

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg, VA 23185
November 6, 2019
6:00 PM

A. CALL TO ORDER

Mr. Haldeman called the meeting to order at 6:00 p.m.

B. ROLL CALL

Planning Commissioners Present:

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

Planning Commissioners Absent:

Odessa Dowdy

Staff Present:

Paul Holt, Director of Community Development and Planning
Max Hlavin, Deputy County Attorney
Scott Whyte, Senior Landscape Planner II
José Ribeiro, Senior Planner II
Thomas Wysong, Senior Planner II

C. PUBLIC COMMENT

Mr. Haldeman opened Public Comment.

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

D. REPORTS OF THE COMMISSION

Mr. Frank Polster stated that the Development Review Committee (DRC) met on 23 October 2019 to consider two cases.

Mr. Polster stated that the Committee considered C-19-0082. 6623 Richmond Road Master Plan Consistency Determination for 12,200 square feet of non-retail uses at a location previously identified on the Master Plan as "Retail/Office." Mr. Polster stated that the Committee was comfortable with the proposed additions to the Master Plan and found the proposal consistent with the adopted master plan and recommended approval to the Planning Commission with a vote of 3-0 for approval.

Mr. Polster stated that the Committee also considered C-19-0073. 2822 Forge Road shared driveway exception request for a proposed three-lot subdivision on one parcel located north of Forge Road.

Mr. Polster noted that Section 19-73 of the Subdivision Ordinance states that a shared driveway shall be required for any subdivision with three or more undeveloped lots. Mr. Polster further stated that the Comprehensive Plan encourages the preservation of the natural, wooded, and rural character of the County by various measures, including “minimizing the number of street and driveway intersections along the main road by providing common driveways and interconnection of developments.”

Mr. Polster stated that there are three required exceptions criteria under Section 19-18 that the staff analysis determined that the applicant failed to meet them.

Mr. Polster stated that the applicant, the Committee, and staff discussed various scenarios. Mr. Polster stated that the DRC voted to recommend denial of the exception request to the Planning Commission.

Mr. Polster stated that after the vote, there was an open discussion between the applicant and staff about an alternate proposal that was discussed with the staff but not provided to the DRC. Mr. Polster stated that the Committee voted to set aside the initial vote denying the exception under Section 19-18 and then voted 3-0 to recommend approval to the Planning Commission the exception request under Section 19-18 specifying one shared driveway for Lots 2 and 1 and one driveway for Lot 3.

Ms. Julia Leverenz stated that the Policy Committee did not meet in October.

E. CONSENT AGENDA

1. Minutes of the October 2, 2019 Regular Meeting
2. Development Review Committee Action Item: C-19-0073. 2822 Forge Road
3. Development Review Committee Action Item: C-19-0082. 6623 Richmond Road Master Plan Consistency Determination

Mr. Polster made a motion to approve the Consent Agenda.

On a voice vote, the Commission voted to approve the Consent Agenda. (6-0)

F. PUBLIC HEARINGS

1. SUP-19-0019. 530 Neck O Land Road Tourist Home

A motion to Deny was made by Julia Leverenz, the motion result was Passed.

AYES: 6 NAYS: 0 ABSTAIN: 0 ABSENT: 1

Ayes: Dowdy, Haldeman, Krapf, Leverenz, O'Connor, Polster

Absent: Schmidt

Absent: Schmidt

Mr. Scott Whyte, Senior Landscape Planner II, stated that Mrs. Emily Huffman has applied for a Special Use Permit (SUP) to allow for the operation of two additional dwellings as Tourist Homes, providing a total of four Tourist Home units. Mr. Whyte stated that the property is located at 530 Neck O Land road, is zoned R-8, Rural Residential, is designated Low Density Residential in the Comprehensive Plan, and is located inside the Primary Service

Area. Mr. Whyte stated that, if granted, this SUP would allow rentals throughout the year.

Mr. Whyte stated that staff considered the home's location, parking provisions, and appearance to be favorable factors in the evaluation of this application. Mr. Whyte further stated that the front dwelling has been operating as a residence and accessory apartment, and the back dwelling is a duplex which received a variance in 1985 to allow its construction. Mr. Whyte stated that ample parking is provided with a circular drive in the front and a parking area between the residence and the duplex. Mr. Whyte stated that staff is recommending conditions which are intended to mitigate the impacts of the use and preserve the residential character of the home. Mr. Whyte stated that such conditions include restrictions on commercial signage and lighting, and any future expansions of the use would require an SUP amendment.

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

Mr. Rich Krapf inquired about current rental units on the property.

Mr. Whyte stated that the front dwelling is currently being used as a main residence and has an accessory apartment which is rented. Mr. Whyte further stated that the duplex has two units which are currently rented long term.

Mr. O'Connor inquired about the purpose for granting a variance for the duplex.

Mr. Whyte noted that the variance was granted so that the duplex could be constructed.

Ms. Leverenz inquired if all units could be rented at the same time.

Mr. Whyte confirmed.

Mr. Haldeman inquired if there is a significance to the property being on a local road rather than a collector road.

Mr. Whyte stated that since the property has been operating as four units for long-term rental, staff did not believe there would be a significant impact to traffic.

Mr. Haldeman inquired if there were any concerns from adjacent property owners.

Mr. Whyte stated that there were no concerns noted.

Mr. O'Connor inquired about the requirement for a family member to live in an accessory apartment.

Mr. Holt stated that the requirement is for detached accessory apartments.

Mr. Haldeman called for disclosures from the Commission.

There were no disclosures.

Mr. Haldeman opened the Public Hearing.

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

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

Mr. Krapf noted that the application is unusual as this involves two structures on a single lot and is on a local road. Mr. Krapf noted that he has concerns about the density.

Mr. Holt stated that the dwellings are already in existence. Mr. Holt further stated that what is consistent across all the applications the Commission has reviewed is that it maintains the look and feel of residential units. Mr. Holt stated that even without the SUP for the Tourist Homes, the structures can still be occupied as long term rentals.

Mr. Schmidt noted that this is a good location from the tourism perspective.

Ms. Leverenz noted that she has concerns about taking three affordable units off the market.

Mr. O'Connor stated that as noted before, he believes that short-term rentals are not consistent with the goals of the Comprehensive Plan. Mr. O'Connor stated that he will not support the application.

Ms. Leverenz stated that she will not support the application as it sets a difficult precedent for future application.

Mr. Schmidt stated that it is important to note that there are many more short-term rentals in the County that are not operating with the necessary permits. Mr. Schmidt stated that he appreciated the applicants working through the SUP process and complying with the Zoning Ordinance.

Mr. Polster stated that there is a need for affordable auxiliary units and that he has concerns about removing these auxiliary units from long-term rental use.

Ms. Leverenz made a motion not to recommend approval of the application.

On a roll call vote, the Commission voted not to recommend approval of SUP-19-0019. 530 Neck O Land Road Tourist Home. (4-2)

2. Z-19-0014/MP-19-0016. The Promenade at John Tyler Highway Proffer and Master Plan Amendment

A motion to Approve was made by Frank Polster, the motion result was Passed.

AYES: 4 NAYS: 0 ABSTAIN: 1 ABSENT: 1

Ayes: Dowdy, Krapf, O'Connor, Polster

Abstain: Leverenz

Absent: Schmidt

Ms. Leverenz stated that she would not participate in this Public Hearing as she has a potential financial interest in the development. Ms. Leverenz left the dais.

Mr. José Ribeiro, Senior Planner II, stated that Mr. Jerry Bowman of Franciscus at Promenade, LLC, has submitted a request to amend the adopted Proffers and Master Plan for The Promenade at John Tyler Highway to allow for the construction of an additional ten-plex building on the site.

Mr. Ribeiro stated that The Promenade is a master planned community approved by the Board of Supervisors in December 2014. Mr. Ribeiro stated that the development consists of up to 204 residential units and approximately 48,000 square feet of commercial space. Mr.

Ribeiro stated that the entire master planned area is zoned Mixed Use, with proffers and designated Mixed Use by the 2015 Comprehensive Plan and located within the PSA.

Mr. Ribeiro stated that the proposed 204 residential units are distributed in the following types of structures:

- 11 ten-plex buildings (110 units)
- 40 duplex buildings (80 units); and
- 14 multifamily units, or the live-above units, associated with the mixed use buildings planned at the four outparcels adjacent to Route 199

Mr. Ribeiro stated that this amendment proposes revisions to the adopted Master Plan and Proffers for a portion of The Promenade, more specifically, the four outparcels adjacent to Route 199, to allow that in lieu of constructing the 14 live-above units as part of the Mixed Use buildings at the four outparcels, the applicant is proposing to build a ten-plex, all residential building, on the outparcel located at 5311 John Tyler Highway.

Mr. Ribeiro stated that staff recommends that the Commission recommend approval of the application and acceptance of the voluntary Proffers to the Board of Supervisors.

Mr. Haldeman called for disclosures from the Commission.

Mr. Krapf stated that he spoke with the applicant's representative.

Mr. Haldeman stated that he also spoke with the applicant's representative.

Mr. Polster stated that he spoke with the applicant's representative.

Mr. Haldeman opened the Public Hearing.

Mr. Vernon Geddy, Geddy Harris, Franck, & Hickman, 1177 Jamestown Road, made a presentation to the Commission.

Mr. Haldeman inquired how the commercial square footage will be adjusted.

Mr. Geddy stated that two of the buildings where commercial space had been proposed for the second floor will now be entirely commercial.

Ms. Betty Hatzidakis, 903 Promenade Lane, addressed the Commission with concerns about the application.

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

Mr. Krapf inquired if there were any public meetings for residents of The Promenade to better understand the changes.

Mr. Geddy stated that a meeting was held with residents of Winston Terrance; however, he was not certain about any meetings for the residents of The Promenade.

Mr. Krapf inquired if the wooded area would change if the ten-plex were not built.

Mr. Geddy stated that this area has always been planned for development; however, the existing buffers as shown on the Master Plan will not change.

Mr. Polster noted that he appreciates the amount of public parks included with this project.

Mr. Polster further noted that the 204 units are all affordable units. Mr. Polster stated that of these units, 32 are priced to be affordable for entry level teachers and public safety employees.

Mr. Schmidt inquired if there is potential to add additional parking to address the parking concerns.

Mr. Geddy stated that the applicant is agreeable to adding some additional parking spaces.

Mr. O'Connor stated that he appreciates the positive impact of the development on the Williamsburg Crossing Shopping Center. Mr. O'Connor further stated that having the office uses rather than retail within The Promenade is a better mix of uses.

Mr. Schmidt stated that he will also support the application.

Mr. Polster made a motion to recommend approval of the application.

On a roll call vote, the Commission voted to recommend approval of Z-19-0014/MP-19-0016. The Promenade at John Tyler Highway Proffer and Master Plan Amendment. (5-0-1) Ms. Leverenz abstaining.

3. Z-19-0012/SUP 19-0020. Forest Heights Rezoning & Independent Living Facility

Absent: Schmidt

Mr. Thomas Wysong, Senior Planner, stated that the County is proposing to rezone the Forest Heights area from MU, Mixed Use with proffers to R-3, Residential Redevelopment and R-3, Residential Redevelopment with proffers. Mr. Wysong stated that accompanying this request, Mr. Harbin is proposing 46 townhomes and a 50-unit independent living facility via an SUP on the property currently owned by the Salvation Army and located at 6015 Richmond Road. Mr. Wysong stated that Mr. Harbin has voluntarily submitted proffers to address the impacts associated with these 96 units.

Mr. Wysong stated that the Forest Heights area is designated Low density Residential (LDR) and Moderate Density Residential (MDR) by the adopted Comprehensive Plan, Toward 2035: Leading the Way. Mr. Wysong stated that this area is entirely within the PSA and the portion of the property abutting Richmond Road is designated as a Community Character Corridor.

Mr. Wysong stated that Mr. Harbin is proffering 100% of the housing units to be offered at affordable prices. Mr. Wysong stated that by proffering affordable housing and other options supported by the Comprehensive Plan, the applicant has achieved the density bonus points needed for this proposal.

Mr. Wysong stated that staff finds that the proposal will not negatively impact surrounding zoning and development and is consistent with the goals and strategies of the Comprehensive Plan. Mr. Wysong stated that staff recommends that the Commission recommend approval of the application to the Board of Supervisors.

Mr. O'Connor asked for clarification on the areas subject to rezoning.

Mr. Wysong stated that the rezoning is for the entire area shown on the Location Map.

Mr. O'Connor inquired if the five parcels to the north-west would be commercial or residential.

Mr. Wysong stated that future development on those parcels would need to be consistent with the Master Plan.

Mr. Polster inquired who owns the five parcels.

Mr. Holt stated that the parcels are privately and individually owned.

Ms. Leverenz inquired how it is feasible to achieve a rezoning now, when it was not possible previously. Mr. Holt stated that rather than being an applicant-driven process, the action is the subject of a Board of Supervisors action and directive.

Mr. Holt noted that if any of the property owners have concerns about the proposal, they would address those concerns through the Public Hearing Process.

Mr. Polster inquired if all property owners were notified.

Mr. Wysong confirmed.

Ms. Leverenz inquired if any comments were received.

Mr. Wysong stated that only the one comment had been received.

Mr. O'Connor inquired about the choice of the R-3 zoning.

Mr. Holt stated that R-3 is similar to the MU District with the only difference being the lack of commercial uses.

Mr. Haldeman called for disclosures from the Commission.

Mr. Krapf, Mr. Polster, and Mr. Haldeman each stated that he spoke with Mr. Harbin's representative.

Mr. Haldeman opened the Public Hearing.

Mr. Vernon Geddy, Geddy Harris, Franck, & Hickman, 1177 Jamestown Road, made a presentation to the Commission.

Mr. Polster inquired about price break-out for the rental or sale of the units for 30% to 60% and 61%-80% of Area Median Income (AMI).

Mr. Geddy stated that the 30%-60% AMI units would sell for approximately \$200,000.

Mr. Wysong stated that the 30%-60% AMI units should go from approximately \$93,000 to \$212,000 and the 61%-80% AMI units would go for \$219,000 to \$243,000.

Mr. Polster inquired about the rental piece.

Mr. Geddy stated that it is the Senior Living facility that will have rental units.

Mr. Holt noted that the County only calculates sales price, not rental price.

Mr. O'Connor inquired about the Proffer for LEAD certification.

Mr. Geddy stated that the Proffer is for a stormwater facility with LID techniques or building techniques which achieve LEAD certification.

Mr. O'Connor inquired about the Owner's Association.

Mr. Geddy stated that there is a separate association for the Townhomes and will be mandatory for owners of the Townhomes.

Mr. O'Connor inquired about which entity will be responsible for the stormwater.

Mr. Holt stated that it will depend on the engineering.

Mr. Steve Gohn, 4040 Coronation, addressed the Commission in support of the application. Mr. Jeremy Lind, 4524 Village Park Drive, East, addressed the Commission in support of the application.

Mr. Brian Maynor, 4079 Dunbarton Circle, addressed the Commission in support of the application.

Mr. Wayne Harbin, 4041 Coronation, addressed the Commission in support of the application.

Mr. Gary Moore, 158 Forest Heights Road, addressed the Commission with concerns about the application.

Ms. Geraline Moore, 153 Forest Heights Road, addressed the Commission with concerns about the application.

Mr. Allen Billups, 158 Forest Heights Road, addressed the Commission with concerns about the application.

Mr. Joe Avellar, 3005 East Whittaker Close, addressed the Commission in support of the application.

Mr. Doug Harbin, 202 Landon Road, addressed the Commission in support of the project.

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

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

Mr. O'Connor inquired about the discussion regarding a playground to be done with the original development. Mr. Holt stated that research would be needed. Mr. O'Connor stated that he has concerns about potential conflict over recreation facilities.

Mr. Polster noted concerns about the capacity of the road. Mr. Polster stated that, however, this project proposed a satisfactory entrance road which encourages better access to the new facilities rather than pushing traffic onto Forest Heights Road. Mr. Polster further stated that he hoped the Virginia Department of Transportation connection to the next lots would not be changed. Mr. Polster stated that this project provides a needed commodity with the affordable senior living facility. Mr. Polster suggested that he would like to see a bus shelter provided for the senior living facility at the pocket park. Mr. Polster recommended developing a landscaping plan and plan of use for the pocket park fronting on Richmond Road. Mr. Polster stated that he would support the application.

Mr. Krapf stated that he concurred with the need for the bus shelter and the landscaping plan for the pocket park. Mr. Krapf stated that he will support the application.

Mr. Schmidt stated that he will support the application.

Ms. Leverenz stated that while no application is perfect, she finds more benefits than negatives to this project. Ms. Leverenz stated that she will support the project.

Mr. Haldeman stated that he will support the project. Mr. Haldeman noted that the location is appropriate with access to shopping and to public transportation. Mr. Haldeman noted that he does have some concerns about the cost of housing for the units being offered at up to 120% AMI which is not truly affordable.

Mr. O'Connor stated that he feels strongly about providing a playground accessible to the Forest Heights community.

Mr. Polster made a motion to recommend approval of the application with a recommendation that staff develop a landscaping plan for the pocket park and that the applicant consider the feasibility of providing playground amenities for the Forest Heights neighborhood.

On a roll call vote, the Commission voted to recommend approval of Z-19-0012/SUP 19-0020. Forest Heights Rezoning and Independent Living Facility. (6-0)

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report November 2019

Mr. Holt stated that he did not have anything in addition to what was provided in the Agenda packet.

2. Engage 2045 Update

Mr. Wysong provided a presentation to the Commission on the Comprehensive Plan update process.

Mr. Wysong noted that state law requires that "at least once every five years the comprehensive plan shall be reviewed by the local Planning Commission to determine whether it is advisable to amend the plan." Mr. Wysong stated that in James City County, we have a tradition of not only reviewing the plan, but thoroughly examining, reviewing, and updating it. Mr. Wysong noted that over a five-year period, much can change: growth can affect our facility needs and services, opinions and priorities may evolve, and there may be new state laws and County policies to consider. Because of this, it is helpful to renew the conversation with the community and to ensure that our plan best reflects the community's needs, which brings us to Engage 2045.

Mr. Wysong stated that Engage 2045 is an important opportunity to shape the community's future and drive real action. Mr. Wysong stated that the Engage 2045 will proceed over the next two years from summer 2019 to summer 2021 in a series of phases that allow for multiple opportunities to check in, learn about the plan, and provide input as it is developed.

Mr. Wysong stated that the timeline shows the five project phases that proceed from "Laying

the Foundation” in the first phase through “Implementation” in the last phase. Mr. Wysong further stated that at the same time, there are four broad aspects to the community engagement process that track with the project phases. Mr. Wysong noted that staff is currently in the “Listening and Envisioning” part of community engagement - understanding vision and values of our citizens. Mr. Wysong stated that this is the citizens' opportunity to shape the community's future by sharing their vision to make James City County a great place in which to live, work and play, now and in 2045. The Commission commented on the presentation and the associated video and provided generally supportive comments on the process.

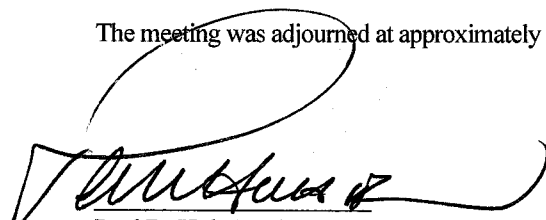
I. PLANNING COMMISSION DISCUSSION AND REQUESTS

There were no discussion items or requests.

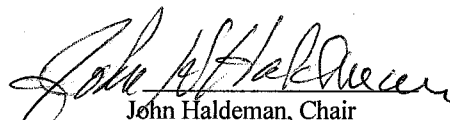
J. ADJOURNMENT

Mr. Polster made a motion to adjourn.

The meeting was adjourned at approximately 7:58 p.m.



Paul D. Holt, III, Secretary



John Haldeman, Chair