



REGULAR PLANNING COMMISSION MEETING

Wednesday, November 20, 2024 @ 7:00pm

Warren County Government Center

I. CALL TO ORDER

II. ROLL CALL – DETERMINATION OF QUORUM

III. ADDITION/DELETION OF ITEMS FROM THE AGENDA

[Items added will be placed as the last item under Business Items. Unanimous vote is required to add/delete]

IV. APPROVAL OF MINUTES

- October 16, 2024 – Regular Meeting

V. CITIZEN COMMENTS

VI. CONSENT AGENDA

I move that the Planning Commission approve the Consent Agenda to publicly advertise for a public hearing in December as presented. [Items removed for further discussion will be placed as the first item under Business Items. Unanimous vote is not required to move]

- **2400599** – A zoning text amendment to include performance standards for tobacco, smoke or vape shops in the Commercial and Industrial Districts within Town limits. *(Consent to advertise for public hearing at the December 18, 2024 regular Planning Commission meeting.)*
- **2400652** – A Comprehensive Plan Amendment to amend the area between Strasburg Road and Duck Street to Rugby Street from a future land use designation of commercial to neighborhood residential. *(Consent to advertise for public hearing at the December 18, 2024 regular Planning Commission meeting.)*

VII. OLD BUSINESS

- **2400523** – A Special Exception Application submitted by COL Samuel R. Millar VFW Post 1860, Commander Jeffrey D. Cook for relief of existing parking Town Code requirements located at 654-B W. 11th Street, identified by Tax Map 20A1-2-3-3 and 4. The property is zoned C-2, Community Business District.

VIII. COMMISSION MEMBER REPORTS

IX. PLANNING DIRECTOR REPORT

- October Monthly Report

X. ADJOURNMENT

There will be a work session immediately following the regular Planning Commission meeting to discuss the following:

- **2400599** – A zoning text amendment to include performance standards for tobacco, smoke or vape shops in the Commercial and Industrial Districts within Town limits.

**DRAFT PLANNING COMMISSION MINUTES
OCTOBER 16, 2024**



The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town's website at www.frontroyalva.com for a limited time.

The Planning Commission meeting of the Town of Front Royal, Virginia was held on October 16, 2024, at 7:00 PM at the Warren County Government Center.

CALL TO ORDER

Chairman Marshner called the meeting of the Planning Commission to order at 7:00 pm.

ROLL CALL

Present: Connie Marshner, Chairman
Megan Marrazzo, Commissioner
Allen Neel, Commissioner
Andrew Brooks, Commissioner

Absent: Gary Gillispie, Commissioner

Staff Present: Lauren Kopishke, Planning Director / Zoning Administrator
John Ware, Deputy Zoning Administrator
George Sonnett, Town Attorney
Connie L. Potter, Executive Assistant, Clerk of the Planning Commission

ADDITION/DELETION OF ITEMS FROM THE AGENDA

There were no additions or deletions to the agenda.

APPROVAL OF MINUTES

- September 18, 2024 – Regular Meeting

Commissioner Marrazzo moved, seconded by Commissioner Neel to approve the minutes.

Commissioner Marrazzo added the following statement regarding comments she had made specifically to Rezoning Application #2400436 submitted by Karen Alexander and asked that they be added to the minutes.



“Commissioner Marrazzo stated that Ms. Alexander had clearly shown all reasonable effort and intention to work within the existing zoning of her property. The purpose of the Comprehensive Plan and zoning codes is the benefit and proper use of lands for the community. Given the history here, the applicant’s efforts and the precedent in the neighboring R-3 property, it only makes sense to approve the rezoning request.”

VOTE: Yes – Marrazzo, Marshner, Neel
No – N/A
Abstain – Brooks
Absent – Gillispie

ROLL CALL

CITIZEN COMMENTS

There were no citizen comments.

CONSENT AGENDA

- **2400599** – A zoning text amendment to include performance standards for tobacco, smoke or vape shops in the Commercial and Industrial Districts within Town limits. (*Consent to advertise for public hearing at the November 20, 2024 regular Planning Commission meeting.*)

Chairman Marshner moved, seconded by Commissioner Marrazzo that the Planning Commission approve the consent agenda to publicly advertise for a public hearing in November as presented.

Vote: Yes – Marshner, Brooks, Neel, Marrazzo
No – N/A
Abstain – N/A
Absent – Gillispie

ROLL CALL

PUBLIC HEARING

Chairman Marshner reviewed the guidelines for speaking at the public hearing.

- **2400522** – A Special Use Permit Application submitted by Theresa Roberson to allow a short-term rental located at 132 W. Criser Road, identified by Tax Map 20A6-33-B1-1B. The property is zoned R-3, Residential District.



Mr. Ware explained that this application was a request for a whole house short-term rental of a duplex with three (3) bedrooms and six (6) occupants located at 132 W. Criser Road. There are two (2) parking spaces in the driveway and one (1) in the garage. A site inspection was conducted on October 9, 2024 and found to be in full compliance with Town Code Chapter 175-151.

Mark Roberson spoke on his wife's behalf. Mr. Roberson stated he was a pastor and wanted to clarify that the church does not own this property but is owned by him and his wife. The intended use of the property is for their family but they would also like to generate some income and rent the property as a short-term rental for 20 to 30% of the year. They would also like to make it available for guest speakers who come to their church.

Chairman Marshner opened the public hearing.

There were no speakers.

Chairman Marshner closed the public hearing.

Commissioner Neel moved, seconded by Commissioner Brooks that the Planning Commission forward a recommendation of approval to the Front Royal Town Council for Special Use Permit #2400522 for a Short-Term Rental located at 132 W. Criser Road.

Commissioner Marrazzo noted that short-term rentals are a common occurrence. She is very pleased to hear this proposed short-term rental is of a family-oriented nature especially serving the applicants own family when visiting. Commissioner Marrazzo stated she is glad to see the type of use that is being put forward, especially as people are looking to be more multi-generational in their thinking. She believes this will serve a good purpose and will continue to do so.

Commissioner Neel stated that all the requirements have been met during the inspection for a short-term rental and he see nothing standing in the way.

VOTE: Yes – Marrazzo, Marshner, Neel, Brooks

No – N/A

Abstain – N/A

Absent – Gillispie

ROLL CALL

- **2400523** – A Special Exception Application submitted by COL Samuel R. Millar VFW Post 1860, Commander Jeffrey D. Cook for relief of existing parking Town Code requirements located at 654-B W. 11th Street, identified by Tax Map 20A1-2-3-3 and 4. The property is zoned C-2, Community Business District.

Mr. Ware explained that the Special Exception Application request was asking for relief of the parking requirements of Town Code Chapter 148-870. The property is located at 654-B W. 11th



Street and is zoned C-1, Community Business District. The request is asking for the relief of parking of Chapter 148-870.A.2, 148-870.A.6, 148-870.A.8, and 148-870.A.10. Mr. Ware reviewed those portions of Town Code.

Currently there are eight (8) parking spaces with four (4) of them being compact spaces. The compact spaces of the 4 of the 11 total 36% of the total. The proposed use will be a change of use from the previous business. Town Code Chapter 175-104 requires all new uses or developments in change of use shall comply with off-street parking requirements of Chapter 148. The applicants had submitted a Zoning Application for a Business License for “assembly use” which was denied due to insufficient parking. Mr. Ware explained the parking requirements. Seventeen parking spaces are required, and this is one of the exceptions the applicant is requesting for a reduction of the required parking spaces. The applicant is also asking for 36% of the parking to be for compact spaces and Town Code requires that the maximum about be 20%. Standard parking spaces are required to be 9’ x 18’ with compact spaces being 8’ x 18’. The applicant is also asking for an exception from the required width of all interior parking lot aisles. Direct one-way access shall be as follows: The minimum aisle width shall be 12 feet (12’). The applicant is asking for a reduction of the required 12’ on the single width interior aisle. Parking spaces are required to be at least three feet (3’) from the side and rear property lines which the applicant meets. However, Chapter 148-870.A.10 states that the parking spaces shall be setback a minimum of five feet (5’) from any building or structure. This is another exception the applicant is requesting. This setback area may be used for sidewalks or landscaping.

Mr. Ware explained that Chapter 148-870.A.18 does allow that off-street parking requirements may be waived by a Special Exception in accordance with Chapter 148-211 of this chapter. This gives the applicant the avenue to ask for an exception on the parking requirements.

Commissioner Brooks asked if staff had received any comments from the public with regard to this application.

Mr. Ware stated no comments had been received.

Commissioner Marrazzo asked if the two (2) spaces next to the building were placed on the other side of the building would it solve the issue or present another issue.

Mr. Ware showed where the property line was located. Either way the passageway would be less than the required twelve feet (12’).

Master Sergeant (Commander) Jeffrey D. Cook, United States Airforce Retired spoke as the applicant. The exception is needed because they had done all they could do to obtain additional parking. They have contacted their adjacent neighbors and contacted the EDA to purchase, lease or rent property so that they could accommodate the Town parking requirements with no success. VFW Post 1860 is Warren County’s only VFW Post. Their previous location was destroyed by arson. They attempted to rebuild on the 12-1/2 acres of river front property. However, new FEMA regulations, and Virginia Commonwealth laws dictated that any permanent structure on the



property was required to be elevated 10' to 15' essentially creating a building on stilts which was a 1.7-million-dollar effort. The VFW did not have those funds. The VFW offered the Town the 12-1/2 acres along with \$200,000 for a Town owned building on 6th Street (the former electric department building) and that was rejected. In a last-ditch effort, the VFW sold the property to gather funds to try and find another brick-and-mortar location. Commander Cook explained that the VFW Post is a congressionally chartered veterans organization serving combat veterans, their families, and their widows and orphans. They also support youth activities, Voice of Democracy, senior programs and also help feed the community. He explained that currently on the books today, VFW Post 1860 has 157 members. Forty plus of those live out of state or are over a 4-hour drive to the property. There are only 42 members that are under the age of sixty (60). The average age of members is 69.5 years old, and their youngest member is 37 years old who lives in Washington state. Their oldest member is a 105-year-old WW2 veteran that lives in Florida. The average monthly membership meetings usually afford 12 members that come from the local community. He explained they are a grown-up club, and it is not a night-club scene. The intended use of the property is congressionally limited to members of the VFW and their family. There would be daily and weekly canteen operations with short-order cooks serving sandwiches, soups, etc. Events held would be Christmas parties, patriotic events, and Easter egg hunts. The VFW is congressionally mandated and in accordance with the commonwealth law they are entitled to hold 24 open houses during a calendar year. The new owner of the previous river-front property has granted the VFW six (6) events per year where they can use the pavilion and river-front property. Normally a "special event" would be a steak and shrimp dinner or spaghetti dinner. If this application is approved they would evoke a reservation process for larger events to lessen the impact to surrounding neighbors. Commander Cook reiterated this was a 10-year effort and the VFW needs a place to gather. If they are successful at this building it would be their intent to relocate to a different building in a few years.

Commissioner Neel stated that the neighborhood is challenged with parking availability. If events such as the steak and shrimp and spaghetti dinners have 40 people at a given time how would the VFW handle the parking.

Commander Cook stated that if they are expecting a crowd of 50 patrons over a 3–4-hour period they would evoke a reservation system.

Commissioner Marrazzo said she appreciated the information that was provided. She asked for clarification of the VFW moving to a different facility in the future.

Commander Cook said they would like to move to a larger facility if they increase their membership. This location is an interim location to see if they can get there membership up and generate revenue.

Commissioner Brooks asked if the VFW would rent to outside groups.

Commander Cook answered no as the facility is too small. As long as he is the Commander he will not rent out the facility.



Chairman Marshner asked if they would have a liquor license.

Commander Cook answered yes.

Chairman Marshner opened the public hearing.

Steve Guizar stated he was the pastor of the church across the street at 1107 Monroe Avenue, Front Royal, VA. Pastor Guizar said he was there on behalf of their fellowship. He stated they were not against the veterans and were very grateful for them. Their concern is over the parking dynamic directly. The letter submitted by the applicant states that the pastor was directly spoken to by the applicant with regard to utilizing parking spaces at the church and that the church had denied any use of parking at the church. Pastor Guizar stated that conversation had never happened and that he had never met Commander Cook. He would like to have that dialogue with the applicant. Pastor Guizar said they had heard from the seller Satya “Hope” from Ben’s Family Cuisine’s listing agent about some of the dialogue as far back as September and October of 2023 when their local board talked about an inquiry that was made about possible parking. They were interested in this and wanted to hear more about it however they were never presented with any formal plan or communications. He said the church requested the applicant submit a formal request and they would dialogue further. They heard nothing until 2 weeks prior to this meeting when the listing agent made contact with them again. Their concern is about what they heard approximately a year ago regarding 24 possible events the VFW would have per year. They didn’t know when those would occur or if they might impact their Sunday services, mid-week services, and their community events. Where does the overflow parking happen as far as the managerial piece.

Chairman Marshner asked how many parking spaces the church had.

Pastor Guizar answered there were 73 spaces available.

Satya “Hope” Ben stated she has owned Ben Family Cuisine for 9 years. She said the VFW members were very supportive of their restaurant as well as Pastor Guizar who also supported them. Ms. Ben would like to see the property go to the VFW because she knows them well and she would have the opportunity to cook for the VFW in the future and stated she was in favor of the parking exception.

Christa Towns, 845 John Marshall Highway, Front Royal, VA said she was the listing agent for Ms. Ben. Ms. Towns corrected the count of the parking spaces available at the church stating they have approximately 49-50 parking spaces. Ms. Ben diligently tried to sell the restaurant for over a year. She had run a successful restaurant for many years until the neighbor put up a fence completely blocking off her rear parking lot. Ms. Towns believes the VFW is great for this area. The parking situation will be an issue regardless of who purchases the business.



Andi White, 227 Lee Street, Front Royal, VA said she had been working with the VFW since December 2022. When she saw Ben's listed for sale they met with the Town and found out that parking was an issue. She and the Commander met with different EDA boards for a year and a half trying to obtain parking either through an easement, leasing or purchasing any portion of the property at the rear 654-B W. 11th Street without success. Ms. White explained that her husband was a VFW member, and they missed going to the VFW. She has looked for property on a regular basis for the VFW. Prices on properties are crazy high right now and they are not sure where the membership is going with the VFW. This location would be a starting point and get them back on their feet and see if their membership will either grow or fold in this area. If the membership grows they will want a larger space that would accommodate the membership, parking and the activities they would like to have.

Geoffrey White, 227 Lee Street, Front Royal, VA stated he was a member of VFW Post 1860. Mr. White explained that the most they've had at monthly meetings is six (6) members. There is not a big need for parking. He expressed his disappointment with the EDA not allowing them to lease, rent or purchase a small area for parking. This special exception is needed.

Alice Dulow, 225 Lee Street, Front Royal, VA. Ms. Dulow stated she was disappointed with the length of time it has taken to find a location. She expressed that she is also disappointed with the EDA and said they should be helping the community. Ms. Dulow stated she was in favor of granting the parking exception. She noted that she would hate to see another property in Town be empty and dilapidated.

There were no additional speakers. Chairman Marshner closed the public hearing and asked if the applicant would like to respond to anything that was said in the public comments.

Commander Cook thanked those who spoke at the public hearing. He stated they could communicate with the church across the street to come up with something formal. Commander Cook reiterated their communication with the EDA asking for a small portion of the property to use for parking (16 parking spaces) however that was denied.

Commissioner Neel moved, seconded by Commissioner Marrazzo that the Planning Commission forward a recommendation of approval to Town Council with the following conditions:

- 1. The additional parking situation of the required number of spots in the Town and exclusive of the drawing presented had interior parking spaces total amount be met.***

Commissioner Marrazzo expressed appreciation for the history and efforts that have been made to find a location for the VFW. She would like to keep in mind that the intention of this property is to be temporary with the intent to move to something different later on. Commissioner Marrazzo questioned if there could be a condition placed that would be a certain number of years while the attendance is small. For example, for the next two years you have this exception with time to figure out if there is a need to move to another facility. Possibly a stop gap measure. Alternatively, there



could be an agreement with a nearby area for parking. She believes there can be arguments made for a level of necessity and believes the size of the population attending the meetings over the next couple of years is on the small side.

Chairman Marshner asked staff if a special exception could be term limited.

Ms. Kopishke stated if you put a 2-year time limit on this, does that mean in 2 years they are not held to parking standards which is in violation of Town Chapter 148-870.

Chairman Marshner thought a better condition might be to recommend approval on the condition that an agreement be worked out with the Church of the Nazarene to grant parking, not schedule events on Sunday, etc.

Ms. Kopishke reminded the Planning Commission that there were 4 separate exceptions requested by the applicant. The conditions need to address if you are giving an exception for the number of spaces, size of the spaces, and/or the setbacks. She reminded the Commission that they needed to be very specific in their motion.

Commissioner Brooks expressed concern that if there are parking issues reported in the future how will those issues be addressed. He believes a condition addressing this concern should be put in place.

Chairman Marshner thanked Commander Cook for his presentation. She believed he provided a very good background and there has been a lack of community awareness of what the VFW does, and his presentation was very helpful. Chairman Marshner stated she did not want to see Warren County without a VFW and wants to see them succeed. However, there is a Town Code and letter of the law that must be followed. She thinks that the possibility of accessing parking at the church across the street from them opens up possibilities to resolve the parking issues if they could come to an agreement.

Commissioner Marrazzo stated she does not want to put pressure on any group to feel as though they have to provide parking to the VFW. This causes her concern to place a condition such as this on the approval making the approval contingent to an agreement with someone other than the VFW.

Commissioner Neel believes that since the possibility of a parking agreement with the church came at the 11th hour maybe postponing a decision would be better so that those involved could discuss possibilities related to parking.

Commissioner Marrazzo asked if verbiage could be along the lines of approving the application with the condition of 2 years upon which time the VFW must come back before the Commission and either show they have resolved the issues to which they were granted an exception or that they are no longer in need of the exceptions.



Ms. Kopishke stated you could set a time limit where they would have to come back and reapply for a new special exception. The subdivision ordinance does currently permit them to lease parking within 300' of their property and staff could approve that without the need for a special exception.

Mr. Ware read Town Code Chapter 148-211.E "Town Council may impose such conditions or restrictions upon the premises benefited by the exception as may be necessary to comply with the intent of this chapter and to protect the public interest, safety and general welfare."

Chairman Marshner questioned if the Planning Commission approves the application with conditions, Town Council may impose restrictions according to their recommendation.

Mr. Ware confirmed that Town Council can place conditions on the application for the special exception.

Ms. Kopishke stated again that the Planning Commission needed to be very specific in crafting their motion and conditions.

Chairman Marshner asked staff for clarification on amending the previous motion.

Town Attorney George Sonnett explained they could withdraw the motion and start again.

Commissioner Neel moved to withdraw the previous motion, seconded by Commissioner Brooks.

VOTE: Yes – Marshner, Neel, Marrazzo, Brooks

No – N/A

Abstain – N/A

Absent – Gillispie

VOICE VOTE

Commissioner Neel moved, seconded by Commissioner Brooks to postpone this application until the November 20th Planning Commission meeting to allow time for further consultation on additional parking.

Commissioner Brooks thought this will allow the applicant time to consult with other community members and organizations to try and resolve the issue.

Commissioner Marrazzo expressed concern that waiting a month would put the current property owner in a state of limbo. They have been in limbo, are currently in limbo and we are now asking them to be in limbo and the Commission should take this into consideration.

VOTE: Yes – Marshner, Neel, Marrazzo, Brooks

No – N/A

Abstain – N/A

Absent – Gillispie

ROLL CALL



Chairman Marshner asked what the applicant needed to do in terms of communication with staff before the November 20th meeting.

Ms. Kopishke stated that the applicant needs to provide any additional relevant information that they are able to acquire offsite parking. If that occurs the applicant will no longer need a special exception.

From the audience Commander Cook stated he understood.

- **2400524** – A Special Use Permit Application submitted by Surber Development and Consulting LLC to construct Multi-Family Apartments consisting of up to ninety (90) apartments in two separate 3-story buildings with a maximum height of forty-five feet (45') on property located on E. Criser Road, identified by Tax Map 20A18-5-5A1. The property is zoned C-1, Community Business District.

Mr. Ware explained that Special Use Permit Application #2400524 was a request for multi-family apartments containing ninety (90) apartments in two separate 3-story structures with a maximum height of forty-five feet (45') on a vacant parcel off of E. Criser Road, identified by Tax Map 20A18-5-5A1. The property is zoned C-1, Community Business District and has split zoning with C-1 on the majority of the property and R-3, Residential District on a small portion of the property fronting E. Criser Road. The property also has frontage on Remount Road (US 522). Pertinent sections of Town Code were read by Mr. Ware.

A portion of the property is located in the flood zone; however, the proposed structures will be out of the flood zone. The property is ideally located beside the park, library, elementary school, shopping at the plaza with Royal King, grocery stores, restaurants, pedestrian walkway on the trail and convenient to public transportation.

Mr. Ware shared a virtual presentation showing previous apartment developments constructed by the applicant. The applicant is proposing the structures to have brick exteriors. Each structure will have 45 units for a total of ninety (90).

Mr. Ware explained that the Planning Commission is determining by a Special Use Permit application if this location is appropriate for what the applicant is applying for.

Chairman Marshner asked Mr. Ware to clarify the property lines.

By virtual presentation Mr. Ware explained where the property lines were located stating that the applicant has frontage on Remount Road across the creek, backs up to the rear of the Rural King parking lot, and is adjacent to the library and the park with frontage on E. Criser Road.



Commissioner Neel asked if there was an additional access point other than the one proposed entrance on Remount Road.

Mr. Ware explained that this question could be asked of the applicant during the site development review. For now, the Planning Commission needed to concentrate on whether the use is appropriate for the property. If the SUP is approved, site plan drawings would come back to the Planning Commission and Town Council for approval.

Commissioner Neel stated if there was only one (1) entrance then the use would not be appropriate.

Ms. Kopishke clarified that Town Code only requires one (1) entrance.

Jonathan Cosby, with Koontz, Bryant, Johnson and Williams is the engineer working with the applicant Surber Development and Consulting, LLC. The applicant was not able to attend the meeting and Mr. Cosby was speaking on their behalf. He echoed Mr. Wares statement they were requesting approval of the use, and they are very early in the process. Mr. Cosby stated the floodplain was a major piece of the property they needed to account for. He reminded the Commission the applicant would not be constructing anything in the floodplain. With regard to access the applicant wants to avoid going across the floodplain and hopes to place that area into a permanent conservation easement to meet current stormwater regulations. Regarding access to E. Criser Road he has reached out to the Warren County School Board to work out a shared access utilizing their existing entrance. If the applicant is granted the use for this property they will start getting into the “weeds” of the project and work out agreements. The applicant will make an application for funding in March, receive a decision by June and would go into formal design the summer of 2025. This would then be a construction project for the summer of 2026. Ms. Surber has constructed developments all around the state of Virginia and those projects are “thoughtful”.

Commissioner Marrazzo asked for a clearer description of what the applicant does across Virginia. One of the main focusses Ms. Surber has in these developments is providing for a variety of income levels and asked if that was part of the goal for this project. She asked if there were targeted percentages.

Mr. Cosby explained that all the developments he has worked on with Ms. Surber are affordable housing and not Section 8 housing. All residents are required to pass a credit check. Ms. Surber works with local groups that need housing, workforce housing, college graduates, nurses, police officers and teachers to be able to afford to live where they work.

Commissioner Marrazzo expressed that the images provided of other developments the applicant has constructed look great and asked where those developments were located.

Mr. Cosby explained that some of the images were in Staunton, Richmond, Augusta County, Strasburg, Newport News, Chesterfield County, Henrico County and York County. All the developments are very thoughtfully done.



Chairman Marshner opened the public hearing.

There were no speakers.

Chairman Marshner closed the public hearing.

Commissioner Neel moved, seconded by Commissioner Marrazzo that the Planning Commission forward a recommendation of approval to Town Council for Special Use Permit #2400524 for multi-family apartments containing ninety (90) units in two (2) separate 3-story apartment houses with a maximum height of forty-five (45') on a vacant parcel off of E. Criser Road, identified by Tax Map 20A18-5-5A1 conditioned upon the following:

- 1. The portion of the lot which is zoned R-3 is only to be used for ingress and egress according to 175-113.E.1.***

Commissioner Brooks expressed that the use was appropriate based on the zoning designations and the Comprehensive Plan.

Commissioner Marrazzo believes the location is unique and appreciates that the applicant puts such thought into the developments. She is glad to hear that the intention is not Section 8 housing. Hopefully this will put the public at ease that this is not the intention for this development.

Commissioner Neel said this was an ideal use for this property with access to shopping, walking trails, the library and access to downtown. He believes this project to be timely and would be a compliment to other recent housing developments in Town with a balance of demographics for different groups. In his opinion, this is an excellent fit.

Chairman Marshner shared this was a highly appropriate use for this property, is needed and very welcomed.

VOTE: Yes – Marshner, Marrazzo, Neel Brooks

No – N/A

Abstain – N/A

Absent – Gillispie

ROLL CALL

Chairman Marshner stated the application along with the Planning Commissions recommendation would move forward to Town Council.



ELECTION OF VICE CHAIRMAN

Commissioner Marrazzo moved, seconded by Chairman Marshner to nominate Gary Gillispie as Vice Chairman.

Vote: Yes – Marrazzo, Marshner, Neel, Brooks

No – N/A

Abstain – N/A

Absent – Gillispie

ROLL CALL

COMMISSION MEMBER REPORTS

There were no additional comments.

PLANNING DIRECTOR REPORT

Ms. Kopishke reviewed the September monthly report.

Staff will bring a Vape/Tabacco Ordinance to the Planning Commission in November for review. Town Council has asked the Planning Commission to take up this review. Staff and the Commission will continue to review the Draft Zoning Ordinance.

ADJOURNMENT

Commissioner Brooks moved, seconded by Commissioner Marrazzo to adjourn the meeting.

VOTE: Yes – Marrazzo, Brooks, Marshner, Neel

No – N/A

Abstain – N/A

Absent – Gillispie

VOICE VOTE

The meeting was adjourned at 8:52 p.m.

Approved by Planning Commission
Date: _____

OLD BUSINESS

2400523 – A Special Exception Application submitted by COL Samuel R. Millar VFW Post 1860, Commander Jeffrey D. Cook for relief of existing parking Town Code requirements located at 654-B W. 11th Street, identified by Tax Map 20A1-2-3-3 and 4. The property is zoned C-2, Community Business District.

Town of Front Royal, Virginia

Planning Commission Monthly Meeting Agenda

☐ Consent Action ☐ Administrative Action ☐ Public Hearing ☒ Discussion

AGENDA ITEM: Special Exception – #2400523

MEETING DATE: November 20, 2024

SUMMARY: A Special Exception Application for relief of existing parking requirements listed in Town Code Chapters 148-870-A.2, 148-870-A.6, 148-870-A.8, and 148-870-A.10. The property is located at 654-B W. 11th Street. The property is zoned C-1, Community Business District.

At their regular meeting on October 16, 2024 the Planning Commission closed the public hearing and made the following motion which was approved unanimously by attending members:

Commissioner Neel moved, seconded by Commissioner Brooks to postpone this application until the November 20th Planning Commission meeting to allow time for further consultation on additional parking.

No additional information has been provided by the applicant.

STAFF RECOMMENDATION: Staff recommends denial due to the fact that the applicant was aware of the hardship imposed by Town Code prior to acquiring the property and failed to demonstrate how they are going to mitigate the impacts to the neighboring community.

DRAFT MOTION: “I move that the Planning Commission forward a recommendation of denial to the Town Council due to the applicant’s inability to mitigate the negative impacts to the surrounding neighborhood.”

Or

“I move that the Planning Commission forward a recommendation of approval to the Town Council with the following conditions: “

State conditions....

NOTE: This is only a draft motion. Alternative motions are also welcome.

PLANNING COMMISSION ACTION:

Moved _____ Seconded _____

Marshner _____ Neel _____ Marrazzo _____ Gillispie _____ Brooks _____

☐ Approved ☐ Approved w/ Conditions ☐ Denied ☐ Other



**TOWN OF FRONT ROYAL
DEPARTMENT OF PLANNING & ZONING**

**Planning Commission Regular Meeting
November 20, 2024**

APPLICATION #:

Special Exception #2400523

APPLICANT:

Col Samuel R. Millar, VFW Post 1860,
Commander: Jeffrey D. Cook

APPLICATION SUMMARY:

A Special Exception Application for relief of existing parking requirements listed in Town Code Chapters 148-870-A.2, 148-870-A.6, 148-870-A.8, and 148-870-A.10. The property is located at 654-B W. 11th Street. The property is zoned C-1, Community Business District.

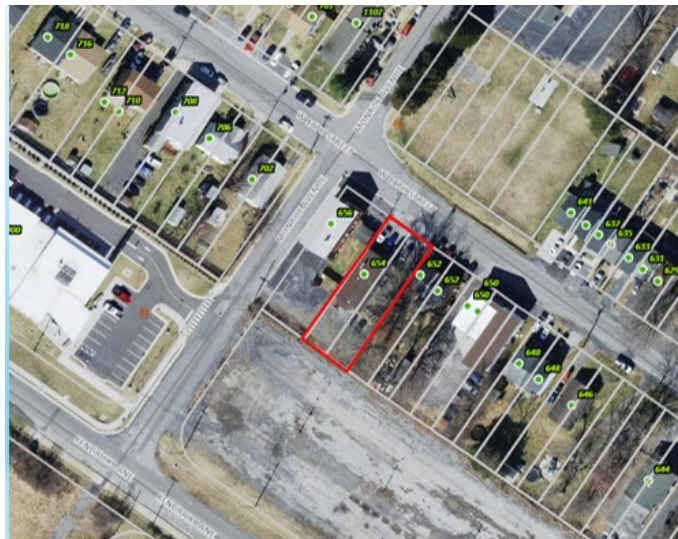
At their regular meeting on October 16, 2024 the Planning Commission closed the public hearing and made the following motion which was approved unanimously by attending members: ***Commissioner Neel moved, seconded by Commissioner Brooks to postpone this application until the November 20th Planning Commission meeting to allow time for further consultation on additional parking.***

No additional information has been provided by the applicant.

GENERAL INFORMATION:

<i>Site Addresses</i>	654-B W. 11 th Street
<i>Property Owner(s)</i>	Hope & SB Property LLC
<i>Zoning District</i>	C-1, Community Business District
<i>Historic District</i>	No
<i>Tax Identification</i>	20A1-2-3-3

Aerial Map (Warren County GIS) – 654-B W. 11th Street



654-B W. 11th Street – Front Elevation



654-B W. 11th Street – Front Elevation



**Background
Information &
Relevant Codes:**

The VFW is attempting to reestablish themselves in Front Royal following a fire. The site they have purchased does not have adequate parking per Town Code. The assembly hall use requires 17 parking spaces calculated based on floor area of the use. Town Code provides a mechanism for Town Council to waive the parking requirements with a Special Exception.

Code Sections:

175-104

All new uses or developments, and changes of use, shall comply with the off-street parking requirements of Chapter 148.”

The Business License Application #2400308 for “Assembly Use” was denied because of insufficient parking.

148-870.A.2

Assembly Use

“One (1) parking space per four (4) fixed seats in the main assembly area or one (1) parking space per one hundred (100) net square feet.

Net square feet is defined as “*The total of all floor areas of a building, excluding stairwells, elevator shafts, equipment rooms, etc...*”

Basically, paint to paint minus interior walls.

The building has a Total Gross Square Footage of 1692 according to the submitted parking sketch. Thus, resulting in the requirement of 17 parking spaces.

Chapter 148-870-A.6-A.10

“Up to 20 percent of the total number of required off-street parking spaces may be designated for compact cars if signage is posted in front of the space to notify vehicles that the space is only for compact spaces.”

“With the exception of off-street compact car spaces, and off-street parallel spaces, off-street parking spaces shall include an area of not less than 162 square feet (9’ x 18’). Compact car spaces shall include an area of not less than 144 square feet (8’ x 18’).

The width of all interior parking lot aisles providing direct one-way access to individual parking spaces shall be as follows:

Minimum Aisle width twelve (12) feet, the minimum width of all interior parking lot aisle designed for two-way traffic flow shall be twenty (20) feet, except where 90-degree aisles are used, which shall require twenty-two (22) feet.

“A parking space shall be at least three (3) feet from a side or rear property line”....

“Parking space shall be setback a minimum of five (5) feet from any building or structure. This setback area may be used for sidewalks or landscaping.”

Chapter 148-870-A.18

“As with the standards of this chapter, off-street parking requirements may be waived by a special exception, in accordance with Section 148-211 of this Chapter.”

Decision Making Guidelines from Town Code

148-211-A.1

“When the strict adherence to the general regulations would result in substantial injustice or hardship; provided that, the special exception would not diminish public health, safety or general welfare, including, but not limited to consideration that adequate provisions are provided to ensure long-term maintenance of public and shared private facilities, and conformance with the goals and objectives of the Comprehensive Plan.”

148-211-D

“Prior to approval or denial of any request for an exception, the Planning Commission shall hold a public hearing, in accordance with Virginia Code §15.2-2204, to review and provide recommendations to Town Council.”

STAFF RECOMMENDATION:

Staff recommends denial due to the fact that the applicant was aware of the hardship imposed by Town Code prior to acquiring the property and failed to demonstrate how they are going to mitigate the impacts to the neighboring community.

CONSIDERATIONS:

1. Number of Events the VFW is permitted to hold annually, both internal and external? What is the duration of potential events?
2. Is parking containment possible, how can the applicant mitigate the impact to the surrounding neighborhood?
3. What is the maximum number of people that can utilize the structure at one time? How does this align with membership. The Warren County Occupancy Permit was issued for seventy-five (75) occupants.

The job of the Planning Commission is to make a recommendation as to whether or not the hardship to the applicant is present and how does the applicants situation impact the public.

ATTACHMENTS: 1) Application and associated documents from the Applicant
2) Warren County Certificate of Occupancy for Existing Building

2400523

SPECIAL EXCEPTION APPLICATION

TOWN OF FRONT ROYAL ~102 East Main Street, Front Royal, Va. 22630 ~ Main: 540-635-4236 ~ Fax: 540-631-2727

APPLICANT**PROPERTY OWNER (if different)**

APPLICANT'S NAME: COL SAMUEL R. MILLAR VFW POST 1860 COMMANDER: JEFFREY D. COOK	PROPERTY OWNER'S NAME: HCPEN SB PROPERTY LLC
ADDRESS: 	OWNER'S ADDRESS: 
PHONE NUMBER: 	
EMAIL: 	

SECTION A - Property Information

Tax Map No. <u>20A1 2 3 3</u>	Zoning District: <u>C1</u>
Site Address: <u>1054-B W 11th St, Front Royal, VA</u>	
☐ Entrance Corridor ☐ Historic District ☐ Floodplain	

SECTION B - Details of Request

Project Name: <u>VFW Post 1860 Change of Use</u>
Special Exception Code Section(s): <u>175-104; 148-870; 175-127</u>
General Describe of the request (please attached supporting information, such as plats, plans, details, etc.): <u>VFW POST 1860 request Special Exception Application approval for relief</u> <u>of existing parking code(s). Attachments included are: (1) Special</u> <u>Exception Application; (2) Post 1860 Time Line cover letter; (3) Revised</u> <u>PLAT with new Parking; (4) D8 JUN 23 - VFW POST 1860 REQUEST TO EDA.</u>

SIGNATURE OF APPLICANT: Jeffrey D. CookDate: 09 SEP 24PRINT NAME OF APPLICANT: Jeffrey D. CookSIGNATURE OF PROPERTY OWNER: Satya BenDate: 09/09/24PRINT NAME OF PROPERTY OWNER: Satya Ben

By the submission of this application, permission is hereby granted to Town Officials and employees to enter upon the subject property during reasonable hours for purposes related to the review of this application. The Applicant will be the designated contact person for this permit application.

(APPLICATION FEE: \$250.00)

June 2015.

RECEIVED
 SEP 09 2024
 TOWN OF FRONT ROYAL
 PLANNING & ZONING DEPARTMENT

08 June 2023

Post 1860 Request to EDA

Background: Col. Samuel R. Millar, Veterans of Foreign Wars, Post 1860 in Front Royal, VA was destroyed by an arsonist in July 2015. Post 1860, a leader within VFW District 7, had 300 + members. Without a permanent home, our beloved Front Royal community suffers from a reduced Veteran exposure, our VFW sponsored monetary and civic contributions have not met our expectations and our 1860 Combat Veterans have no sanctuary. Despite hardships, 190 + Post 1860 members have identified an ideal property for our new home.

Target Property: Ben's Family Cuisines, located at 654 W. 11th Street, Front Royal, VA. is VFW Post 1860's future. This thriving, yet modest business, has blossomed for 9 years and counting. With limited private & public parking, loyal customers patronize Ben's, customers find parking, they enjoy great cuisine and our community loves Ben's!

Planning & Zoning (P & Z): This past winter, Post 1860 officers and our agent, Ms. Andi White, met with Front Royal P & Z officials in January 2023 regarding feasibility of a new VFW Post. Despite all efforts and discussions, Post 1860 was informed our purchase would require a "rezoning classification" from "Use by Right" to a "Social Club". The result would require VFW Post 1860 to secure a Special Use Permit (SUP) and we would be required to meet current Front Royal Town parking code(s).

Upon our analysis, Front Royal P & Z codes do not adequately capture or reflect 1860's 501(c)(19) nonprofit organizations focusing solely on making life better for veterans or current members of the Army, Marine Corps, Air Force, Navy, Space Force, Coast Guard nor the community they serve. VFW's are private and public!

Significance: The initial Front Royal P & Z judgment of "Private/Social Club" will indisputably harm our Post's attempt to purchase said property. Our VFW post will be open to the Public on multiple days, within a calendar year per Commonwealth law.

Our Post 1860's mitigation strategy is to purchase EDA owned acreage sufficient to obtain Front Royal and Warren County approvals. Post 1860 is seeking a fair market purchase of acreage for "parking".

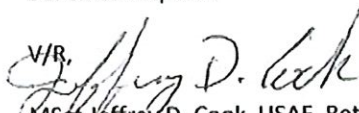
The Final Cut: P & Z determined we need to conform to existing "parking regs/codes".

- Target building is: ~1700 sq ft.
- 1 parking spot per 100 Sq Ft of target building; 17 by code, (20) to be safe.
- Seeking acreage: ¼ acre to 1.5 acre (negotiable)

Bottom Line: VFW Post 1860 is seeking a purchase of a portion of the former EPA designated Super Fund Site, AVTEX property directly located behind Ben's Family Cuisines, located at 654 W. 11th Street, Front Royal, VA.

- Existing black top property; kept intact and follow all EPA and FEMA guidance's.
- Seeking access from Monroe Street to newly purchased property.
- All acreage, location and stipulations negotiable despite the minimum to secure town and county SPU.

This, our final opportunity within Front Royal and Warren County, I trust you will wield just consideration for our small request.

V/R,

 MSgt Jeffrey D. Cook, USAF, Retired
 Commander, VFW Post 1860

VFW Post 1860

09 September 2024

VFW Post 1860 Restoration Effort

Section 230102 of the Veterans of Foreign Wars Congressional Charter:

The purpose of this corporation shall be fraternal, patriotic, historical, charitable and educational: to preserve and strengthen comradeship amongst its members; to assist worthy comradeship among its members and history of our dead, and to assist their surviving spouses and orphans; to maintain true allegiance to the Government of the United States of America, and fidelity to its Constitution and laws; to foster true patriotism; to maintain and extend the institutions of American freedom; and to preserve and defend the United States from all enemies whomsoever.

Past Post 1860 Reconstruction Efforts:

Immediately following the 2015 crime of arson against VFW Post 1860, post members pursued reconstruction of its damaged building. During 2015 and 2016 era, Post 1860 officers, Front Royal Planning and Zoning and Warren County officials conducted multiple meetings and discussions. Despite 1860's attempts to reconstruct, Front Royal Planning and Zoning Commissioner, Mr. Jeremy Camp, ruled and informed Post 1860 rebuilding would not be permitted as damage was too extensive, and the damaged VFW structure would require a complete demolishing. On 09 Jun 2016, Post 1860 began the sad undertaking of demolition.

From June 2016 to November 2017, Post 1860 researched and investigated multiple avenues to reconstruct a home on its own 12 ½ acres of Shenandoah River front property. Membership elected to purchase a modest sized steel building to reestablish its home. On 17 November 2017, Post 1860 members gleefully took receipt of a "to-be-constructed" building.

Once again, Post 1860 engaged Front Royal and Warren County officials seeking their guidance and their approvals of its new building construction. Post 1860 contracted with Racey Engineering to develop its plan to meet all codes, laws and regulations (Local, State and Federal). After meeting with Front Royal and Warren County officials, Post 1860 was confronted with the distinction of Flood Plain verses Flood Zone restrictions.

In the end, our new construction required, at a minimum, a 10-15 ft. buffer elevation from ground level. 1860 accordingly adjusted its engineering package. With FEMA and Commonwealth of Virginia rules incorporated into our design, 1860 priced the complete rebuilding effort. Astonishingly, 1860 received restoration packages from \$1.2M to \$1.7M, far exceeding our existing funds. Out of options to rebuild on our property, 1860 faced its hard reality.

Desperate to find and fund a new post home, 1860 sold both our cherished river front property and our unconstructed steel building in 2019 to acquire sufficient funds to reestablish ourselves. Since the sale of our home, we continued to investigate any opportunity to recreate at home. We look and review every possibility when they become available. On 08 January 2023, Post 1860's hope met Ms. Hope/owner of Bens Cuisine @ 654 W 11Th Street and 1860's hope sprung eternal once again!

Post 1860 Purchase of Ben's Cuisine:

Jan 13, 2023 Planning and Zoning Meeting (P&Z): 1860 Post Commander Cook, Andi White and Planning and Zoning Officials/John and Lauren regarding concept of establishing a VFW post at the former Ben's Cuisine property. P & Z officials graciously evaluated all Town code for possibilities to match a VFW Post to existing use categories currently identified. P & Z's initial determination was VFW Post more closely matched a "Social Club" designation which required a significant parking increase. Thus, Post 1860 began its search to meet P & Z guidance.

09 September 2024

VFW Post 1860 Restoration Effort

Jan 17, 2023 EDA Meeting – EDA Chairman, Jeffrey Browne, the Director of the EDA, Joe Petty, Post 1860 Commander, Jeff Cook and Andi White met to discuss the possibility of leasing, purchasing or obtaining an easement on the Avtex property located on the corner of Kendrick Lane and Monroe Ave. Sole purpose of inquiry – Post 1860 secure “off-street parking” conforming to Town of Front Royal Planning & Zoning officials’ guidance.

Feb 15, 2023 Correspondence – Post 1860 received e-mail from the EDA Chairman, Jeffrey Browne, stating the EDA could not guarantee any transfer of property. None of Post 1860’s request for a sale in part or whole, long-term lease, rent or an easement were possible. EDA officials indicated their focus was in actively pursuing sale of the target property, in part, or in whole, with two other interested developers.

Feb 22, 2023 Correspondence - The EDA Director, Joe Petty, referred Post 1860 representatives to Greg Harold (EDA Asset Committee) regarding potential VFW purchase for Avtex property. Post 1860 representatives contacted Mr. Harold. During a 45-minute phoncon, Post 1860 reps were informed of EDA’s rationale for the EDA’s disinterest in Post 1860’s inquiry/offer. The EDA officials explained their desires for formerly designated Super fund Avtex property.

VFW Post 1860’s small request for acquiring property allowing 10-15 parking spaces required meeting Front Royal code and re-establish of a Front Royal Veterans of Foreign Wars (VFW) post wasn’t within the EDA’s on-going plans nor worth further consideration. Post 1860 had no interest in interrupting the EDA’s aspirations to develop Condo communities on the long dormant and highly regulated property.

May 18, 2023 Meeting – VFW Reps, Jeff Cook and Andi White met with the EDA Director, Joe Petty, to revisit a grant/purchase/lease of a portion of the Avtex lot for parking. Following recent elections results or appointments, 1860 reps hoped to readdress its needs with the EDA. With a changed board, we felt new board members may view 1860’s request differently.

Jun 8, 2023 EDA Property Request – VFW Post 1860 Commander, Jeff Cook, submitted formal request to EDA for consideration of sale, or lease or any agreed to terms for purpose of VFW Post 1860 securing space for “off-street parking”.

June 15, 2023 EDA Meeting – Andi White met with the EDA Asset Committee to revisit the VFW purchasing a portion of the Avtex lot for parking since there were new members on the EDA Board.

June 22, 2023 EDA Feedback - EDA denied the request from the VFW to purchase any of the property on the corner of Kendrick Ln and Monroe Ave to meet off-street parking requirements set forth by the Town for 654 W. 11th St.

July 27, 2023 Response - Received an email from Jorie Martin (Asset Committee) informing me that the EDA had denied the VFW’s request.

Neighboring Properties Inquiries – On multiple occasions, Kristinia/listing agent and Andi/Post 1860 agents contacted the property owners directly adjacent (The Family Grocery) to 654 W 11Th Street property. Post 1860’s sought to strike and agreement, at our cost, to secure additional parking. On-site visits, e-mail and phone calls were ignored, not responded to or rejected.

1860 Post Commander directly reached out to Steve Guizar/Lead Pastor of Front Royal Church of the Nazarene regarding any possibility to secure rental of parking or leasing spots or other means. All attempts were ignored or avoided outright.

09 September 2024

VFW Post 1860 Restoration Effort

May 08, 2024 Application for Zoning Approval for a Business License - 1860 Commander submitted package to Planning and Zoning requesting property use change to "Assembly Hall". If successful, Post 1860 assessed existing Front Royal code would support establishment of our new home with no additional parking needed.

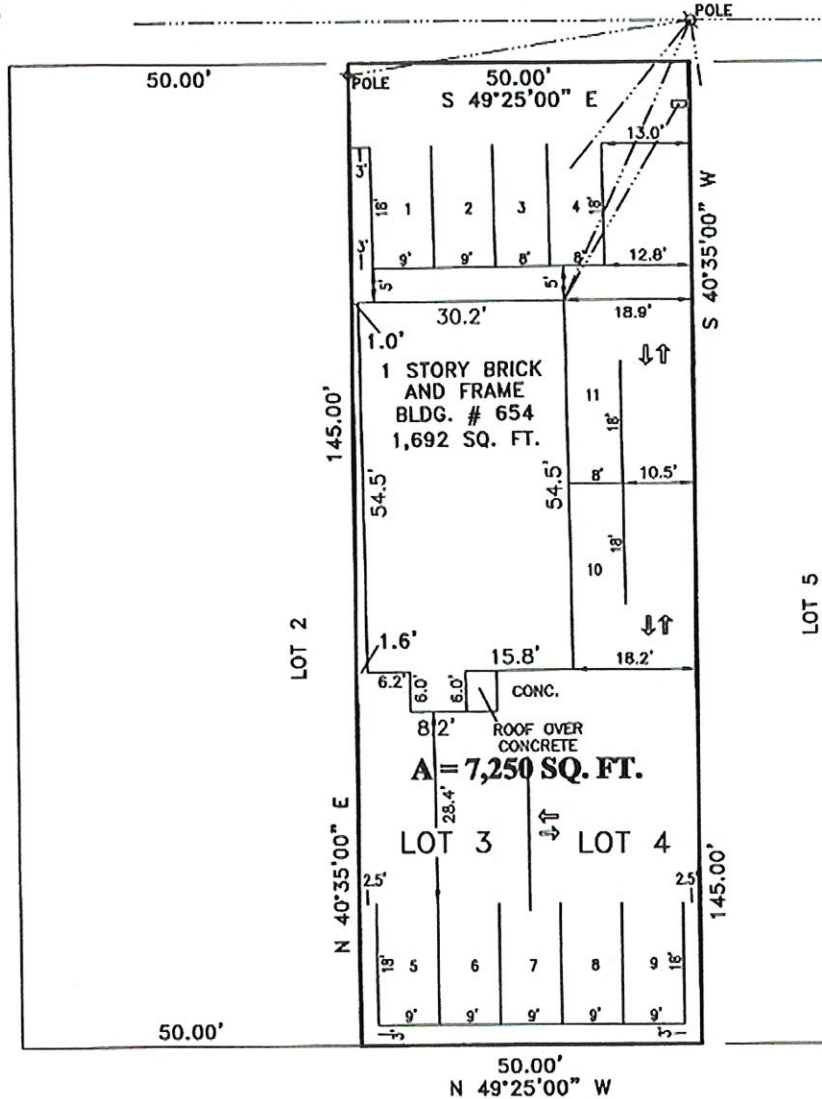
29 May, 2024 Rezoning Request Denied – P & Z rejected Zoning Approval for a Business License leaving one remaining option to continue with its effort to purchase the Ben's Cuisine property. Post 1860 last effort before abandoning property purchase is submission and approval of a "Special Exception Application (SEA) waiving/amending existing parking requirements. This will exhaust all possible avenues for Post 1860 purchase of the 654 W 11Th Street property.

PER FILED MAP
SCALE 1" = 20'

MONROE AVE.

W. 11TH STREET

60' WIDE



N/F IND. DEV. AUTHORITY PER INST. # 000001681

PROPERTY ZONED C-1.

TOTAL PARKING SPACES SHOWN = 11.

SKETCH SHOWING PROPOSED PARKING
ON LOTS 3 AND 4, BLOCK 3
ROYAL VILLAGE SUBDIVISION
NORTH RIVER MAGISTERIAL DISTRICT
TOWN OF FRONT ROYAL
WARREN COUNTY, VA.



PREPARED BY
BROGAN LAND SURVEYING, PLC
P.O. BOX 1578
FRONT ROYAL, VA. 22630
tel&fax (540)635-5657
JANUARY 18, 2024

COUNTY OF WARREN
220 N COMMERCE AVE
SUITE 400
FRONT ROYAL, VA 22630

Certificate of Occupancy

Permit Number: 0001007-2007

Permit Type:BLD2

Date Issued: 9/20/2007

Owner Name: WILLIAMS, TAMMIE/ROYAL VILLAGE TAV.
Site Address: 654 W 11 ST
FRONT ROYAL, VA
22630

Contractor: Owner Contracted

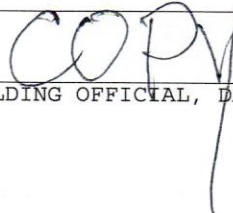
Map Number: 20A1
District:
Area: 1 TOWN OF FRONT ROYAL
Sub Division: N/A
Zoning: N/A
Occupant Load: 75 Health Permit#: TOWN
Number of Bedrooms->Approved: N/A Built: N/A
Date Completed: 9/20/2007

Lot: 3 Section: 2 Block: 3
USBC Edition: 2003
Use Group: A-3 ASSEMBLY-WORSHIP/REC/AMUS
Usage: N/A
Construction: 5B COMBUSTIBLE/UNPROTECTED
Water: PUBLIC
Sewer: PUBLIC
Sprinkler: Required:

Nature of Work: CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDING

Modifications:
Modifications:
(C.O.)

CERTIFICATE OF OCCUPANCY FOR EXISTING BUILDING
MAXIMUM OCCUPANTS -- 75 PERSONS

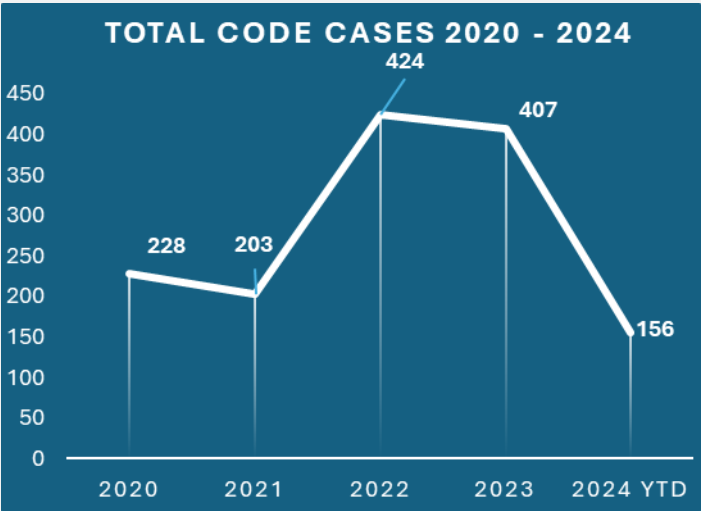
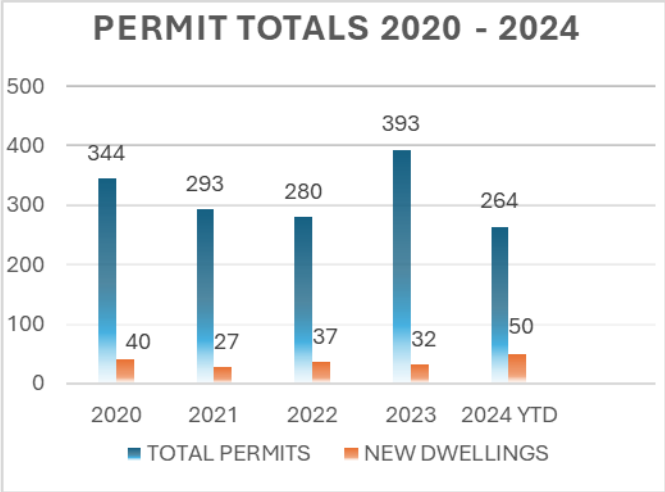

BUILDING OFFICIAL, DAVID C. BEAHM

Date

OCTOBER MONTHLY REPORT

GENERAL INDICATORS

	2020	2021	2022	2023	2024 YTD	OCTOBER
Zoning Permits	344	293	280	393	264	24
New Code Enforcement Cases Open	228	203	424	407	156	16
Code Enforcement Cases Closed			361	378	103	5
Code Enforcement Inspections & Re-Inspections	--	--	--	--	340	36
Land Use Applications	26	29	56	36	37	1
Code Amendments	1	7	2	4	1	1
Sign Permits	39	47	41	62	39	4
Business Licenses	151	172	155	148	122	9
Short-Term Rentals	--	1	13	5	2	0
Administrative Variance	--	--	--	4	1	0
COA Administrative Review	--	--	--	39	15	2
COA Board Review	--	--	--	11	10	1
Solicitor/Itinerant Merchant	--	--	--	10	22	10
Urban Agriculture	--	--	--	18	11	0
Alley Vacation	--	--	--	5	2	1
Right of Way Utilization Permits				46	100	4
Walk-Ins to Planning & Zoning	--	--	--	--	2262	178



SPECIAL PROJECTS UPDATES/NEWS

- **Chapter 175 and 148 Rewrite:** A rough draft of Chapter 175 was distributed to the Planning Commission August 7, 2024 and is currently in review.
 - **Capital Improvement Plan (CIP):** Work has begun on the 2025-2029 CIP.
 - Staff is reviewing application forms; the goal is to roll out new forms with the new ordinance.
-
- **BAR** – The Board of Architectural Review met for one regular meeting and one work session in October. The BAR approved accessory structures at 116 Virginia Avenue and 241 Church Street. The BAR postponed an application for a handrail at the Town Gazebo asking for additional informaiton for the handrail placement and choice of material. At the work session, the BAR held an ongoing discussion of the Historic District Guidelines and the need for revisions to those guidelines. The BAR will continue to hold future work sessions to continue the disucssion regarding the guidelines.
 - **BZA** - The Board of Zoning Appeals held one meeting in October to discuss the BZA By-Laws and offered revisions to those by-laws which will come to a future BZA meeting for a vote.

- **PC** – In October the Planning Commission (PC) held one (1) regular meeting and one (1) work session. At their regular meeting the PC approved to adverstise for a public hearing at the November 20, 2024 regular meeting a zoning text amendment to Chapter 175 to include performance standards for tobacco, smoke or vape shops in the C-1 and C-3 Commercial Districts within Town limits. The PC heard three (3) public hearing items and made a recommendation of approval for a Special Use Permit application for a short-term rental at 132 W. Criser Road, and a Special Use Permit application for multi-family apartments containing ninety (90) units in two (2) separate three-story apartment houses on a vacant parcel off of E. Criser Road, identified by Tax Map 20A18-5-5A1. The PC postponed a decision until the November 20, 2024 regular meeting for a Special Exception application for relief of parking requirements in Town Code Chapter 148-870A.2 located at 654-B W. 11th Street to allow the applicant time for further consultation on additional parking. In addition, the PC elected a Vice Chairman. At their work session the PC discussed the three (3) public hearing appilcations mentioned above, reviewed the Zoning Ordinance Draft Article 1 and heard a presentation from Public Works Director Robbie Boyer on Town Infrastructure.

PLANNING COMMISSION WORK SESSION

1 PROPOSED VAPE ORDINANCE, ADMINISTRATIVE REVIEW

2 175-3

3 *Tobacco, smoke, or vape shop*: A business involving the sale or sampling of tobacco
4 products, nicotine vapor products, alternative nicotine products, and hemp products,
5 as those terms are defined in the Code of Virginia § 18.2-371.2, and any kratom
6 products as regulated by the Code of Virginia § 59.1-200, and where such products are
7 twenty-five (25) percent or more of the store's total inventory or fifteen (15) percent or
8 more of the store's total display area.

9 *Alternative nicotine product*: means any noncombustible product containing nicotine
10 that is not made of tobacco and is intended for human consumption, whether
11 chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine
12 product" does not include any nicotine vapor product or any product regulated as a
13 drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21
14 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

15 *Cigar*: means any roll of tobacco wrapped in leaf tobacco or in any substance
16 containing tobacco, other than any roll of tobacco that is a cigarette as such term is
17 defined in § [58.1-1000](#).

18 *Closed system*: means any nicotine vapor product capable of utilizing a disposable
19 container that is (i) prefilled with liquid nicotine and sealed by the manufacturer, (ii) not
20 easily refillable or intended or designed to be refillable, and (iii) intended or used to
21 dispense liquid nicotine for use in a nicotine vapor product that is intended or designed
22 for reuse. "Closed system" does not include any open system.

23 *Consumer*: means the person who is the end or final user of tobacco products or liquid
24 nicotine.

25 *Delivery sale*: means a sale of liquid nicotine or nicotine vapor products to a consumer
26 in the Commonwealth in which the consumer submits the order for the sale by
27 telephone, over the Internet, or through the mail or another delivery system, and where
28 the liquid nicotine or nicotine vapor products are shipped through a delivery service.
29 "Delivery sale" does not include a sale of liquid nicotine or nicotine vapor products not
30 for personal consumption to a person who is a manufacturer, distributor, or retail dealer.

31 *Distributor*: means (i) any person engaged in the business of selling tobacco products in
32 the Commonwealth who brings, or causes to be brought, into the Commonwealth from
33 outside the Commonwealth any tobacco products for sale; (ii) any person who makes,
34 manufactures, fabricates, or stores tobacco products in the Commonwealth for sale in
35 the Commonwealth; (iii) any person engaged in the business of selling tobacco
36 products outside the Commonwealth who ships or transports tobacco products to any
37 person in the business of selling tobacco products in the Commonwealth; or (iv) any
38 retail dealer in possession of untaxed tobacco products in the Commonwealth.

Heated tobacco product: means a product other than a cigarette intended to be heated, as such term is defined in § [58.1-1000](#), containing tobacco that produces an inhalable aerosol (i) by heating the tobacco by means of an electronic device without combustion of the tobacco or (ii) by heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

Liquid nicotine: means a liquid or other substance containing nicotine in a concentration that is sold, marketed, and intended for use in a nicotine vapor product.

Loose leaf tobacco: means any leaf tobacco that is not intended to be smoked but does not include moist snuff. Loose leaf tobacco weight unit categories shall be as follows:

1. "Loose leaf tobacco half pound-unit" means a consumer-sized unit, pouch, or package containing at least four ounces but not more than eight ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

2. "Loose leaf tobacco pound-unit" means a consumer-sized unit, pouch, or package containing more than eight ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

3. "Loose leaf tobacco single-unit" means a consumer-sized unit, pouch, or package containing less than four ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

"Manufacturer" means a person who manufactures or produces tobacco products and sells tobacco products to a distributor.

"Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's tobacco products.

"Manufacturer's sales price" means the actual price for which a manufacturer, manufacturer's representative, or any other person sells tobacco products to an unaffiliated distributor.

"Moist snuff" means a tobacco product consisting of finely cut, ground, or powdered tobacco that is not intended to be smoked but does not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form, including liquid nicotine.

"Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, closed system, open system, or similar product or device and any cartridge or other container of nicotine in a solution or other form, including liquid nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Open system" means a nicotine vapor product designed and intended by the manufacturer to be reusable and refilled with liquid nicotine of the end user's choice. "Open system" does not include any closed system.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Pipe tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered or purchased by consumers as tobacco to be smoked in a pipe.

175-39.A Use Regulations

COMMERCIAL

Tobacco, smoke or vape shop in accordance with provisions of 175-152

175-53.2.A Use Regulations

COMMERCIAL

Tobacco, smoke or vape shop in accordance with provisions of 175-152

175-152 Tobacco, Smoke, or Vape Shop performance standards

1. Shall not be located within 1,000 feet of any property containing a religious institution, libraries, parks, community centers, public or private schools or any child or day care center.
 - a. Measurements made to verify compliance shall be made in a straight line, without regard for structures or objects, for, 1,000 feet from the boundaries of the property on which a public or private school or day care center operates.
2. Hours of operation shall be limited to within the hours of 8am to 8pm, Monday through Sunday.
3. During all hours of operation, all glass portions of windows and doors shall be maintained as transparent and shall not be heavily tinted or obscured.
4. No smoking or vaping shall be permitted on the premises at any time unless the establishment complies with the Virginia Indoor Clean Air Act (Virginia Code Section 15.2-2820).
5. Sign regulations
 - a. No more than four (4) signs per business

- 114 b. Wall signs shall not exceed 50 SF in size unless a Special Use Permit is
115 obtained.
- 116 c. Vape shops shall post clear signage stating that minors may not enter the
117 premises unless accompanied by a parent or legal guardian. At least one
118 such sign shall be placed in a conspicuous location near each public
119 entrance to the vape shop. It shall be unlawful for a vape shop or business
120 offering vape related products, and tobacco paraphernalia to fail to
121 display and maintain, or fail to cause to be displayed or maintained, such
122 signage.
- 123 d. No vape shop shall display tobacco paraphernalia in a manner that is in
124 plain view from the street or sidewalk
125

1 **PROPOSED VAPE ORDINANCE, SPECIAL USE PERMIT**

2 **175-3**

3 *Tobacco, smoke, or vape shop:* A business involving the sale or sampling of tobacco
4 products, nicotine vapor products, alternative nicotine products, and hemp products,
5 as those terms are defined in the Code of Virginia § 18.2-371.2, and any kratom
6 products as regulated by the Code of Virginia § 59.1-200, and where such products are
7 twenty-five (25) percent or more of the store's total inventory or fifteen (15) percent or
8 more of the store's total display area.

9 *Alternative nicotine product:* means any noncombustible product containing nicotine
10 that is not made of tobacco and is intended for human consumption, whether
11 chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine
12 product" does not include any nicotine vapor product or any product regulated as a
13 drug or device by the U.S. Food and Drug Administration (FDA) under Chapter V (21
14 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

15 *Cigar:* means any roll of tobacco wrapped in leaf tobacco or in any substance
16 containing tobacco, other than any roll of tobacco that is a cigarette as such term is
17 defined in § [58.1-1000](#).

18 *Closed system:* means any nicotine vapor product capable of utilizing a disposable
19 container that is (i) prefilled with liquid nicotine and sealed by the manufacturer, (ii) not
20 easily refillable or intended or designed to be refillable, and (iii) intended or used to
21 dispense liquid nicotine for use in a nicotine vapor product that is intended or designed
22 for reuse. "Closed system" does not include any open system.

23 *Consumer:* means the person who is the end or final user of tobacco products or liquid
24 nicotine.

25 *Delivery sale:* means a sale of liquid nicotine or nicotine vapor products to a consumer
26 in the Commonwealth in which the consumer submits the order for the sale by
27 telephone, over the Internet, or through the mail or another delivery system, and where
28 the liquid nicotine or nicotine vapor products are shipped through a delivery service.
29 "Delivery sale" does not include a sale of liquid nicotine or nicotine vapor products not
30 for personal consumption to a person who is a manufacturer, distributor, or retail dealer.

31 *Distributor:* means (i) any person engaged in the business of selling tobacco products in
32 the Commonwealth who brings, or causes to be brought, into the Commonwealth from
33 outside the Commonwealth any tobacco products for sale; (ii) any person who makes,
34 manufactures, fabricates, or stores tobacco products in the Commonwealth for sale in
35 the Commonwealth; (iii) any person engaged in the business of selling tobacco
36 products outside the Commonwealth who ships or transports tobacco products to any
37 person in the business of selling tobacco products in the Commonwealth; or (iv) any
38 retail dealer in possession of untaxed tobacco products in the Commonwealth.

Heated tobacco product: means a product other than a cigarette intended to be heated, as such term is defined in § [58.1-1000](#), containing tobacco that produces an inhalable aerosol (i) by heating the tobacco by means of an electronic device without combustion of the tobacco or (ii) by heat generated from a combustion source that only or primarily heats rather than burns the tobacco.

Liquid nicotine: means a liquid or other substance containing nicotine in a concentration that is sold, marketed, and intended for use in a nicotine vapor product.

Loose leaf tobacco: means any leaf tobacco that is not intended to be smoked but does not include moist snuff. Loose leaf tobacco weight unit categories shall be as follows:

1. "Loose leaf tobacco half pound-unit" means a consumer-sized unit, pouch, or package containing at least four ounces but not more than eight ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

2. "Loose leaf tobacco pound-unit" means a consumer-sized unit, pouch, or package containing more than eight ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

3. "Loose leaf tobacco single-unit" means a consumer-sized unit, pouch, or package containing less than four ounces of loose leaf tobacco, by net weight, produced by the manufacturer to be sold to consumers as a single unit and not produced to be divided or sold separately and containing one individual package.

"Manufacturer" means a person who manufactures or produces tobacco products and sells tobacco products to a distributor.

"Manufacturer's representative" means a person employed by a manufacturer to sell or distribute the manufacturer's tobacco products.

"Manufacturer's sales price" means the actual price for which a manufacturer, manufacturer's representative, or any other person sells tobacco products to an unaffiliated distributor.

"Moist snuff" means a tobacco product consisting of finely cut, ground, or powdered tobacco that is not intended to be smoked but does not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity.

"Nicotine vapor product" means any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form, including liquid nicotine.

"Nicotine vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, closed system, open system, or similar product or device and any cartridge or other container of nicotine in a solution or other form, including liquid nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Nicotine vapor product" does not include any product regulated by the FDA under Chapter V (21 U.S.C. § 351 et seq.) of the Federal Food, Drug, and Cosmetic Act.

"Open system" means a nicotine vapor product designed and intended by the manufacturer to be reusable and refilled with liquid nicotine of the end user's choice. "Open system" does not include any closed system.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Pipe tobacco" means any tobacco that, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered or purchased by consumers as tobacco to be smoked in a pipe.

175-39.B Use Regulations

COMMERCIAL

Tobacco, smoke or vape shop in accordance with provisions of 175-152

175-53.2.B Use Regulations

COMMERCIAL

Tobacco, smoke or vape shop in accordance with provisions of 175-152

175-152 Tobacco, Smoke, or Vape Shop performance standards

1. Shall not be located within 1,000 feet of any property containing a religious institution, libraries, parks, community centers, public or private schools or any child or day care center.
 - a. Measurements made to verify compliance shall be made in a straight line, without regard for structures or objects, for, 1,000 feet from the boundaries of the property on which a public or private school or day care center operates.
2. Hours of operation shall be limited to within the hours of 8am to 8pm, Monday through Sunday.
3. During all hours of operation, all glass portions of windows and doors shall be maintained as transparent and shall not be heavily tinted or obscured.
4. No smoking or vaping shall be permitted on the premises at any time unless the establishment complies with the Virginia Indoor Clean Air Act (Virginia Code Section 15.2-2820).
5. Sign regulations
 - a. No more than four (4) signs per business

- 114 b. Wall signs shall not exceed 50 SF in size unless a Special Use Permit is
- 115 obtained.
- 116 c. Vape shops shall post clear signage stating that minors may not enter the
- 117 premises unless accompanied by a parent or legal guardian. At least one
- 118 such sign shall be placed in a conspicuous location near each public
- 119 entrance to the vape shop. It shall be unlawful for a vape shop or business
- 120 offering vape related products, and tobacco paraphernalia to fail to
- 121 display and maintain, or fail to cause to be displayed or maintained, such
- 122 signage.
- 123 d. No vape shop shall display tobacco paraphernalia in a manner that is in
- 124 plain view from the street or sidewalk
- 125