

**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 12<sup>th</sup> 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

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