

At a regular meeting of the Warren County Planning Commission held in the Warren County Government Center on April 12, 2023, at 7:00 PM.

Present: Robert Myers, Chairman (Happy Creek District); Scott Kersjes (North River District); Kaylee Richardson (South River District); Hugh Henry, Vice Chairman (Fork District) and Caitlin Jordan, Senior Assistant County Attorney; Gregory Huson (Shenandoah District) also present; Matt Wendling, Planning Director; Chase Lenz, Zoning Administrator; Veronica Diamond, Clerk to the Planning Commission

Absent:

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

Adoption of the Agenda

A. Item 6.B for CUP 2023-02-06 Society of Saint Pius X; on March 27, 2023, staff received a request from the applicant to postpone the decision by the Planning Commission until their August meeting in order to provide a general development plan and site plan to the Commission for further review. Staff is recommending the removal of this item from the agenda.

Mr. Wendling stated at the beginning of the Adoption of the Agenda that the applicant has a request to postpone item 6B Society of Saint Pius X for the church. He then asked Mr. Lenz if he would like to add anything.

Mr. Lenz stated that for the public hearing it was requested they prepare a generalized development plan, so they are requesting time to raise money to have that done. They are targeting to have this return in August.

Chairman Myers stated that works for him.

Mr. Henry questioned why it's Item A when it should be Item B.

Ms. Jordan explained that it is a bit confusing, Item A was to notify the Board of the request under Adoption of the Agenda but on the agenda, it is listed under section 6.B.

On a motion by Mr. Henry to adopt the agenda with the removal of Item B in unfinished business seconded by Mr. Kersjes, and by the following vote of 5-0, the Planning Commission approved the Adoption of the Agenda.

Adoption of Regular Meeting Minutes:

On a motion by Mr. Kersjes, seconded by Mr. Henry, and by the following vote of 5-0, the Planning Commission approved the minutes from March 8th, 2023, as presented:

Ayes: Kersjes, Myers, Richardson, Henry, Huson

Unfinished Business:

A. CUP2023-02-01 – Warren County Fair Association – A request for a conditional use permit for a Motor Freight Terminal. The properties are located at 274 Fairground Road and (0) Winners Ct. and identified on tax map 5, as lots 11 and 11A. The property is zoned Industrial (I) and located in the North River Magisterial District.

Mr. Wendling stated that the applicant is requesting a conditional use permit for a motor freight terminal which will be used as an area for overflow parking of trailers from the Family Dollar warehouse and distribution center located across the road at 155 Fairground Road. The trailers will be moved by a “jockey tractor” from the Family Dollar lot to these once they have been off-loaded. These lots are also used during the annual county fair and the WC Fair Association has an agreement with Family Dollar that during that time and any other annual events the parking areas will be reserved for Fairgrounds overflow parking. The lot located at 274 Fairground Road has a dwelling which is currently rented by the Fair Association and this 1.2 acre will be separate from the tractor trailer parking areas.

Mr. Wendling stated at our last meeting the Board had some discussion requesting that the applicant provide a general development plan to the Board so they could have a better idea of what they were requesting as far as areas to gravel and not to gravel. supplemental regulation requires that the applicant hard surface the parking areas with approval by the Planning department prior to parking the trailers. It will need to be in accordance with the code section §180-49.1F(1)(a). The applicant provided each of the Board members a plan that identifies the access road, which would be graveled, in a U shape area. The applicant’s contractor drew 100 parking spaces, but staff requires the limit of 70 parking spaces be provided. This can be subject to some minor modifications. The applicant provided us with a drafted agreement that they would have Family Dollar sign as part of the contract. If this is approved by the Board, staff will ask for a copy of the contract.

The Planning Staff is recommending the following conditions be added to this conditional use permit if the Planning Commission chooses to recommend approval of this permit to the Board of Supervisors. Please note that additional conditions may be added after all agency comments have been received, prior to the Planning Commission public hearing.

- 1) The applicant shall comply with all Virginia Department of Transportation, USBC Building Code regulations, Erosion and Sediment Control and VA DEQ Stormwater management regulations for a Common Plan of Development using best management practices.
- 2) The overflow trailer parking shall be restricted to parking for Family Dollar and Warren County Fairground's vehicles.
- 3) The access entrance to the properties shall be limited to Winner's Court for the Family Dollar vehicles, the Fairground Road entrance shall be prohibited for use by these vehicles.
- 4) The applicant shall hard-surface the parking areas with a material approved by the Planning Department prior to parking of trailers in accordance with Code section §180-49.1F(1)(a) and doesn't include organic materials such as mulch or wood chips.
- 5) The applicant shall submit a site plan to the County before the land disturbance permit is issued showing parking areas to be graveled, landscaping, lighting, and screening for adjacent parcels that meet the requirements of Code Sections §180-15 Parking, §180-18 Screening, §180-49.1 Landscaping and §180-49.2 Lighting.
- 6) All motor freight trailers shall be fully screened from the view of adjacent residential dwellings.
- 7) No inoperable vehicles/equipment shall be stored on the property.
- 8) There shall be no parking of vehicles on the drain field or conveyance line of the septic system of the dwelling.
- 9) No more than 70 trailers shall be parked on the properties at any one time.

Mr. Wendling stated a public hearing was held for this last month, so adjacent property owners have been notified. Tonight's meeting is only for discussion about a potential resolution to the applicant's request.

Chairman Myers stated that it seems some clearing of this property has been done and is wondering if DEQ needs to be getting into this because of the erosion and sediment control. Comments due state that agencies would have to be notified of what the requirements are.

Mr. Wendling stated that this is a question that would be answered by the building official.

Mr. Henry stated he didn't see any screening around the property.

Mr. Wendling stated he is speaking specifically about the dwelling that is on the property and along Fairground Rd. so that the tractor trailers are screened from Fairground Rd. The adjacent commercial property has a dwelling on it, if it's not sufficiently screened it should be or have some type of landscaping around it.

Mr. Henry asked if the residential dwellings are both being rented out.

Mr. Wendling stated yes, they are.

Mr. Henry asked who owns them.

Mr. Wendling stated one property is owned by Warren County Fair Grounds, the other property is owned by Vinod Datta that is zoned commercial and he has a conditional use permit to allow a residential dwelling on that property until it is developed for commercial or industrial.

Mr. Henry stated putting trees down Fairground Rd., to him creates a site distance problem and he thinks it looks better opened. He stated that the Fairground does a nice job of keeping up with their landscaping and always making everything look clean. Being that this property does not back up to R-1 he doesn't see the need to screen it. He is concerned that they may lose sight of things in their cameras if they put up trees to screen the property and possibly thefts may happen, the trees would cover the trailers and any activity that could go on around them. Mr. Henry questioned condition 1, he stated with the gravel they have there they fall under the 1 acre, will we change the verbiage to state that we are leaving this up to the Building Official.

Mr. Wendling stated he added this in there because Building Inspections will be the ones to make the call if it needs to go to DEQ. Building Inspections enforce the erosion and sediment control, it will be up to them if this property needs some kind of sediment control.

Mr. Henry stated he knows this could be a big expense for the Fair and didn't want Building Inspections to read this language and assume DEQ needs to get involved based on the verbiage of the condition.

Mr. Wendling referenced the comments received from Mr. Beahm in Building Inspections.

Erosion and Sediment Control Items: There does not appear to be any new associated land disturbance at this time and therefore, nothing will be required. If this is not the case, a normal submission process would be required. Any change to the current grass condition, i.e., placing gravel, etc. would require Erosion and Sediment Control as well as Stormwater. This property/parcel is considered to be part of a Common Plan of Development. Building Inspections Items: There does not appear to be any construction taking place on this application. If this is not the case, a normal submission process would be required. If anything should change in the scope additional requirements may be required.

Mr. Wendling suggested that the Board ask Mr. Grove what he does on the grounds for the Fair in their parking area. It is a use that has been there for a very long time.

Chairman Myers stated he doesn't see anywhere noted on how thick the stone has to be. It will be a substantial load on it so to prevent rutting they will have to layer it several inches.

Mr. Henry asked Mr. Grove if he was required to contact DEQ when he did the expansion of parking?

Mr. Grove stated he joined the Fair in 1978 or 1979 and they have just used top gravel as needed when the Fair comes, they dress it up. It is all rock out there, you can't even drive stakes in the ground.

Mr. Henry stated parking empty trailers out there really helps ease the load. It will be on Family Dollar if they don't have enough gravel down then they will need to get more gravel.

Mr. Wendling suggested maybe letting the applicant move forward with what they have and then in 2 years if they continue to do this, require them to go through another plan or maybe amend their plan for erosion and sediment control stormwater. Maybe in the conditions say in 2 years Planning Staff will do a review.

Ms. Jordan clarified there is nothing wrong with bringing it back for review but there is a specific process which a CUP must be modified. Without doing extensive research ahead of time, she does believe that you can review and discuss if anything needs to be done and then at that time it would have to be brought back for a modification if necessary. There is a certain process you have to do to modify a CUP, she wants to make sure the Commission is aware that coming back in 2 years doesn't mean you can automatically modify it, but it could give the Commission an opportunity to discuss to see if it needs to be brought back for a modification. The Board of Supervisors has final approval for this request so it would have to go back to the Board. You can plan to bring it back but not just for the Planning Commission to review the CUP. If it is approved for

the CUP today with the screening to be removed, then it will move forward to the Board of Supervisors, and they are going to make the final determination to approve this CUP with whatever conditions. The Planning Commission can bring it back for review, but she doesn't know what legal implications the Planning Commission can have.

Mr. Henry stated if we just did a review, we could add a stamp that it was reviewed and it's all good.

Ms. Jordan stated yes, there would be no action taken by this Commission. If something were to happen, in 2 years or more than 2 years it would be up to the Fair Ground Association to go through the process of asking them to modify their CUP through the Board of Supervisors. It would only be for the benefit of the Planning Commission to see how things are going.

Mr. Henry asked if they should leave it out.

Ms. Jordan replied, probably because she doesn't know what benefit it would be. If you wanted to instruct Staff to update you, you could do it that way.

Mr. Henry stated if they end up getting a stack of complaints then we could revoke their CUP at any time.

Mr. Wendling stated that Staff does a review of all of our Conditional Use Permits, we try to do an annual review as time permits. We could do at the very least an annual review for the next couple of years and then we can report back under commission matters and if there are outstanding problems, we can address them at that time and bring it to the Board if necessary or if everything is fine and there aren't any conditions that need to be amended then we leave it there.

Ms. Jordan recommended the Planning Commission amend the condition as it is written on the cover sheet with the added language of except for number 6 recommendation.

Mr. Kersjes motioned to move that the Planning Commission forward this application to the Board of Supervisors with the recommendation to approve the conditional use permit request of Warren County Fair Association for a Motor Freight Terminal with the conditions as recommended by staff and the deletion of recommended condition #6. Seconded by Mr. Henry and by the following vote of 5-0.

Ayes: Kersjes, Myers, Richardson, Henry, Huson

Public Presentations:

Public presentations are limited to issues that are not included on the meeting agenda. It is intended as an opportunity for the public to give input on relevant planning issues,

and not intended as a question-and-answer period. Chairman Myers asked if anyone would like to speak on items not on the agenda, and told them they will be timed, you will have 3 minutes. No one came forward.

CUP2023-03-01 - Shelly Cook - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at (0) Lee Burke Road and identified on tax map 27E, section 7, as lot 3. The property is zoned Residential-One (R-1) and located in the Fork Magisterial District.

Mr. Lenz stated that the applicant is requesting a conditional use permit for a short-term tourist rental for the property she purchased in December of 2015. The subject property is currently under development and is accessed by a private access easement through the adjacent 42.9143-acre parcel also owned by the applicant. The owner is constructing a single-family dwelling on the property to be used as a "honeymoon suite" for her Rural Events Facility approved for her adjacent parcel zoned. The applicant will manage the property personally as part of the management of Rural Events Facility on the adjacent parcel with assistance from local professional services for trash disposal, cleaning, landscaping, and maintenance.

Mr. Lenz stated that the property is zoned Residential-One (R-1). Last month, as you are aware, you approved lodging units to be added as an accessory to the Rural Events facility. He wanted to clarify that this is not going to be one of them as it is on Residential-One (R-1) property where a Rural Events facility is not allowed. The maximum number of occupants in the dwelling unit shall be determined according to permit approval received by the Warren County Health Department; however, the maximum number of occupants shall not exceed 10. There is a Health Department construction permit on file for an Alternative Onsite Sewage System (AOSS) approving a maximum of four (4) occupants for the two-bedroom cabin. There shall be a minimum of 100' from the short-term tourist rental to all neighboring residences. The dwelling meets the setback requirement to adjacent single-family dwellings. The closest dwelling is approximately 300' to the northwest.

Mr. Lenz stated the Planning Staff is recommending the following conditions be added to this conditional use permit to the Board of Supervisors.

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 four as determined according to the Health Department permit for a two-bedroom cabin.

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 alternative onsite sewage system inspected and maintained annually by a licensed alternative onsite sewage system operator and a copy of the results shall be submitted to the Planning and Health Departments.
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 on state, county, and subdivision roads shall be prohibited.
7. Outdoor burning and use of fireworks by guests shall be prohibited.

Mr. Henry asked to abstain due to a conflict of potential work on the property he may be doing.

Chairman Myers asked if the applicant had anything they would like to add about the property before opening the public hearing? The applicant was in attendance and stated yes.

Shelly Cook, 65 Lee Burke Rd., Front Royal, VA

This is the adjacent parcel, and it touches her other farmland that she is doing the vineyard on and part of the wedding venue. What it will do is host the brides and grooms as the honeymoon suite. She wants to maintain it so it can be used as an air B&B when there isn't a wedding being hosted and wanted to clarify this.

Chairman Myers opened the public hearing, he asked anyone wishing to speak for or against this matter come forward. No one came forward.

Chairman Myers closed the public hearing.

Ms. Richardson motioned to move that the Planning Commission forward this application to the Board of Supervisors with the recommendation to approve the conditional use permit request of Shelly Cook for a Short-Term Tourist Rental with the conditions as recommended by staff. Seconded by Mr. Kersjes and by the following vote of 4-0.

Ayes: Kersjes, Myers, Richardson, Huson

Abstain: Henry

CUP2023-03-03 - David Cressell - A request for a conditional use permit for gunsmithing services. The property is located at 275 Gary Lane and identified on tax map 15D, section 2, block 5, as lot 206. The property is zoned Residential-One (R-1) and located in the Shenandoah Magisterial District.

Mr. Lenz stated that the applicant is requesting a conditional use permit for gunsmithing services in the Residential-One zoning district. The property is located at 275 Gary Lane in the Shenandoah Farms subdivision River View section within the Shenandoah Magisterial District. Warren County Code §180-8C defines Gunsmithing Services as, *"A commercial enterprise, activity, or profession where a gunsmith performs repairs, renovations, safety inspections, modifications alterations for special uses, and appraisals of firearms. The sale of firearms is permitted with proper local, state and federal licensing and regulations. Gunsmithing services shall not be deemed as a home occupation or home enterprise."* Given the state and federal regulations related to firearms services, this is not considered a Home Occupation; however, the supplementary regulations and conditions are consistent with those of a Home Occupation to preserve the character of a residential neighborhood by requiring no change in the outside appearance of the building or premises or other visible evidence of the conduct of such activity. Per Warren County Code §177-3A(11), the shooting of firearms in the Shenandoah Farms subdivision is prohibited. All test firing will be conducted offsite and there will be no discharge of firearms associated with the gunsmithing services operation on the property.

Mr. Lenz stated that the hours of operation shall be specified in the conditional use permit. The applicant has submitted documentation requesting the following hours of operation: Monday through Friday 9 AM to 5 PM.

Mr. Lenz stated the Planning Staff is recommending the following conditions be added to this conditional use permit to the Board of Supervisors.

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 applicant shall obtain all Local, State, and Federal licensing and permits to operate commercial gunsmithing services.
3. There shall be no discharge/shooting of firearms on the property associated with the gunsmithing services.
4. Appointments for customers shall be permitted during the hours of 9:00 AM to 5:00 PM, Monday through Friday. Only one customer at any given time, and off-street parking shall be provided.

5. Natural vegetation buffer between neighboring parcels shall remain intact and replaced when necessary.

6. The applicant shall give Planning staff written consent to inspect the property and building used for the Gunsmithing Services operation to ascertain compliance with the supplementary regulations for Gunsmithing Services per Warren County Code §180-47.1 and Conditional Use Permit conditions upon a twenty-four-hour notice.

Chairman Myers asked the applicant if there's anything they would like to add about the property. The applicant stated no.

Chairman Myers opened the public hearing, he asked anyone wishing to speak for or against this matter come forward. No one came forward.

Chairman Myers closed the public hearing.

Mr. Henry motioned to move that the Planning Commission forward this application to the Board of Supervisors with the recommendation to approve the conditional use permit request of David Cressell for Gunsmithing Services with the conditions as recommended by staff. Seconded by Ms. Richardson and by the following vote of 5-0.

Ayes: Kersjes, Myers, Richardson, Henry, Huson

SV2023-03-01 - Erica Baker - A request for a variance to Warren County Code §155-3.B(1)(b)[2] of the Subdivision Ordinance to allow the voluntary transfer of a proposed subdivided lot to an immediate family member within the required five (5) years of having held fee simple title to the property. The property is located at 64 Tara Road and identified on tax map 15, as lot 2C2. The property is zoned Agricultural (A) and located in the Shenandoah Magisterial District.

Mr. Wendling stated that the applicant is requesting a variance to Warren County Code §155-3.B(1)(b)[2] of the Subdivision Ordinance to allow the voluntary transfer of a proposed subdivided lot to an immediate family member within the required five (5) years of having held fee simple title to the property. The applicant acquired the property upon the death of her father on January 6, 2022 (WF2022-02). Her siblings Alisa Barton and Roger Smith were included in the will and the family wants to boundary adjust the property lines and create a family subdivision to allow for separate parcels for each family member.

The riverfront property which is the residual lot would be held in joint ownership by the three of them. Their father designated in his will that each of his daughters receive a 3+ acre parcel. Mr. Smith, his son, currently owns a separate parcel that would be boundary adjusted with the other lot. They have owned the property for a little more than a year

and would like to submit the application for a Family Subdivision and are willing to have a condition requiring that they retain ownership for nine years in lieu of the five required by the subdivision ordinance.

Staff would recommend that, if the Planning Commission recommended and the Board approved the request, the condition be placed on the subdivision plat that the lot may not be voluntarily transferred to a non-immediate family member for at least nine (9) years after approval of the family division plat in lieu of the required five years. This would make the timeframe approximately ten years and concurrent with the ordinance requirement of five years to subdivide and five years to transfer outside the family.

Mr. Wendling stated the Planning Staff is recommending the following conditions be added to this conditional use permit to the Board of Supervisors.

The subdivider shall be required to produce evidence justifying his contention that strict compliance with the requirements of this chapter would cause substantial injustice or hardship. "Substantial injustice or hardship" is defined as a situation meeting all the criteria listed below:

1. That, because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship for the owner would result, as distinguished from a mere inconvenience.
2. That the conditions upon which the request is based are unique to the property for which the variance is sought and are not generally applicable to other property and have not been created by any person having an interest in the property.
3. That the reason for the variance is not based exclusively upon a desire for financial gain or avoidance of a financial loss.
4. That the granting of the variance will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the area in which the property is located.
5. That the injustice or hardship is not self-inflicted, whether done deliberately or with clear negligence.

Chairman Myers asked the applicants if there's anything he would like to add about the property before opening the public hearing? The applicant was in attendance. He stated, yes.

Roger Smith, 62 Tara Rd.

He really wants his siter to build another house, it was his dad's wish for everyone to live together on the farm. They agreed to the 10 years because their intent is to live there forever and are thankful for any help the Board can give them.

Chairman Myers opened the public hearing, he asked anyone wishing to speak for or against this matter come forward.

Kyle Downey, 16 River Boat Dr.

He is in support of their desire to live on the farm.

Chairman Myers closed the public hearing.

Ms. Jordan asked for a 5-minute recess to figure out if the Board makes a decision or if it needs to be forwarded to the Board of Supervisors. She will research it now and get back to them. The meeting resumed and Ms. Jordan clarified that this matter does have to be passed on to the Board of Supervisors. It will need to be amended to add that the recommendation be made to the Board of Supervisors with the recommendation to approve.

Mr. Henry amended the motioned to move that the variance request meets the criteria required by Section 155-18, I move that the Planning Commission forward the application to the Board of Supervisors with the recommendation of approval of the applicant's request for a variance to Section 155-3.B(1)(b)[2] of the Warren County Subdivision Ordinance. The subdivision plat may not be volunteered transferred to the non-immediate family members for at least 9 years after approval from the family division plat in lieu of the required five years. Seconded by Mr. Kersjes and by the following vote of 5-0.

Ayes: Kersjes, Myers, Richardson, Henry, Huson

CUP2023-03-04 - Michaun M. Pierre - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 726 Harmony Orchard Road and identified on tax map 38C, section 1, as lot 6. The property is zoned Agricultural (A) and located in the South River Magisterial District. Mr. Lenz stated that the applicants are requesting a conditional use permit for a short-term tourist rental for the property they purchased in 1990. Now that their children are grown and moved out, the owners would like to make a portion of their dwelling available for short-term lodging for visitors of the Warren County area to supplement their income as they transition to retirement. Residing in the main portion of the dwelling, the applicants will manage the property personally. Breakfast will not be served to guests.

Mr. Wendling stated that the applicant is requesting a conditional use permit for a short-term tourist rental for the property she purchased in January of 2023. She states her family is from this area in neighboring Rappahannock County and has wanted to move back and own property in the Shenandoah Valley. She states that her current work and family situation requires her to be transient so she doesn't stay at the property full-time and would like to rent it when she's not staying there. The rental of the property will assist

her with the costs for maintenance, taxes and insurance and to allow her to build equity in the value of the home. She plans to settle here in the future when her life is less transient. She states she will manage the rentals remotely and hire a local handyman or property management company to handle cleaning and maintenance and be available for emergencies and general property issues. She has submitted a property management plan for review by County staff.

Mr. Wendling stated comments have been requested from the Property Owners of Harmony Hollow Association Inc. Road maintenance manager and have yet to be received. The dwelling meets the setback requirement to adjacent single-family dwellings. The closest dwelling is 345' to the northwest. Staff did receive a comment from a nearby property owner of 726 Harmony Orchard Rd. Mr. Nelms expressed some concerns regarding the property regarding an old septic system, a retaining wall on the property and any concerns about integrity, and that outdoor burning by the guests could affect his property if there was to be a fire that would get out of control.

Mr. Wendling stated the Planning Staff is recommending the following conditions be added to this conditional use permit to the Board of Supervisors.

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 (6) person occupancy as determined according to the Health Department operational permit for the conventional septic system for a four-bedroom single-family 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 the use of fireworks by guests shall be prohibited.

Chairman Myers asked the applicant if there was anything he would like to add about the property before opening the public hearing? The applicant was in attendance. She said yes.

Michaun Pierre, 726 Harmony Orchard Rd.

She addressed the 3 concerns of a nearby neighbor. The old septic was fully replaced about 1.5 months ago. The second concern was the retaining wall, it was inspected and were told that it is structural sound, and it has holes so it can drain properly, and pressure won't crack the wall. Lastly was outdoor burning either in a fire pit or outdoor bonfire that is listed in the conditions so she would have a propane fire pit.

Chairman Myers opened the public hearing, he asked anyone wishing to speak for or against this matter come forward.

David Rushton, 761 Harmony Orchard Rd.

Stated his concern with the application is open burning. The property is heavily wooded and difficult to access. Mr. Rushton would like to see prohibition signs about fire all over the property.

Chairman Myers closed the public hearing.

Mr. Huson motioned to move that the Planning Commission forward this application to the Board of Supervisors with the recommendation to approve the conditional use permit request of Michaun Pierre for a Short-Term Tourist Rental with the conditions as recommended by staff. Seconded by Mr. Henry and by the following vote of 5-0.

Ayes: Kersjes, Myers, Richardson, Huson, Henry

Z2023-03-01 - Harry H. Heard - A request to amend Warren County Code Sections §180-21 and §180-59 regarding Mobile Food Establishments Operating in Conjunction with Commercial Nursery/Garden Centers or Wayside Stands and Ice Cream Stands Operating in Conjunction with Commercial Nursery/Garden Centers.

Mr. Lenz stated the applicant, Mr. Harry Heard, contacted Planning staff to discuss the possibility of hosting a food truck and/or ice cream stand in conjunction with his farm stand/garden center business approved by conditional use permit in 2018. Upon reviewing the current zoning ordinance for the proposed use of a mobile food establishment or ice cream stand on a property zoned Agricultural, staff determined ice cream stand is not a listed permitted use and mobile food establishment is only permitted on County-owned Parks and Recreation facilities in the Agricultural zoning district. Staff informed Mr. Heard a zoning text amendment is required to add mobile food establishment and ice cream stand as uses permitted in the Agricultural zoning district. Attached you will find a draft ordinance to amend Warren County Code §180-21 for the

addition of *"Mobile food establishment operating in conjunction with a commercial nursery/garden center or wayside stand"* and *"Ice cream stand operating in conjunction with a commercial nursery/garden center"* as accessory uses permitted by right in the Agricultural zoning district. This proposed text amendment will allow for the operation of a mobile food establishment and/or ice cream stand on Agriculturally zoned properties approved by conditional use permit for a commercial nursery/garden center. This amendment will also allow for the operation of a mobile food establishment on Agriculturally zoned properties approved by zoning permit for a by-right wayside farm stand. Each individual mobile food establishment is subject to approval by Warren County Building Inspections, Fire and Rescue, VDOT, and the Health Department through the zoning permit process as required by the supplementary regulations for a mobile food establishment.

Mr. Lenz stated there are currently four approved mobile food establishments and two approved ice cream stands in Warren County. Only four conditional use permits for a commercial nursery or garden center have been issued to properties in the County, two of which have expired. Wayside stand for the display and sale of produce is an accessory use permitted by right in the Agricultural zoning district; however, the use is tied seasonally to the agricultural product being sold and staff is recommending the proposed amendment to the supplementary regulations for wayside stand to require the operation of the mobile food establishment to be in conjunction with the season and hours of operation of the wayside stand. This requirement restricts the independent operation of a mobile food establishment on Agriculturally zoned properties approved for a wayside stand.

Chairman Myers asked the applicant if there's anything they would like to add about the property before opening the public hearing? The applicant stated, yes.

Harry Heard, 929 Stonewall Jackson Hwy., Bentonville VA 22610

He thanked Chase for being very helpful answering his many questions about what he thought was an obvious fit with the operation he has in Bentonville. His wife Valerie and he have been operating their market for almost four years now and they've gone through expenses like putting a proper entrance from 340, met all the requirements as far as insurance and paying for business licenses, and taxes. He thinks that the ice cream trailer is a perfect fit for their operation. It's not going to increase the footprint in the area. It is a very popular business that has been successfully operated for 10 years. A mile down the road from his business. They are encouraging local vendors, artists, and produce growers. They sell products made in the in the state of Virginia primarily Shenandoah Valley. They are happy to have a produce from Mennonites down to Dayton. I do have but I do have some local honey growers. They have artists that sell their pottery, their artwork, and handicrafts on consignment. Their goal is to encourage local vendors to produce their goods and to offer them a venue to sell. He looks forward to the Board's approval for this this request and to getting his neighbor and friend Jeremy and his ice cream business up and running.

Chairman Myers opened the public hearing, he asked anyone wishing to speak for or against this matter come forward. No one came forward.

Chairman Myers closed the public hearing.

Mr. Kersjes mentioned that he is glad to see the development of the food trucks here. In Northern Virginia you will find some of the best food from a food truck.

Ms. Richardson stated she is happy to see where they are proposing the ice cream truck and really enjoys going to have ice cream with her family. She likes the proposed new location and thinks it will be easier to access.

Mr. Henry motioned that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, general welfare, and good zoning practice, I move that the Planning Commission forward the proposed amendment to the Board of Supervisors with the recommendation of approval. Seconded by Ms. Richardson and by the following vote of 5-0.

Ayes: Kersjes, Myers, Richardson, Henry, Huson

Mr. Henry asked to be abstained from the Consent Agenda, there is potential business with some of the applicants listed below.

Consent Agenda – Authorization to Advertise for Public Hearing:

- A. CUP2023-04-01 - Mary Francis Jimenez & Zach Kramer** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 2034 Smith Run Road and identified on tax map 45, as lot 9A. The property is zoned Agricultural (A) and located in the South River Magisterial District.
- B. CUP2023-04-02 – Roman Semenov** – A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 259 Cashmere Court and identified on tax map 23A, section 847, as lot 38A. The property is zoned Residential One (R-1) and located in the Happy Creek Magisterial District.
- C. CUP2023-04-03 – Benjamin & Dana Straub** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 91 Present Way and identified on tax map 43, as lot 49A2. The property is zoned Agricultural (A) and located in the South River Magisterial District.
- D. CUP2023-04-04 – Kemandri Govender** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 128 Orchard Lagoon Drive and

identified on tax map 23A, section 9, block 39, as lot 1. The property is zoned Residential One (R-1) and located in the Happy Creek Magisterial District.

- E. **CUP2023-04-05 - Roberto Rodriguez & Gretchen Wagner** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 1820 Gooney Manor Loop and identified on tax map 43, as lot 49A6. The property is zoned Agricultural (A) and located in the South River Magisterial District.
- F. **CUP2023-04-06 - Barbara J. Hessler** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 2930 Long Meadow Road and identified on tax map 9E, as lot 1. The property is zoned Agricultural (A) and located in the North River Magisterial District.
- G. **CUP2023-04-07 - Frank O'Reilly** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 320 Old Barn Lane and identified on tax map 13, as lot 14D. The property is zoned Agricultural (A) and located in the Shenandoah Magisterial District.
- H. **CUP2023-04-08 - Yesl Cho** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 3744 Browntown Road and identified on tax map 37D, section 1, as lot 7. The property is zoned Agricultural (A) and located in the South River Magisterial District.
- I. **CUP2023-04-09 - Shelly Cook** - A request for a conditional use permit for a Short-term Tourist Rental. The property is located at 137 Lee Burke Road and identified on tax map 27, as lot 21. The property is zoned Agricultural (A) and located in the Fork Magisterial District.

On a motion by Mr. Kersjes, seconded by Ms. Richardson, and by the following vote of 5-0, the Planning Commission authorized items VIII- A-I, for the proposed condition use permit requests for advertisement for their public hearing as presented:

Ayes: Kersjes, Myers, Richardson, Huson, Henry

Commission Matters

A. Planning Director - Update on Comprehensive Plan review, Fee Schedule Update, Planning Commission 2022 Report to Board of Supervisors and planning related items.

Mr. Wendling stated that he has been working with the Regional Commission on assisting with our Comprehensive Plan and he will be meeting with Ashley. They discussed the data for the Demographics Chapter. She's provided a lot of data mining for us that we'll be utilizing, she's modifying portions of the text of the document, then staff will be addressing some of the language within the document. She will be assisting us

with all the data-related texts. They are meeting again for additional chapters, specifically the Economic Development and Land Use. Mr. Wendling hopes to be able to give another report on this next month. He doesn't have a specific timeline as to when he is going to get these items to the Board.

Mr. Wendling stated the fee schedule was brought forward, it's been almost 20 years since our fees were modified for Planning and Zoning. We're trying to be fair about it but we're also trying to look forward so that we won't be coming back in a year to a year and a half from now. A lot of our fees are not being covered by our costs, especially for publications. That in conjunction with what it takes to run a Planning Department, the technology that we have today, the licensing for GIS. GIS is utilized in every land use application, applications that we have come through, and the training of our staff. We are hoping to get this on the Boards Agenda next month.

Mr. Wendling stated that the Planning Commission report will be on the Boards Agenda. We have a couple of maps that Emma is currently working on. She is revising the short-term tourist rental map and the Conservation Easement map. We had a new Conservation Easement submitted this year and approved by the Board for Shane Cook. There are three separate tracks and those will be added to the current map.

Mr. Wendling stated Planning Staff will be meeting with the Community Rating Insurance Coordinator (ISO Coordinator). This relates to FEMA's program for the Community Rating System which will allow the county to develop plans for community outreach, for floodplain management, and then also potentially if in compliance it will save taxpayers money on their insurance, if we qualify. That's based on a scale system so we hope to get accepted and save taxpayers about 5% based on the lowest scale that we would come into.

Mr. Wendling stated that we will be having a summer intern for our GIS Coordinator. That will be beneficial to Ms. Rusnak, hopefully we can get some planning projects done along with all her standard work that she continues to persevere like the 911 address and parcel numbers.

B. Commission Members

Chairman Myers stated, to Mr. Wendling, thinking of your operating cost if we were still doing things conventionally rather than through Civic Clerk for the past three months would have gone through about 850 sheets of paper in the packets plus the time to put it together.

Mr. Henry suggested when adjusting the fees that Staff compare fees with other surrounding counties.

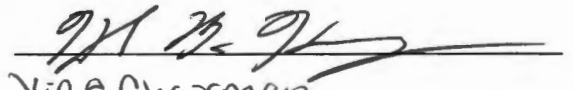
C. Attorney Caitlin Jordan - nothing to report.

D. Zoning Administrator, Chase Lenz - BZA Board update and other zoning related items.

Mr. Lenz noted regarding the text amendment we have he has only seen one mobile food establishment cross his desk over the past two years. This individual struggled for six months to find a location because basically with the code now it's only allowed in industrial and commercial. That is basically just the quarter on 340/522 in Riverton Commons area and there are non-competes on food items in the shopping centers. It took them a while to find a location and hopefully this text amendment helps make this easier. Mr. Lenz also mentioned that there is a new Board of Zoning Appeals member for the Fork District, he has been sworn so now we are working on getting him trained.

Adjournment:

Chairman Myers called for a motion to adjourn, on a motion by Mr. Henry, seconded by Mr. Kersjes, the meeting was adjourned at 8:30 PM.


Vice Chairman
Warren County Planning Commission
Chairman