

**MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
January 8, 2014

MEMBERS

Glenn A. Brazelton
Melissa S. Magowan
Todd H. Mathes
Timothy D. McCulloch
Richard M. Myer, Jr.
Mark B. Suiter

CALL TO ORDER

Chair Mark B. Suiter called the meeting to order at 7:00 PM.

ROLL CALL

The roll was called and all members were present.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Chair Suiter led the Pledge of Allegiance.

APPROVAL OF MINUTES

Mr. Brazelton moved to adopt the minutes of the regular meeting of December 11, 2013, and the motion was approved (6:0).

REMARKS

Chair Suiter 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. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. UP-836-14, Richard D Nefzger: Request for a Special Use Permit, pursuant to Section 24.1-283(e) of the York County Zoning Ordinance, to authorize a home occupation with five (5) non-resident employees on a 0.37-acre parcel located at 111 Wellington Road (Route 1116) and further identified as Assessor's Parcel No. 11-2-1-26. The property, located on the south side of Wellington Road approximately 480 feet northwest of its intersection with Queens Creek Road (Route 642), is zoned R13 (High Density Single-Family Residential) and is designated High-Density Residential in the Comprehensive Plan.

Earl Anderson, Planner, summarized the staff report to the Commission dated December 20, 2013, in which staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of denial. He added, however, that if the Commission should choose to recommend approval, staff recommends that the approval be subject to the conditions set forth in proposed Resolution No. PC14-1.

Ms. Magowan asked if employees come to the home every day to pick up the work vehicles.

Mr. Anderson responded that employees work five days a week.

Chair Suiter asked if a Special Use Permit can be approved for a use that generates on-street parking.

Mark Carter, Assistant County Administrator responded that approval of such a use permit would be contrary to the Zoning Ordinance.

Chair Suiter asked for confirmation that in order to approve this application all parking would need to be on-site.

Mr. Carter said that is correct.

Mr. McCulloch asked about the purpose of the right-of-way located across the street.

Mr. Anderson said the right-of-way is owned by the state and was platted to provide an opportunity for a connection with the adjacent neighborhood.

Mr. McCulloch asked if the applicant would be able to park the vehicles behind the home.

Mr. Anderson said the applicant would have to install a driveway with landscaping around the house and there is some utility infrastructure that would have to be dealt with. He said the driveway would be very close to the house and the space would still be very tight for parking.

Mr. Mathes asked if anyone can legally park on the Cromwell Lane right-of-way.

Mr. Anderson said there is no pavement, only grass, and that the state might have some concerns.

Mr. Mathes asked if the right-of-way could be an outlet for the applicant.

Mr. Anderson said the property is not owned by the applicant and that the home occupation Standards would still be effect.

Mr. Mathes asked if the employees could park elsewhere and walk to the applicant's home.

Mr. Carter quoted from the Ordinance provision requiring parking demands to be accommodated on-site and that since the applicant's request is for two non-resident employees, at least four parking spaces have to be on-site – two for the residence and two for the employees.

Mr. Mathes asked if it would be allowable for the employees to utilize off-site parking.

James Barnett, County Attorney, responded that in order for the applicant to use off-site parking he would need to have the consent of the property owner. He said an application should not be approved with an assumption that parking will take place on someone else's property.

Mr. Mathes said he was exploring options to determine what would be permissible.

Mr. Anderson said there have been a few instances in the County where vehicles were parked in VDOT rights-of-way and the vehicles were removed.

Mr. Mathes asked what if the parking requirement could be reduced if the resident owns only one personal vehicle or if the only vehicles the resident owned were company vehicles.

Mr. Anderson responded that the Zoning Ordinance requires two spaces for the residence and two additional spaces for the two employees.

Mr. Myer asked if the County has always been strict in following the parking requirements for a home occupations.

Mr. Anderson said yes.

Mr. Myer said during his three years on the Planning Commission, parking has not been a concern and that moving the parking to the rear of the lot seems to be the best option.

Chair Suiter asked if the requirement would still be for two parking spaces if the applicant had three personal cars.

Mr. Anderson said if there are two vehicles in the garage and two in the driveway then at some point the vehicles are going to be blocking each other, which creates a problem.

Mr. Brazelton asked if the homeowners association covenants had been reviewed.

Mr. Anderson said he reviewed the covenants with a representative of the homeowners' association's management company.

Mr. Brazelton asked if the covenants address parking on the street.

Mr. Anderson said they do not because the streets are owned by VDOT and the homeowners' association has no jurisdiction.

Mr. Brazelton asked if the covenants address home occupations.

Mr. Anderson responded that home occupations are not covered in the covenants but that there is a provision prohibiting activities that can become a nuisance to the neighborhood and that the lots are supposed to be used for single-family residential development.

Mr. Brazelton asked Mr. Anderson how many times he visited the site and if he saw vehicles parked adjacent to the property.

Mr. Anderson responded that he visited the site twice and both times there were vehicles parked on the other side of the road.

Ms. Magowan asked if home occupations are allowed to have off-site parking.

Mr. Anderson said the problem is not the home occupation itself (i.e., a home office) but rather the two non-resident employees.

Ms. Magowan asked if the main issue is the driveway.

Mr. Anderson responded the driveway and the traffic that would be generated by vehicles moving in and out of the driveway.

Mr. McCulloch asked if the main purpose of the application is to allow employees to exchange from personal vehicles to the work vehicles rather than to work in the house.

Mr. Anderson clarified that according to the applicant, the head surveyor sometimes works at the house.

Mr. McCulloch asked if a use permit can be issued limiting the number of non-resident employees and prohibiting on-street parking and leaving it up to the applicant to find parking.

Mr. Anderson responded that staff's original suggestion was to limit to the home occupation to one non-resident employee.

Mr. Carter added that there are two possible options that would result in the parking standards being met; the home occupation could be limited to two non-resident employees and no company vehicles or one non-resident employee and one company vehicle. He explained that in either case, there would need to be four on-site parking spaces.

Mr. McCulloch said it appears the real issue has to do with parking and not employees working out of the home.

Mr. Carter responded that the applicant needs to clarify how many employees would be working out of the home and whether or not he has some other alternative for parking the company vehicles.

Chair Suiter opened the public hearing.

Richard Nefzger, 111 Wellington Drive, Williamsburg, spoke as the applicant. He provided photos of the work vehicles and noted that they are no different from residential vehicles. He said he would like to amend the application to allow two non-resident employees to come to the house with no company vehicles. He added that he lives in Nevada and only comes to Williamsburg to do business and that he would not be able to attend the Board of Supervisors meeting next month. He asked who could represent him at the meeting. He said two of his neighbors are here to speak and have told him they have no objection to his business. He said opposition to his request is due to a personal vendetta and has nothing to do with his business. He stated that he wants to be able to run his business now and he would deal with the homeowners association later. He said he would like a three-year term for the use permit. He added that he does not live in the house and he believes that it is common sense to allow two people to come to the house and change vehicles and work at the home. He said the company trucks would not be parked on the premises anymore.

Mr. Myer asked the applicant to confirm that there would be no company vehicles.

Mr. Nefzger responded no non-residents would use the company vehicles.

Mr. Myer asked who occupies the home.

Mr. Nefzger said he owned the home and it is currently being rented.

Mr. Carter stated that based on the applicant's statements, the proposed use does not appear to qualify as a home occupation since the applicant does not live at the home. He explained that home occupations can be operated only by the resident of the property. He asked the applicant if anyone lives at the home when the applicant is not there.

Mr. Nefzger said he lives at the house when he is in town for business and four employees lease the home from him.

Mr. Carter recommended that the Commission table the application because there are some questions as to whether or not this qualifies as a home occupation. He explained that the applicant has just provided new information that the staff was not privy to prior to the meeting.

Chair Suiter asked the County Attorney about the correct procedure since a public hearing has been advertised and people are present to speak.

Mr. Barnett responded the Commission can go ahead and open the public hearing and continue it to the next meeting, which would allow citizens who are here tonight to speak and allow citizens to come back next month to speak if they want to.

Mr. McCulloch asked the applicant if the vehicles shown in the aerial photo belong to him.

Mr. Nefzger responded that the vehicles in question belong to his neighbors.

Mr. Mathes advised the applicant to work with the homeowners association.

Mr. Brazelton asked how many employees are involved in the applicant's survey business.

Mr. Nefzger said he has five employees.

Mr. Brazelton asked where the five employees park when they come to work.

Mr. Nefzger responded that they usually park in his driveway, in his garage, or on the street in front of the house.

Ms. Magowan asked the applicant how many employees he has in York County.

Mr. Nefzger said he has 45 employees nationwide and five in York County.

Chair Suiter asked the applicant to provide a timeline of a typical workday. He said if there are four employees sleeping in the house at what time do the rest of the employees arrive to start their workday.

Mr. Nefzger said the non-resident employees are taking the work vehicles to their homes at night.

Chair Suiter clarified that the only activity is that the people living in the house leave in the morning to go to a project and come home in the evening.

Mr. Nefzger said that is correct.

Dawn Parker, 108 Wellington Drive, Williamsburg, said the applicant's vehicles have never been a problem. She said the vehicles that are parked on the road all belong to the neighbors and not the applicant. She added that there are no traffic jams on Wellington Drive during the rush hour and that the street is a cul-de-sac.

John Collins, 101 Wellington Drive, Williamsburg, spoke on behalf of the Queens Creek Estates Homeowners Association, noting that the bylaws state that the homes are to be for residential use only. He said the applicant's vehicles are in the way of the school bus stop. He said he spoke with the applicant's neighbors and they do not want the increased traffic in their neighborhood. He also said the applicant does not live in the house and yet there are people coming in and out who are not residents of the home. Mr. Collins provided the Commission with a copy of the association bylaws and photographs.

Henri "Pete" Moore, 101 Shea Lane, Williamsburg, said he sees dark colored trucks in the photos but that what he sees in the neighborhood are white trucks parked on the curb near his house and are bothersome.

James Lane, 127 Wellington Drive, Williamsburg, spoke as the president of the Queens Creek Estates Homeowners Association. He said that Mr. Collins' comments are all valid, and he added that there is a sign at the entrance to the neighborhood prohibiting commercial vehicles from parking in the neighborhood. He also said that the applicant's employees are parking and changing vehicles approximately 100 feet from the school bus stop while children are waiting for the bus. He stated that this is a residential neighborhood and is not appropriate for a commercial business and that the application should be denied.

Mr. Mathes asked for the address of the bus stop.

Mr. Lane responded that it is on the corner of Shea Lane and Wellington Drive, approximately in front of the Cromwell Lane right-of-way.

Melissa Sabb, 214 Jolly Pond Road, Williamsburg, spoke as the former property manager for the Queens Creek Estates Homeowners Association, stating that she used to manage the property and conduct property inspections. She said the only vehicle she saw parked at the applicant's property was parked on the road and that she issued a citation for having expired tags and that no other complaints were received.

Everett Rose, 112 Wellington Drive, Williamsburg, said the children at the bus stop are not affected by the applicant's work vehicles and that the home occupation does not cause any traffic or parking problems. He said he has lived at his residence for 19 years and has no objection to the application.

Chair Suiter asked Mr. Carter for the definition of a home occupation.

Mr. Carter said the basic performance standards in the Zoning Ordinance for a home occupation state that the owner/operator and business license holder shall reside on the premises.

Chair Suiter stated that in that case, this does not appear to meet the requirements for a home occupation.

Mr. Mathes said he would be in favor of tabling the application to give staff an opportunity to do some research.

Mr. Brazelton moved to continue the public hearing to February 12th at 7:00 p.m. for **UP-836-14, Richard D. Nefzger**.

Yea: (6) Brazelton, Suiter, McCulloch, Mathes, Myer, Magowan
Nay: (0)

Application No. UP-837-14, Timothy J. and Tammy R. Gelles: Request for a Special Use Permit, pursuant to Section 24.1-407(b)2 of the York County Zoning Ordinance, to authorize the establishment of an accessory apartment with approximately 400 square feet of habitable space on the second story of an existing detached garage in conjunction with a single-family detached home located on two parcels of land with a combined area of 1.7 acres at 612 and 612-A York Point Road (Route 712) and further identified as Assessor's Parcel Nos. 26F-4-B-6 and 26F-4-B-5A. The properties are zoned RC (Resource Conservation) and designated Conservation in the Comprehensive Plan.

Timothy C. Cross, Principal Planner summarized the staff report to the Commission dated December 26, 2013, in which staff recommends that the Commission forward this application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC14-2.

Mr. Brazelton asked if the construction of the garage has been completed allowing it to be used as an accessory apartment.

Mr. Cross said it is the house that is being renovated and that the garage is completed.

Mr. Brazelton asked if the purpose of the use permit is simply to allow the existing garage to be occupied.

Mr. Cross responded in the affirmative.

Chair Suiter opened the public hearing.

Timothy Gelles, 612 York Point Road, Yorktown, spoke as the applicant. He thanked the staff for its help and time given to this application.

Mr. Myer asked the applicant if he understands the limitation on who would be allowed to live in the accessory apartment.

Mr. Gelles responded that he does.

Chair Suiter closed the public hearing.

Mr. Mathes moved adoption of PC14-2.

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT APPLICATION TO AUTHORIZE THE ESTABLISHMENT OF AN ACCESSORY APARTMENT IN AN EXISTING DETACHED GARAGE LOCATED AT 612 AND 612-A YORK POINT ROAD (ROUTE 712)

WHEREAS, Timothy J. and Tammy R. Gelles have submitted Application No. UP-837-14, which requests a Special Use Permit, pursuant to Section 24.1-407(b)2 of the York County Zoning Ordinance, to authorize the establishment of an accessory apartment with approximately 400 square feet of habitable

space in an existing detached garage in conjunction with a single-family detached home located on two parcels of land at 612 and 612-A York Point Road (Route 712) and further identified as Assessor's Parcel Nos. 26F-4-B-6 (GPIN W08c-0337-1646) and 26F-4-B-5A (GPIN W08c-0446-1598); 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 8th day of January, 2014, that Application No. UP-837-14 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval of a Special Use Permit, pursuant to Section 24.1-407(b)2 of the York County Zoning Ordinance, to authorize the establishment of an accessory apartment with approximately 400 square feet of habitable space in an existing detached garage in conjunction with a single-family detached home located on two parcels of land at 612 and 612-A York Point Road (Route 712), further identified as Assessor's Parcel Nos. 26F-4-B-6 (GPIN W08c-0337-1646) and 26F-4-B-5A (GPIN W08c-0446-1598), subject to the following conditions:

1. This Special Use Permit shall authorize a Special Use Permit, pursuant to Section 24.1-407(b)2 of the York County Zoning Ordinance for the establishment of an accessory apartment in an existing detached garage in conjunction with a single-family detached home located on two parcels of land at 612 and 612-A York Point Road (Route 712), further identified as Assessor's Parcel Nos. 26F-4-B-6 (GPIN W08c-0337-1646) and 26F-4-B-5A (GPIN W08c-0446-1598).
2. Construction and occupancy of the accessory apartment shall be in compliance with the performance standards set forth in Section 24.1-407, *Standards for accessory apartments in conjunction with single-family detached dwellings*.
3. The habitable floor area of the accessory apartment unit shall not exceed approximately 400 square feet.
4. The accessory apartment shall not be rented separate from the principal dwelling and shall be occupied only by family members or guests of the occupant of the principal dwelling or by a bona fide medical/health caretaker or domestic employee of the occupant of the principal dwelling.
5. Prior to issuance of a Building Permit for the accessory apartment, the applicant shall record a copy of the resolution authorizing this use permit with the Clerk of the Circuit Court. A court-certified copy of the document shall be submitted to the County at the time of Building Permit application.

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.

Yea: (6) Suiter, Magowan, McCulloch, Mathes, Myer, Brazelton
Nay: (0)

Application No. YVA-33-14, Glenn Helseth, The Carrot Tree: Request for Yorktown Village Activity approval, pursuant to Section 24.1- 327(c) of the York County Zoning Ordinance, to authorize a sit-down restaurant to be located in an existing building (Watermen's Museum Carriage House) and a fast-food restaurant (hot dog stand) located at 301, 309, 313, and 315 Water Street in Yorktown and further identified as Assessor's Parcel Nos. 18A-1-12F, 18A-1-12E, 18A-1-12D, and 18A-1-12C. The properties are located on the north side of Water Street (Route 1020) approximately 800 feet east of its intersection with Mathews Street (Route 1001). The properties are zoned YVA (Yorktown Village Activity) and are designated as Yorktown Historical Village in the Comprehensive Plan.

Amy Parker, Senior Planner summarized the staff report to the Commission dated December 30, 2013, in which staff recommends that 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. PC14-3.

Mr. Mathes asked about the lift/elevator located at the carriage house.

Ms. Parker said the lift is not operable.

Mr. Mathes asked who set the hours of operations.

Ms. Parker said the hours were suggested by the applicant.

Ms. Magowan asked if the signage would be in accordance with the Yorktown Historic District provisions.

Ms. Parker responded that the Historic Yorktown Design Committee would review any signage.

Mr. Brazelton asked who manages the use of the tent.

Ms. Parker said the Watermen's Museum manages the tent and the use of the tent is not part of the application.

Chair Suiter opened the public hearing.

Glenn Helseth, 1782 Jamestown Road, Williamsburg, spoke as the applicant. He said the Watermen's Museum was looking for an outlet to serve food and he was looking for a place to serve food. He said that during the process of planning the business there have been some complications, such as the handicap ramp, but that those issues are being addressed. He said he is looking into the insuring/licenses/regulations of using the lift/elevator as an alternative to the handicap ramp.

Mr. Myer asked about the general operation of the restaurant and the food preparation.

Mr. Helseth responded there would be no complex cooking on-site.

Mr. Myer said he could not envision how the hot dog stand would be utilized.

Mr. Helseth said it would be more a snack bar serving prepackaged food with a walk-up window for service. He said it would be a seasonal hot dog/snack bar servicing foot traffic from the beach.

Chair Suiter closed the public hearing.

Mr. Mathes asked if the resolution would need to be changed in the event that the lift proves to be a viable option.

Ms. Parker said it would not need to be revised and could be handled through the site plan review process.

Mr. Myer moved adoption of Resolution No. PC14-3.

A RESOLUTION TO RECOMMEND APPROVAL OF A YORKTOWN VILLAGE ACTIVITY REQUEST TO AUTHORIZE A SIT-DOWN RESTAURANT AND A FAST-FOOD RESTAURANT TO BE LOCATED IN SEPARATE EXISTING BUILDINGS ON THE SITE OF THE WATERMEN'S MUSEUM LOCATED AT 301, 309, 313, AND 315 WATER STREET IN THE YORKTOWN VILLAGE

WHEREAS, Glenn Helseth has submitted Application No. YVA-33-14, pursuant to Section 24.1-327(c) of the Zoning Ordinance, to authorize establishment of a sit-down restaurant and a fast-food restaurant (hot dog stand) to be located in separate existing buildings on the site of the Watermen's Museum located at 301, 309, 313, and 315 Water Street in Yorktown and further identified as Assessor's Parcel Nos. 18A-1-12F (GPIN P12c-1839-1866), 18A-1-12E (GPIN P12c-1983-1838), 18A-1-12D (GPIN P12c-2114-1803), and 18A-1-12C (GPIN P12c-2220-1814); and

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

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

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

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of January, 2014 that Application No. YVA-33-14 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval subject to the following conditions:

1. This approval shall authorize the establishment of a sit-down restaurant to be located in an existing building (Watermen's Museum Carriage House) and a fast-food restaurant (hot dog stand) to be located in a smaller outbuilding, both being on the premises of the Watermen's Museum on property located at 301, 309, 313, and 315 Water Street in Yorktown and further identified as Assessor's Parcel Nos. 18A-1-12F (GPIN P12c-1839-1866), 18A-1-12E (GPIN P12c-1983-1838), 18A-1-12D (GPIN P12c-2114-1803), and 18A-1-12C (GPIN P12c-2220-1814).
2. A site plan prepared in accordance with the provisions of Article V of the Zoning Ordinance shall be approved by the York County Department of Environmental and Development Services, Division of Development and Compliance, prior to commencement of any building redevelopment or construction activities on the site. Except as modified herein, said site plan shall be in substantial conformance with the plans received by the Planning Division on December 2, 2013, copies of which shall remain on file in the office of the Planning Division. Floor plans shall be in substantial conformance with plans received by the Planning Division on December 9, 2013. Substantial deviation, as determined by the Zoning Administrator, from the general design and layout as depicted on the referenced plans or amended herein shall require resubmission and

approval in accordance with all applicable provisions as established by the York County Zoning Ordinance.

3. Any signage associated with the uses shall be installed in compliance with all applicable requirements of the Zoning Ordinance, including review and approval by the Historic Yorktown Design Committee.
4. The Museum's existing gravel parking lot shall be available for restaurant patrons on a first-come, first-served basis and the Museum may also make available its paved parking area between the main Museum building and the Coleman Bridge. Any additional demand for restaurant-related parking may be accommodated through the use of available public parking lot spaces.
5. Operation of restaurants on the subject property shall be in compliance with performance standards set forth in Zoning Ordinance Sections 24.1-327, *Yorktown Village Activity district*; 24.1-373, *Floodplain Management Area overlay district*; 24.1-374, *Historic Resources Management overlay district*, 24.1-377, *Yorktown Historic District overlay district*; and 24.1-470, *Standards for all Business and Professional Service Uses*. Operation of restaurants on the subject property shall be in conformance with all applicable regulations of the Virginia Uniform Statewide Building Code, the Virginia Statewide Fire Prevention Code, and the International Fire Prevention Code.
6. The applicant shall obtain any required Virginia Department of Health licenses prior to commencement of restaurant uses. Verification of such licensure shall be submitted to the Department of Environmental and Development Services, Development and Compliance Chief prior to issuance of Certificates of Occupancy for the restaurant buildings.
7. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Yorktown Village Activity approval 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 site plan approval.

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

Yea: (6) Brazelton, Suiter, McCulloch, Magowan, Mathes, Myer
Nay: (0)

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was no new business.

STAFF REPORTS

Mr. Carter referred to the Development Activity Report dated January 8, 2014, and offered to answer questions.

COMMITTEE REPORTS

There were no committee reports.

COMMISSION REPORTS AND REQUESTS

There were no Commission reports and requests.

ADJOURN

The meeting was adjourned at 8:26 P.M.

SUBMITTED:

Lisa Swartz, Secretary

APPROVED:

Mark B. Suiter, Chair

DATE:
