported that the York 2040 Committee held a series of four public outreach meetings. He stated that the Committee received some useful input from those who attended, although he was disappointed that the turnout was not higher than it was. He stated that the Committee's next regular meeting will be on August 7, when it will receive a report on the various survey results.

COMMISSION REPORTS AND REQUESTS

There were no Commission reports or requests.

ADJOURN

There being no further business to discuss, the meeting was adjourned at 10:20 PM.

SUBMITTED:

Timothy C. Cross, Deputy Director of
Planning and Development Services

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APPROVED:

Robert W. Peterman, Chair

DATE:
