

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
July 1, 2020
6:00 PM

A. CALL TO ORDER

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

1. The meeting will be held electronically pursuant to the Continuity of Government Ordinance adopted by the Board of Supervisors on April 14, 2020 and will be aired live on the County's government public access channel, JCC TV 48, via Live Stream on the County website: <https://jamescitycountyva.gov/220/Live-Stream>, and via the County's YouTube channel: <https://www.youtube.com/user/jamescitycounty>. Citizen comments may be submitted via US Mail to the Planning Commission Secretary, PO Box 8784, Williamsburg, VA 23187, via electronic mail to community.development@jamescitycountyva.gov, or by leaving a message at 757-253-6750. Citizens may attend and participate in the electronic meeting via Zoom at <https://zoom.us/j/96036607381> or dial any of the following numbers for listen-only audio of the meeting: 929-205-6099, 312-626-6799, 301-715-8592, 346-248-7799, 669-900-6833, or 253-215-8782 using Webinar ID: 960 3660 7381. Any public comment received through the above means will be shared at the meeting. Citizens using the link above who would like to speak during public comment and any public hearing will also be able to speak during those times.
2. Zoom Meeting Instructions

B. ROLL CALL

Planning Commissioners Present:

Jack Haldeman
Rich Krapf
Tim O'Connor
Frank Polster
Julia Leverenz
Rob Rose
Barbara Null

Staff Present:

Paul Holt, Director of Community Development and Planning
Max Hlavin, Deputy County Attorney
Terry Costello, Deputy Zoning Administrator
Brett Meadows, Planner

1. Virtual Meeting Resolution

A motion to Approve was made by Jack Haldeman, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Leverenz, Null, O'Connor, Polster, Rose

Mr. Krapf provided a summary of the resolution allowing the Planning Commission to hold the virtual meeting.

Mr. Jack Haldeman made a motion to approve the resolution.

On a roll call vote, the Commission voted to approve the resolution. (7-0)

C. PUBLIC COMMENT

Mr. Krapf opened Public Comment.

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

D. REPORTS OF THE COMMISSION

Mr. Haldeman stated that the Development Review Committee (DRC) met on June 17, 2020. Mr. Haldeman further stated that the meeting was held electronically, pursuant to the Board of Supervisors Continuity of Government Ordinance.

Mr. Haldeman stated that the Committee reviewed SP-20-0015. Virginia Health Services, Colonial Heritage. Mr. Haldeman noted that there were concerns over the roof pitch on the single-story sections which is not consistent with the design guidelines. Mr. Haldeman noted that the steeper pitch serves to hide rooftop equipment. Mr. Haldeman stated that the Committee found the pitch of the roof to be acceptable since it served to improve the appearance of the buildings.

Mr. Haldeman stated that the Committee requested that the applicant and staff work to add windows or other architectural treatments to some of the vertical towers.

Mr. Haldeman stated that the DRC voted unanimously to recommend preliminary approval of the Site Plan subject to addressing all outstanding agency comments and receiving final approval one year from the date of issuance and approval of the elevations with adjustments.

Mr. Haldeman stated that the DRC also reviewed C-20-0054. 164 & 168 Bush Springs Rd - Overhead Utility Waiver. Mr. Haldeman stated that PW Development was seeking a waiver from Section 24-200(c) of the Zoning Ordinance which requires new utility connections to be placed underground. Mr. Haldeman stated that the applicant has requested the easement because they were unable to acquire a necessary easement on the adjacent property. Mr. Haldeman stated that the Committee found the plans for the overhead utility line acceptable and voted unanimously to recommend approval of the waiver.

Mr. Krapf inquired if there were any question or discussion from the Commission.

Mr. Haldeman stated that a thought just occurred to him about whether Dominion Energy (Dominion) could use eminent domain to acquire the easement.

Mr. Krapf stated that he thought that the DRC had touched on the possibility of eminent domain. Mr. Krapf stated that for a line to cross over the adjacent property, it would be necessary to have the adjacent property owner's permission.

Ms. Leverenz stated that her recollection was that the applicant had obtained an agreement for the overhead line; however, the adjacent property owner was unwilling to agree to the underground line.

Mr. Haldeman stated that he wanted to understand whether Dominion could obtain the underground easement by eminent domain.

Mr. Frank Polster suggested pulling the items from the Consent Agenda for further discussion.

Mr. Polster stated that the Policy Committee did not meet in June, therefore, there is nothing to report.

E. CONSENT AGENDA

1. Minutes of the June 3, 2020 Regular Meeting
2. Development Review Committee Action Item: C-20-0054. 164 & 168 Bush Springs Rd - Overhead Utility Waiver
3. Development Review Committee Action Item: SP-20-0015. Virginia Health Services, Colonial Heritage

Mr. Polster stated that he would like to pull both C-20-0054 and SP-20-0015 for discussion.

Ms. Leverenz made a motion to approve the Minutes of the June 3, 2020 Regular Meeting.

On a voice vote, the Commission voted to approve the Minutes of the June 3, 2020 Regular Meeting. (7-0)

Mr. Krapf stated that DRC Action Item: C-20-0054. 164 & 168 Bush Springs Rd - Overhead Utility Waiver has been pulled for discussion.

Mr. Polster requested that Mr. Hlavin address the question of whether Dominion has any standing to exercise eminent domain.

Mr. Max Hlavin, Deputy County Attorney, stated that Dominion does have the power of eminent domain, but only when the land is needed for public use. Mr. Hlavin stated that eminent domain would not apply in this situation.

Mr. Haldeman made a motion to approve the DRC action item.

On a voice vote, the Commission voted to approve C-20-0054. 164 & 168 Bush Springs Rd - Overhead Utility Waiver. (7-0)

Mr. Krapf stated that the next item pulled for discussion is DRC Action Item: SP-20-0015. Virginia Health Services, Colonial Heritage.

Mr. Polster stated that he would defer to Ms. Barbara Null regarding a question she posed to Mr. Holt.

Ms. Barbara Null stated that residents of Colonial Heritage have posed questions about the timing to close off Magnolia Lane at Colonial Heritage Boulevard, and why it is necessary for the project to have construction access to Colonial Heritage Boulevard.

Mr. Holt stated that he did not have those answers at this time, but would follow up with the development team and provide the information as soon as possible.

Mr. Krapf stated that the questions seemed to be administrative and would not preclude a

vote on the item.

Mr. Haldeman made a motion to approve the DRC action item.

On a voice vote the Commission voted to approve DRC Action Item: SP-20-0015. Virginia Health Services, Colonial Heritage. (7-0)

F. PUBLIC HEARINGS

1. SUP-20-0009. 3303 Rochambeau Drive Tourist Home

A motion to Approve was made by Jack Haldeman, the motion result was Passed.

AYES: 4 NAYS: 3 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Null, Rose

Nays: Leverenz, O'Connor, Polster

Mr. Brett Meadows, Planner, stated that Ms. Ivy Brothers has applied for a Special Use Permit (SUP) to allow for the short-term rental of an entire four-bedroom home as a tourist home at 3303 Rochambeau Drive. Mr. Meadows stated that the property is zoned A-1, General Agriculture, is designated Low Density Residential on the Comprehensive Plan Land Use Map, and is located inside the Primary Service Area (PSA).

Mr. Meadows stated that Ms. Brothers is the property owner and will live off-site during guest stays and live on-site between guests. Mr. Meadows stated that short-term rental tenants will use an existing parking area located on the property. Mr. Meadows further stated that no changes to the home's footprint are proposed. Mr. Meadows stated that staff considered the home's residential character, location along a major collector road, parking provisions, and screening all to be favorable factors in the evaluation of this application.

Mr. Meadows 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. Meadows stated that such conditions include limitations on the number of rooms rented and total number of rental occupants per stay.

Mr. Meadows stated that staff finds the proposal to be compatible with the Comprehensive Plan, Zoning Ordinance, and surrounding development, and recommends that the Planning Commission recommend approval of this application, subject to the proposed conditions. Mr. Krapf called for disclosures from the Commission. There were no disclosures. Mr. Krapf opened the Public Hearing.

Ms. Ivy Brothers, 3303 Rochambeau Drive, Applicant, stated that she believes the use of the property as a short-term rental will be a benefit to the Toano area. Ms. Brothers thanked the Commission for reviewing the application.

As no one else wished to speak, Mr. Krapf closed the Public hearing.

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

Mr. Krapf stated that he did drive by the site and that this appears to be exactly the type of location that lends itself to this type of use. Mr. Krapf stated that he intends to support the application.

Ms. Leverenz inquired if the adjacent property owners had been notified of the application.

Ms. Leverenz further inquired if there had been any comments from the neighbors.

Mr. Krapf stated that he did see the public hearing sign on the property.

Mr. Holt verified that the required adjacent property owner notifications had been sent.

Mr. Meadows stated that he did not receive any comments.

Ms. Leverenz stated that she has ongoing concerns about approving a Tourist Home SUP because the SUP runs with the land in perpetuity. Ms. Leverenz further stated that one of the Comprehensive Plan Update action items is to evaluate whether there should be a sunset clause on these SUPs.

Mr. Polster stated that he shares the concern on this application in particular. Mr. Polster further stated that the 2045 modeling indicates that this area will be developed and without a sunset clause, the Tourist Home will end up in the middle of numerous subdivisions. Mr. Polster stated that he strenuously objects to the SUP being granted in perpetuity. Mr. Polster further stated that if there were a possibility of adding a clause that the SUP be valid for the period of ownership, he would support the application; however, without the sunset clause, he would not support the application.

Mr. Krapf stated that he feels constrained by existing Ordinances which do not permit imposing a sunset clause on an SUP. Mr. Krapf stated that it is disingenuous to allow an applicant to move through the SUP process under the current guidelines and have the application denied because the Commission does not feel that the Ordinance has sufficient restrictions. Mr. Krapf further stated that he would favor a sunset clause, but believes he must vote on the application based on the existing guidelines. Mr. Krapf noted that when he represented the Commission at the Board of Supervisors meeting in June, he stressed to the Board that this was a sticking point with the Planning Commission when reviewing short-term rental SUP applications.

Mr. Tim O'Connor stated that he recognizes that current code language does not allow the County to impose a sunset clause on SUP applications. Mr. O'Connor further stated that this application meets many of the established criteria for short-term rentals; however, he remains concerned about the effect of short-term rentals on the number of homes that are not owner occupied*, stock of affordable housing, and the hotel industry. Mr. O'Connor stated that he does not intend to support the application.

* Ms. Brothers sent a message to the Commission via the chat function that she intends to reside in the home and is currently living there.

Mr. Rob Rose stated that the Commission voices similar concerns each time a short-term rental application is discussed. Mr. Rose stated that although he understands the concerns, he feels obligated to evaluate the application with the existing criteria. Mr. Rose stated that he feels that this application meets many of the current requirements.

Ms. Null stated that her understanding that if an application meets all the criteria, the Commission has no choice but to approve it.

Mr. O'Connor stated that he uses the Comprehensive Plan as a guiding document for review of applications. Mr. O'Connor further stated that short-term rentals are not consistent with the Comprehensive Plan Goals of creating jobs with benefits, and supporting the hospitality industry. Mr. O'Connor stated that he believes that short-term rentals must be addressed in the Comprehensive Plan.

Mr. Krapf noted that one could argue that short-term rentals meet the goal of supporting the tourism industry by providing a more affordable option for out of area families. Mr. Krapf further stated that this is a difficult decision point for both the Commission and the Board. Mr. Krapf stated that the issue needs to be addressed in the Comprehensive Plan Update so that there is a level playing field for every applicant.

Mr. Polster stated that when you look at the four items listed in the staff report as supporting the Comprehensive Plan, Tourist Homes are not referenced; they apply to residential areas and character. Mr. Polster further stated that the Comprehensive Plan serves as guidance for the future, so if the decision is made to approve the application, it is saying that it is appropriate for this use to exist in perpetuity in an area that will ultimately surround it with small subdivisions. Mr. Polster stated that this is why he is not supporting the application.

Mr. Haldeman stated that he finds validity in each of the arguments. Mr. Haldeman stated, however, that he does not find this property to meet the criteria set forth for affordable housing. Mr. Haldeman stated that, in response to the concern that the short-term rental will end up in the middle of multiple housing developments, the 2045 Comprehensive Plan review will also update the Land Use Map which may provide different guidance regarding the use of the land. Mr. Haldeman stated that there is no question that the concerns need to be addressed; however, this particular case meets all of the current criteria. Mr. Haldeman stated that he will support the application.

Mr. O'Connor noted that from his observations, many people in that area walk, ride bikes, or ride scooters to work and that the proximity of the home to the Stonehouse Commerce Park does meet that part of the affordable housing criteria.

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

On a roll call vote, the Commission voted to recommend approval of SUP-20-0009. 3303 Rochambeau Drive Tourist Home. (4-3)

2. ORD-19-0010. Zoning Ordinance Amendments to Address the Keeping of Bees in Residential Neighborhoods

A motion to Approve was made by Jack Haldeman, the motion result was Passed.

AYES: 7 NAYS: 0 ABSTAIN: 0 ABSENT: 0

Ayes: Haldeman, Krapf, Leverenz, Null, O'Connor, Polster, Rose

Mr. Krapf stated that Mr. Michael Garvin, president of the local beekeepers association, was also in attendance.

Ms. Terry Costello, Deputy Zoning Administrator, stated that at its October 8, 2019 meeting, the Board of Supervisors adopted an Initiating Resolution to address beekeeping in residential and agricultural districts. Ms. Costello stated that the keeping of bees is already currently permitted in agricultural districts under the General Agricultural use. Ms. Costello stated that staff proceeded with researching beekeeping as a use in residential districts.

Ms. Costello staff conducted research on how other localities handle the keeping of bees in residential areas. Ms. Costello stated that in general, all localities surveyed allowed beekeeping as accessory to residential uses. Ms. Costello stated that some localities do not address beekeeping in their Ordinances and due to the inclusive nature of their Ordinances, this allows the use to occur.

Ms. Costello stated that at this meeting, the Policy Committee directed staff to develop performance standards based on the Best Management Practices of the State of Virginia and regulations in Albemarle County's Zoning Ordinance.

Ms. Costello stated that during the discussion at the March 12, 2020 meeting, the Policy Committee also discussed beekeeping in commercial districts; however, after consulting with the County Attorney's office, the Initiating Resolution directed staff to review beekeeping in residential and agricultural districts only. Ms. Costello stated that in order to add commercial districts to the discussion it would be necessary to amend the Initiating Resolution. Ms. Costello stated that the Mixed Use District has the potential to be both residential and commercial and was not included in this analysis. Ms. Costello stated that the Policy Committee voted to recommended approval of the Ordinance to the Planning Commission.

Ms. Costello stated that staff recommends that the Planning Commission recommend approval of the attached Ordinance to the Board of Supervisors. Ms. Costello stated that staff also recommends that the Planning Commission make a recommendation to the Board of Supervisors to review beekeeping as a use in Commercial Districts.

Mr. Krapf opened the Public Hearing.

Mr. Michael Garvin, President of The Williamsburg Area Beekeepers Association, addressed the Commission in support of the Ordinance Amendments.

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

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

Mr. Haldeman stated that he hoped there would be a recommendation to the Board of Supervisors to initiate consideration of beekeeping in all zoning districts.

Mr. Haldeman made a motion to recommend approval of the Ordinance amendment and to recommend that the Board of Supervisors initiate consideration of beekeeping in commercially zoned areas.

Ms. Leverenz inquired if the Board has the authority to extend beekeeping to all zoning districts without further review.

Mr. Holt stated that it was not part of the advertised Public Hearing.

Mr. Polster stated that he also supports beekeeping in commercially zoned areas. Mr. Polster noted that this is already allowed in the City of Williamsburg and that many urban areas use have beehives on the roofs of businesses. Mr. Polster further noted that Policy Committee discussion brought forward that beekeeping is already allowed on parcels zoned Public Lands.

On a roll call vote the Commission voted to recommend approval of ORD-19-0010. Zoning Ordinance Amendments to Address the Keeping of Bees in Residential Neighborhoods and to recommend that the Board of Supervisors initiate consideration of beekeeping in commercially zoned areas. (7-0)

G. PLANNING COMMISSION CONSIDERATIONS

Mr. Krapf stated that the Commission would need to consider two items.

1. A motion to amend the Agenda to consider amending the Planning Commission

Calendar to add the Planning Commission Working Group (PCWG) meeting on July 13, 2020.

2. A motion to approve amending the Planning Commission Calendar to add the PCWG meeting on July 13, 2020.

Mr. Haldeman made a motion to amend the Agenda.

On a voice vote the Committee voted to amend the Agenda to consider amending the Planning Commission Calendar to add the PCWG meeting on July 13, 2020. (7-0)

Ms. Null made a motion to approve amending the Planning Commission Calendar.

On a voice vote, the Commission voted to amend the Planning Commission Calendar to add the PCWG meeting on July 13, 2020 at 4:00 p.m. (7-0)

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - July 2020

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

Mr. Polster noted that the Board of Supervisors has delegated review of short-term rental regulations to the Planning Commission during the Comprehensive Plan Review. Mr. Polster inquired how that would be handled.

Mr. Holt stated that the Board may provide guidance on next steps at its meeting on July 14, 2020. Mr. Holt stated that the Board would have up to a year to act on any application.

Mr. Holt stated that staff and the County Attorney are looking at the timeline and coordinating with the Comprehensive Plan Review Team to determine when those discussions will take place. Mr. Holt stated that the discussions will likely take place in the late summer or early fall. Mr. Holt noted that the Planning Office would be very transparent with applicants about the potential for changes to the review criteria and the impact on applications.

Mr. Polster inquired if the Commission and Board of Supervisors might meet to openly discuss ideas for the amendments.

Mr. Holt stated that there would be one or more joint work sessions with the Board. Mr. Holt further stated that this issue would likely move forward in advance of the full Comprehensive Plan adoption in July 2021.

Mr. Polster stated that he hoped the Comprehensive Plan would specify what standards apply to short-term rentals, what standards apply to rental properties, and what standards apply to residential properties.

Mr. O'Connor stated that he would ask the Board of Supervisors not to delay hearing short-term rental SUP applications. Mr. O'Connor stated that the County has a current adopted Comprehensive Plan and adopted Ordinances. Mr. O'Connor stated that the County should not deny someone the opportunity to apply for an SUP and have the case heard in a timely manner.

Ms. Leverenz stated that unless the Board delays review of further short-term rental SUPs,

she is concerned about the potential for an influx of SUP applications once it is known that the Board will be revising the criteria.

Mr. Krapf inquired if applications would be reviewed under the criteria in effect when they were submitted, or when they are reviewed by the Board.

Mr. Holt stated that by making its intentions known, the Board would hope to avoid some of that disconnect.

Mr. Haldeman inquired about how many land use applications have been received.

Mr. Holt stated that there were three applications submitted from property owners and a couple internal housekeeping changes that staff is developing.

Mr. Haldeman inquired what goes into the internal revisions.

Mr. Holt stated that it is similar to the review process of a rezoning.

Mr. Haldeman inquired about the criteria for a land use change.

Mr. Holt stated that the criteria are, again, similar to a rezoning; however, it is more conceptual in nature and is setting the course for a future rezoning with a more detailed application.

Mr. Haldeman inquired if the input from the Community Participation Team would be considered in reviewing the Land Use applications.

Mr. Holt stated that the input would be used to inform the analysis.

Mr. Haldeman inquired if the property owners were made aware of the potential changes to the Land Use Designation.

Mr. Holt stated that the public applications were submitted by the property owners and that any other affected property owners would be notified once the applications were selected to move forward.


I. PLANNING COMMISSION DISCUSSION AND REQUESTS

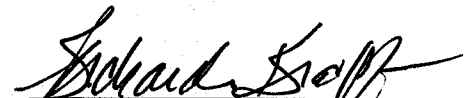
Mr. Krapf stated that Ms. Null would be the representative to the Board of Supervisors meeting in July.

J. ADJOURNMENT

Ms. Null made a motion to adjourn the meeting to the PCWG meeting on July 13, 2020, at 4:00 p.m.

The meeting was adjourned at approximately 7:13 p.m.


Paul D. Holt, III, Secretary


Rich Krapf, Chair