

At a special meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on October 25, 2022 at 6:00 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Jerome K. Butler (Happy Creek District); and Walter J. Mabe (Shenandoah District); also present were Edwin C. Daley, County Administrator; Caitlin Jordan, Senior Assistant County Attorney; Chase Lenz, Zoning Administrator; Matt Robertson, Finance Director; Matt Wendling, Planning Director; and Emily Ciarrocchi, Deputy Clerk of the Board

Absent: Victoria L. Cook (Fork District)

Call to Order and Pledge of Allegiance of the United States of America

Adoption of the Agenda

On a motion by Mr. Mabe, seconded by Mr. Butler, and by the following vote, the Board of Supervisors adopted the agenda as presented:

Mabe, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Public Hearing – Amend the Fiscal Year 2022-2023 Budget Based on Fiscal Year 2021-2022 Carryover – Matt Robertson

Matt Robertson, Finance Director, reported the General Fund ended Fiscal Year 2022 with an additional \$3.3 million in revenues over expenditures. Additionally, the Special Projects Fund ended with a balance of \$16,709,388. The carryover package totals \$16,436,165. Section 15.2-2507 of the Code of Virginia requires that budget amendments that exceed 1% of the total expenditures shown in the currently adopted budget must be accomplished by publishing a notice of a meeting and a public hearing once in a newspaper having general circulation in the County at least seven days prior to the meeting date on which the amendment is scheduled to be considered.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors amended the Fiscal Year 2022-2023 Budget and Appropriation Resolution for FY 2022-2023 and appropriate an additional \$16,436,165 as provided in the proposed FY 22-23 Carryover Package, pursuant to Section 15.2-2507 of the Code of Virginia:

Butler, Aye; Oates, Aye; Cullers, Aye; Mabe, Aye

Department	Purpose	Amount
General Fund		
Elections	Voting Machine Programming	32,638
Fire & Rescue	Donated Funds	4,432
Fire & Rescue	SCBA Program	66,456
Fire & Rescue	Fire Programs Grant	66,035
Fire & Rescue	PPE Program	78,984
Commissioner of the Revenue	Office Renovation	13,229
Commissioner of the Revenue	Reassessment	172,055
Sheriff's Office	Ammunition	4,120

Capital Improvement Fund		
Fire & Rescue	Fire Station Development	3,000,000
Parks & Recreation	Seide Park Shelter	4,642
Partner Agencies	Samuels Public Library	50,000
Public Works	Old Oak IV	1,049,942
Public Works	Old Oak V	987,189
Public Works	Youngs Drive	473,218
Public Schools	School Capital Improvement Reserve	656,400
Elections	Registrar Office Renovations	37,638
Non-Departmental	Capital Reserve	500,000
Non-Departmental	Project Startup	100,000
Non-Departmental	Building Repair	2,000,000

Asset Replacement Fund		
Fire & Rescue	Firetruck Replacement	227,328
Public Schools	School Bus Replacement	96,307
Non-Departmental	Asset Reserve	1,000,000
Non-Departmental	Technology Replacement	1,500,000

Special Projects Fund		
Non-Departmental	Contingency Reserve	500,000
Non-Departmental	Tourism Reserve	129,780
Non-Departmental	Staffing Initiatives	300,000
Non-Departmental	Community Development	175,992
Non-Departmental	Infrastructure Reserve	930,000

Airport Fund		
Airport	Reserve	186,296

Sanitary District Funds		
Shenandoah Shores	Reserve	2,832
Riverside	Reserve	1,894
Shenandoah Farms	Reserve	2,019,912
Cedarville Heights	Reserve	1,627
Linden Heights	Reserve	40,004
Osprey Lane	Reserve	25,684
Wildcat Drive	Reserve	1,531
	Total:	16,436,165

Public Hearing – Z2022-05-01, Ordinance to Amend and Re-Ordain Sections 180-8 and 180-28 and to Add and Ordain Sections 180-28.1 and 180-43.3 of the Warren County Code re: Light Industrial (LI) Zoning District and Data Centers – Matt Wendling

Matt Wendling, Planning Director, reported the requested amendments and additions are to update Warren County's Zoning Ordinance to be economically competitive and proactive. The concept of Data Centers has been a discussion point for many years in our area and has most recently come up in Comprehensive Plan review sessions. In addition to the proposed changes to the Warren County Code, the Town of Front Royal is proposing similar code language so that both jurisdictions can be consistent with our approach to this ever-growing industry.

At the Board of Supervisors meeting on October 4th, County staff informed the Board that a by-right use would require a site plan review by staff, outside agencies, and receive final approval from the Planning Commission. If the Data Center or warehousing structure was on a lot already zoned as Industrial (I), the site plan is the only oversight County staff has to review the project if it was by-right. If the lot was zoned anything but Industrial (I), then a rezoning request with associated public hearings would need to take place. If the lot was in the Highway Corridor Overlay District and the structures exceeded 50,000 square feet, then a conditional use permit would be required with the associated public hearings. Both the rezoning and conditional use permit requests are subject to Board approval. If the land-use for a Data Center was changed to a conditionally permitted use, then staff and outside agencies would review any site plans which would be subject to the Zoning Ordinance but not require Planning Commission or Board approval. Any rezoning application can be subject to a Comprehensive Plan amendment if it does not conform to the existing future land use designated in the most recent Comprehensive Plan.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Oates said she does not consider a Data Center to be a valid use for a Light Industrial (LI) zoning district due to the impacts to utilities, such as electricity and water, as well as nearby properties.

Mrs. Cullers opened the public hearing. The following people spoke in opposition to the proposed text amendment:

- John Lundberg
- Vincent Maresca
- Jane Elliot
- Mary Ryan
- Darryl Merchant
- Marlene Lundberg
- Bruce Rappaport
- Tom McFadden
- Mark Egger
- John Cermak

There being no further comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors postponed further discussion on this item to a future work session and further authorized the rescheduling of the public hearing until after the work session:

Mabe, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Public Hearing – Conditional Use Permit 2022-08-01 – Gillian Greenfield and Richard Butcher for a Short-Term Tourist Rental Located at 1164 Riverview Shores Drive and Identified on Tax Map 13C, Section 4, Block 4, Lot 615 and 617 – Chase Lenz

Chase Lenz, Zoning Administrator, reported the applicants are requesting a conditional use permit for a short-term tourist rental for the property they purchased in November 2021. The applicants would like to make the property available for short-term visitations for individuals visiting the Warren County area. Residing in Winchester, VA, the applicants have years of experience operating several short-term tourist rentals in the Shenandoah Valley area. They plan on managing the property themselves with assistance from local professional services for trash disposal, cleaning, and maintenance. Comments were requested from the Shenandoah Shores Property Owners Association, but no response was received.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Mabe, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of Gillian Greenfield and Richard

Butcher for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Mabe, Aye

1. The applicants shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed two as determined according to the Health Department conditional permit for a one-bedroom dwelling.
3. The applicants shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.
7. Outdoor burning and use of fireworks by guests shall be prohibited.

Mr. Butler wondered if a map could be created that pinpointed where each short-term tourist rental was located in the County. Mr. Wendling replied that the Planning Department currently uses an in-house tracking system through the Geographic Information Systems (GIS) office that maps the rentals' locations, and he would be glad to share it with the Board.

Public Hearing – Conditional Use Permit 2022-08-02 – Elizabeth A. Saman for a Short-Term Tourist Rental Located at 431 Cindys Way and Identified on Tax Map 15F, Section 1, Block 7, Lot 19 – Matt Wendling

Mr. Wendling reported the applicant purchased this property in 2016, built her home in 2021, has lived there since receiving the certificate of occupancy. Due to a family health-related situation, she is required to be in Northern Virginia for a good part of the week, and in lieu of renting long-term over thirty days, she has chosen to request that she be allowed to rent as a Short-term tourist rental for fewer than 30 days. The applicant is requesting a waiver to the setback requirement of 100' from dwelling to dwelling; the dwelling to the northeast is 87', which does not meet the required setback. The applicant will be contacting a lawncare to maintain the exterior of the property, and she plans to be the primary property manager and will have an emergency contact in case she is not available.

The Planning Commission has forwarded this application to the Board of Supervisors recommending denial due to the insufficient setback to adjacent property owners.

Elizabeth Saman, applicant, told the Board she had submitted a revised Statement of Justification letter in response to her neighbors' comments and concerns at the Planning Commission public hearing in September. The main reason she is requesting this short-term tourist rental is because her father was diagnosed with cancer earlier this year, and she travels to Northern Virginia frequently throughout the week and is unable to enjoy this home as often as she would like. With the rising cost of living, inflation, and interest rates, AirBnB is a lucrative option for a second source of income and beneficial to the community, bringing in tourism revenue. She is a real estate agent and believes that property owners have the right to maximize their property and use it how they would like.

Mrs. Cullers opened the public hearing.

Jonathan Lopez, 433 Cindys Way, introduced himself as the property owner adjacent to this proposed rental, the owner of the home that is fewer than 100 feet from the proposed rental. He bought his home in 2018 and has two children, including a newborn and a special needs child. He has already experienced out-of-town drivers confused where the driveway is for the rental, driving up his driveway instead, and he wants his children to be able to play outside without fear of strangers coming onto his property. He said his family moved out of the city to be safe, and he does not want to live next to a party house; he asked the Board to deny the application.

Gina (*last name unintelligible*), 419 Cindys Way, said she had spoken with the applicant a handful of times and does not appreciate the insinuation that her needs are higher or more important than the needs of the other residents along Cindys Way. The applicant is expecting her neighbors to pity her for the cost of living because the bottom line for this rental application is to receive income from the house.

Tim Driscoll, 419 Cindys Way, is the property owner on the other side of the proposed rental as Mr. Lopez and has also had out-of-town drivers pull into his driveway looking for the rental house. He described Cindys Way as a tight knit cul-de-sac where everyone knows everyone and noted that the applicant never reached out to the neighbors about this proposed use. The community is not happy about this and not looking forward to this use, if it is approved.

Ms. Saman returned to the podium and said she is not trying to make her problems higher or more important than anyone else's; she is simply going through the process of applying for this use. She said that people driving in and out of the community is inevitable and that her property management plan has rules that would maintain a quiet and peaceful environment. She commented on how her neighbors have been unfriendly since she built her home in 2021.

There being no further comments from the public, Mrs. Cullers closed the public hearing.

The Board asked, based on the comments from various neighbors, if the property was currently being used as a short-term rental. Mr. Wendling said the Planning Department had not seen any advertisements marketing this property online, but several members of the audience interrupted the proceedings and indicated it was being used for short-term rentals.

Mr. Wendling noted that Planning Department staff has a standard policy to tell the applicant for any conditional use permit that they should reach out to their neighbors as goodwill measure to let the neighbors know about the application and the proposed use. In the event of a waiver request, staff also recommends the applicant contact the affected property owner to request a letter of “no opposition” to the proposed use and the waiver. Mr. Wendling stated the Planning Department did not receive such a letter for this application.

On a motion by Mr. Mabe, seconded by Mr. Butler, and by the following vote, the Board of Supervisors denied the conditional use permit request of Elizabeth A. Saman due to the residence not meeting the 100’ setback requirement to the closest adjacent residence:

Mabe, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Public Hearing – Conditional Use Permit 2022-08-03 – Stacy L. Lockhart for Private Use Camping (Non-Commercial) Located off Harris Drive and Identified on Tax Map 21C, Section 3, Lot 2 – Chase Lenz

Mr. Lenz reported the applicant is requesting a conditional use permit for Private Use Camping on a lot in the Bolling-Poe-Manganaro Tract subdivision which is located in the Special Flood Hazard Area (SFHA). The applicant purchased the lot in July 2014, and the vacant lot is mostly cleared with a wooded portion toward the front of the property near Harris Drive. A Notice of Inspection was issued to the property owner in 2015, and a Notice of Violation was issued in October 2021 regarding use of the property for Private Use Camping without an approved Conditional Use Permit and storage of a recreational vehicle in the SFHA. The owner communicated with Planning staff and applied for this Conditional Use Permit to bring the property into compliance with the Warren County Zoning Ordinance.

This conditional use permit would allow the owner to erect a single accessory structure up to 200 square feet in size for storage of recreational and property maintenance equipment upon issuance of a building permit.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval, and a nearby property owner has submitted a letter in support of this application.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Mabe, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of Stacy Lockhart for private use camping (non-commercial) with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Mabe, Aye

1. The applicant shall comply with all Warren County Health Department regulations and requirements.
2. Materials associated with the campers are to be stored in a neat and orderly fashion during the time of use and are to be removed from the site when not in use.
3. Any development, structure or fencing shall require a building and zoning permit.
4. The applicant shall post the property with a lot/parcel number for Fire and Emergency Rescue Services and have an emergency egress plan for removal of the recreational vehicles and portable commode prior to a predicted flood event.

Public Hearing – Conditional Use Permit 2022-08-04 – Jaden and Tori Walter for a Short-Term Tourist Rental Located at 80 River Oak Drive and Identified on Tax Map 35B, Section 1, Lot K – Matt Wendling

Mr. Wendling reported the applicant purchased this property as an investment as a second home and for use as a Short-Term Tourist Rental in June 2022. The property owners have contracted cleaning service and property management company and provided contact information for local contact in case of emergency. They plan to be involved with the management of the property also and will oversee who will be renting the property along with the online rental service they choose to use. There are currently three (3) active short-term tourist rentals with conditional use permits in this subdivision as well as one grandfathered short-term rental. The Planning Department reached out to the local homeowners' association but received no comments in response.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Dr. Daley asked the applicants how they heard about Warren County, and Tori Walter replied that her uncle lives here. They came to visit about five years ago and have been thinking about purchasing a second home here ever since. They returned to the County to finalize the purchase of this home approximately three (3) months ago.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

The motion made by Mrs. Oates to approve the conditional use permit of Jaden and Tori Walter, which was seconded by Mr. Butler, failed by the following vote:

Mabe, Aye; Cullers, No; Oates, Aye; Butler, No

Public Hearing – Conditional Use Permit 2022-08-05 – Vesta Property Management (Dorotea Rutherford) for a Short-Term Tourist Rental Located at 194 Venus Branch Road and Identified on Tax Map 15E, Section 4, Block 4, Lot 144 – Chase Lenz

Mr. Lenz reported the applicant (Vesta Property Management) is requesting a conditional use permit for a short-term tourist rental for the property on behalf of the owner (Dorotea Rutherford), who purchased the property in September 2021. The owner would like to make the property available for short-term stays for individuals visiting the Warren County area. Vesta Property Management provides property management and handyman services for rental properties throughout the Shenandoah Valley area and will serve as the property manager for this short-term tourist rental.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

Mrs. Oates wanted to know how a management company could submit a short-term tourist rental application on behalf of a property owner. Mr. Lenz responded that the Warren County Code does not specify who the applicant for a permit must be, but he noted the property owner is required to sign the permit application. Chloe Phillips, representative from Vesta Property Management, reported that the property owner lives in the Northern Virginia area.

On a motion by Mr. Mabe, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of Vesta Property Management for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Mabe, Aye

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six as determined according to the Health Department conditional permit for a three-bedroom dwelling.

3. The applicant shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicant shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.
7. Outdoor burning and use of fireworks by guests shall be prohibited.

Public Hearing – Conditional Use Permit 2022-08-06 – Vesta Property Management (Chad and Donna Anthony) for a Short-Term Tourist Rental Located 86 McCoys Ford Road and Identified on Tax Map 36C, Section 1, Block 3, Lots 29 and 30 – Chase Lenz

Mr. Lenz reported the applicant (Vesta Property Management) is requesting a conditional use permit for a short-term tourist rental for the property on behalf of the owners (Chad and Donna Anthony), who purchased the property in August 2017. The owners would like to make the property available for short-term stays for individuals visiting the Warren County area. Vesta Property Management provides property management and handyman services for rental properties throughout the Shenandoah Valley area and will serve as the property manager for this short-term tourist rental.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Mabe, seconded by Mr. Butler, and by the following vote, the Board of Supervisors approved the conditional use permit request of Vesta Property Management for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

1. The applicant shall comply with all Warren County Health Department, Warren County Building Inspections, and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six as determined according to the Health Department conditional permit for a three-bedroom dwelling.

3. The applicant shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicant shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.
7. Outdoor burning and use of fireworks by guests shall be prohibited.

Public Hearing – Conditional Use Permit 2022-08-07 – Jeffrey Steven Taylor for Private Use Camping (Non-Commercial) Located off Howellsville Road and Identified on Tax Map 15H, Section 5, Lots 10 and 11 – Matt Wendling

Mr. Wendling reported the applicant is requesting a conditional use permit for Private Use Camping on a lot in the Shenandoah Farms subdivision which is located in the Special Flood Hazard Area (SFHA). The applicants purchased the lot in June 2021 for use as a recreational lot for camping near the river on a property that is mostly wooded. The conditional use permit would also allow the applicant to bring in electric service for his camper and to erect a single accessory structure up to 200 square feet for storage of recreational and property maintenance equipment with the issuance of a building permit.

The Planning Commission has forwarded this application to the Board of Supervisors recommending denial due to the Shenandoah Farms River Park Section being more than 50% built-out with residences and there being no campers in the immediate area of this lot.

Jeff Taylor, applicant, reported that since the Planning Commission public hearing, he has removed the camper and cleaned up the properties, though the 2002 Tundra is still there with an expired inspection sticker. He moved from California to Winchester and bought a home with his cousin because his aunt is dying, and his cousin needs help taking care of her. He purchased these properties last year as a place where he can escape to and work on various projects. He paid Rappahannock Electric Cooperative (REC) to run an electrical line to a pole so he could have electricity, but in order to initiate service, he needs to have an approved electrical permit. He does not want to sleep or camp but wants electricity in case he uses power tools.

Mrs. Oates wondered why the Board is considering an application for private use camping if the applicant does not want to camp on the property. Mr. Wendling responded that since the properties are located in the floodplain overlay district in Special Flood Hazard Area, a primary use must be established (if not for a single-family dwelling, then through a conditional use permit) in order for the property owner to acquire permits.

Mr. Mabe commented on how the applicant stated he had cleaned up the property, but based on the pictures provided to the Board by Mr. Wendling of the subject properties on October 24th, there is still trash everywhere. Mr. Taylor stated that once the conditional use permit is approved, he can apply for permits to build an accessory structure and put everything away and out of sight. Mrs. Cullers wondered why REC ran the electrical line to the properties but refused to provide service, and Mr. Taylor said REC assumed he knew what he was doing and joked that he guesses he did not.

Mrs. Cullers opened the public hearing.

John Cermak, 75 Patty Tract Lane, said his property runs parallel to one of the two parcels associated with this request. His major concern is determining whether the applicant's behavior is that of the most innocent person or the most manipulative person. The applicant stated he has no interest in camping but had an RV on the property until recently. Considering the configuration of the property, Mr. Cermak commented on how difficult it must have been to get the trailer RV in and out of the property. He believes the applicant is making bad choices on the use of the property.

Chris Castro, 5638 Howellsville Road, said his property is located across the street from both of these lots, and he has been in the community for about 18 years. He has worked hard over the years on the beautification of his home and does not want to lose value on his property due to ago and has worked on beautification ever since, doesn't want to lose investment, worked so hard for this and feels sorry for the applicant putting the electricity to the property without researching, would be totally fine if this was a single-family dwelling coming in, more neighbors showed up at the Planning Commission meetings, what he's seen so far on the property doesn't impress him, more research should have been done

There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mr. Butler, and by the following vote, the Board of Supervisors tabled further consideration of this item to the meeting on Wednesday, November 16, 2022:

Butler, Aye; Oates, Aye; Cullers, Aye; Mabe, Aye

Adjournment

Mrs. Cullers adjourned the meeting at 8:37 PM.