

**MINUTES**  
**JAMES CITY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING**  
**County Government Center Board Room**  
**101 Mounts Bay Road, Williamsburg VA 23185**  
**October 17, 2018**  
**6:00 PM**

**A. CALL TO ORDER**

Mr. Heath Richardson called the Special Meeting to order at 6:00 p.m.

**B. ROLL CALL**

**Planning Commissioners Present:**

Heath Richardson  
Rich Krapf  
Tim O'Connor  
Danny Schmidt  
Jack Haldeman  
Frank Polster  
Julia Leverenz

**Staff Present:**

Paul Holt, Director of Community Development and Planning  
Max Hlavin, Deputy County Attorney  
Terry Costello, Deputy Zoning Administrator  
Alex Baruch, Senior Planner

**C. PUBLIC COMMENT**

Mr. Richardson opened Public Comment.

As no one wished to speak, Mr. Richardson closed Public Comment.

**D. REPORTS OF THE COMMISSION**

Mr. Richardson noted that the Development Review Committee (DRC) and the Policy Committee did not meet in September and, therefore, there were no reports.

**E. CONSENT AGENDA**

1. Minutes of the September 5, 2018 Regular Meeting

Ms. Julia Leverenz made a motion to approve the Consent Agenda.

On a voice vote the Commission voted to approve the Consent Agenda (7-0).

**F. PUBLIC HEARINGS**

1. SUP-18-0011. 750 Blow Flats Road Borrow Pit Renewal and SUP-18-0023. 700 Blow Flats Road Borrow Pit Renewal

Ms. Terry Costello, Deputy Zoning Administrator, stated that Mr. Jay Lipscomb has applied on behalf of USA Waste of Virginia, Inc. and Branscome, Inc. to renew their Special Use Permits (SUPs) in order to continue the operation of borrow pits located at 700 and 750 Blow Flats Road. Ms. Costello stated that both parcels are zoned M-2, General Industrial and are designated as General Industry on the Comprehensive Plan.

Ms. Costello stated that the borrow pit operation involves excavating topsoil, dirt, sand and clay from the property for use at other sites. Ms. Costello further stated that there is an active mining permit from the Virginia Department of Mines, Minerals and Energy (DMME), and impacts associated with the borrow pits are overseen by the state through the applicant's operational plan.

Ms. Costello stated that SUPs (one for each property) were approved by the Board of Supervisors in 1992 to allow for the continued operation of these facilities. Ms. Costello stated that at that time, in order to give staff the opportunity to reevaluate the impacts of the operation, a five-year time limit was placed on the SUPs as a condition of approval. Ms. Costello stated that in 1997, the SUPs were reevaluated and renewed for a subsequent three years. Ms. Costello stated that in 2000, and again in 2005, the SUPs were renewed with a five-year time limit as a condition of the approval. Ms. Costello stated that in 2010, the SUPs were renewed with an eight-year time limit. Ms. Costello stated that the existing SUPs will expire on December 31, 2018.

Ms. Costello stated that as part of the current renewal process, the applicant has requested that the SUPs be renewed without any time limit. Ms. Costello stated that staff recommends an eight-year time limit on the SUPs due to constantly evolving regulations regarding environmental protection. Ms. Costello stated that staff finds having an opportunity to review the conditions of the operation allows the County to address these changes and any other impacts. Ms. Costello stated that the intentions of the applicant and the County are for this property to be redeveloped for economic development purposes in the future or have the capability for such redevelopment.

Ms. Costello noted that all agencies have reviewed both SUP renewal applications and recommend approval with the proposed conditions.

Ms. Costello stated that recommended uses for the General Industrial District include industrial operations with office and commercial as secondary. Ms. Costello stated that staff finds the proposal to be consistent with the 2035 Comprehensive Plan, the Zoning Ordinance and surrounding development. Ms. Costello stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the conditions listed in the staff report.

Mr. Richardson opened the floor for questions from the Commission.

Mr. Jack Haldeman inquired if the DMME was responsible for overseeing the reclamation of the land.

Ms. Costello confirmed.

Mr. Tim O'Connor inquired if land would need to be reclaimed before the operation could exceed 60 acres of disturbed land.

Mr. Paul Holt, Director of Community Development and Planning, stated that staff would

defer to the applicant for this question; however, he believes that some areas may remain open but unused while other areas are actively used to comprise the allowable acreage.

Mr. Richardson opened the Public Hearing.

Mr. Julian H. Lipscomb, Jr., Environmental Manager, Branscome, Inc., 3144 Hollow Oak Drive, provided the Commission with a history of the property and the ongoing mining activities. Mr. Lipscomb noted that Branscome oversees the permits and mining activities on both properties and has an agreement to mine for their benefit when needed. Mr. Lipscomb noted that the Branscome property is constantly in use; however, the USA Waste property has not been mined for two years. Mr. Lipscomb further stated that the plan for the properties is ultimately to reclaim them for development purposes. Mr. Lipscomb requested that the Commission consider recommending the SUP be approved in perpetuity.

Mr. Frank Polster noted that he had spoken with the applicant just prior to the start of the meeting. Mr. Polster requested that the applicant discuss the state and local requirements that they are required to abide by.

Mr. Lipscomb stated that the DMME oversees the reclamation of borrow pits throughout the state. Mr. Lipscomb stated that inert fill from construction sites is used to backfill the mined areas which is compacted layer by layer to bring the area back to developable grades.

Mr. Polster inquired who was responsible for inspecting the borrow pit reclamation and when inspections were done.

Mr. Lipscomb stated that the DMME inspects the property a minimum of twice a year. Mr. Lipscomb further stated that the property is also inspected at the federal level by the Mine Safety and Health Administration.

Mr. Polster inquired about County inspections.

Mr. Lipscomb stated that the SUP requires that they provide an annual report to the County of how many acres are disturbed. Mr. Lipscomb stated that County Zoning and Environmental staff visit the site and assess the property to determine which areas meet the criteria of active land disturbance. Mr. Lipscomb further stated that maps for the active land disturbance were then created based on the site visit.

Mr. Polster inquired if this was an annual report.

Mr. Lipscomb confirmed.

Mr. Danny Schmidt inquired about the portion of the property adjacent to the creek and whether it was permissible to remove sand and clay from that area and, if so, would that create a tidal wetland.

Mr. Lipscomb stated they were leaving that option open for USA Waste to use the area for Wetlands Mitigation Credits.

Mr. Schmidt noted that he had concerns about sediment impacting the wetlands.

Mr. Lipscomb stated that the area had already been mined and reclaimed and that vegetation has been established on the slopes. Mr. Lipscomb noted that they had received an honorable mention from the DMME for mine reclamation.

Ms. Leverenz inquired if, over the years, there have been changes in environmental regulations

that would warrant setting a time limit for the SUP.

Ms. Costello stated that there have not been changes in the Resource Protection Area or the Flood Plain maps; however, staff would like to ensure the opportunity to amend the SUP conditions should changes take place in the future.

Mr. Haldeman asked for confirmation that the current term of the SUP was longer than the initial term.

Mr. Lipscomb confirmed. Mr. Lipscomb noted that the eight-year term was a compromise at the last renewal.

As no one else wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Richardson opened the floor for discussion by the Commission. Mr. Haldeman stated that he was inclined to support the application; however, he was not comfortable with no term limit.

Ms. Leverenz inquired if the term limit could be set at 10 years.

Mr. Holt stated that the Commission could forward a recommendation to the Board of Supervisors. Mr. Holt further stated that if the Commission recommends a 10-year term, staff would look at whether there are any substantive differences or impacts with a 10-year term opposed to an eight-year term.

Mr. Polster inquired if any change in operation during the term of the SUP would trigger County review.

Mr. Holt stated that unless it was an owner or applicant request, the change would be picked up on the subsequent renewal application.

Ms. Leverenz inquired if by-right uses could occur without review.

Mr. Holt responded that the SUP would not prohibit other uses that are permitted in the M-2 Zoning District.

Mr. Haldeman stated that he did not have a strong opinion whether the term should be eight or 10 years.

Mr. O'Connor stated that his concern in approving the SUP in perpetuity is that should one or both of the properties be sold at some future date, the new owner may not be as good a steward as the applicant. Mr. O'Connor further stated that he would support an eight-year term.

Mr. Krapf made a motion to recommend approval of SUP-18-0011 and SUP-18-0023 subject to the conditions recommended by staff.

Mr. Holt inquired if Mr. Krapf's intention was to recommend the eight-year term.

Mr. Krapf confirmed.

On a roll call vote the Commission voted to recommend approval of SUP-18-0011, 750 Blow Flats Road Borrow Pit Renewal and SUP-18-0023, 700 Blow Flats Road Borrow Pit Renewal (7-0).

2. SUP-18-0024. Christ Community Church Multipurpose Building

Mr. Alex Baruch, Senior Planner, stated that Ms. Milissa Cheves of DJG, Inc. has submitted an application for a place of public assembly at 9001 Richmond Road. to construct a multipurpose building at the existing Christ Community Church. Mr. Baruch stated that the property is currently zoned A-1, General Agricultural and is designated Rural Lands on the 2035 Comprehensive Plan Land Use Map.

Mr. Baruch stated that the church was built between the late 80s and early 90s and has been in operation since that time. Mr. Baruch stated that in August 2017, the Zoning Ordinance was amended to change the places of public assembly use to a specially permitted use in A-1. Mr. Baruch further stated that the proposed addition of the multipurpose building to the property requires that the entire property come into conformance with the current Zoning Ordinance.

Mr. Baruch stated that staff finds this proposal to be compatible with surrounding development and consistent with the 2035 Comprehensive Plan and the Zoning Ordinance. Mr. Baruch stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors subject to the proposed conditions.

Mr. Richardson opened the floor for questions from the Commission.

Mr. Haldeman inquired about how the proposed entrance road would merge with the adjacent property owner's entrance road.

Mr. Baruch clarified that based on comments from the Virginia Department of Transportation, it was determined that the adjacent property owner's drive would come off the larger entrance road for the Church.

Mr. Richardson opened the Public Hearing.

As no one wished to speak, Mr. Richardson closed the Public Hearing.

Mr. Richardson opened the floor for discussion by the Commission.

Mr. Polster stated that he appreciated the additional detail provided on this application in regard to the stormwater facility and the amount of impervious cover over the property.

Ms. Leverenz complimented the applicant and staff on the comprehensiveness of the application.

Mr. Haldeman made a motion to approve SUP-18-0024.

On a roll call vote the Commission voted to recommend approval of SUP-18-0024, Christ Community Church Multipurpose Building (7-0).

**G. PLANNING COMMISSION CONSIDERATIONS**

There were no items for consideration.

**H. PLANNING DIRECTOR'S REPORT**

1. Planning Director's Report - October 2018

Mr. Holt stated that he had nothing in addition to the report provided in the Agenda Packet.

**I. PLANNING COMMISSION DISCUSSION AND REQUESTS**

There were no requests or items for discussion.

**J. ADJOURNMENT**

Mr. Krapf made a motion to adjourn.

The meeting was adjourned at approximately 6:30 p.m.



Heath Richardson, Chair



Paul D. Holt, III, Secretary