

**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.

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 12<sup>th</sup> 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:
  - 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 in effect only as long as the applicant, Heather Phillips, shall own the subject property and shall not 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)

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