

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
County Government Center Board Room
101 Mounts Bay Road, Williamsburg VA 23185
April 6, 2022
6:00 PM

A. CALL TO ORDER

Mr. O'Connor called the meeting to order at 6:00 p.m.

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor
Rich Krapf
Jack Haldeman
Frank Polster
Barbara Null
Rob Rose
Stephen Rodgers

Staff Present:

Paul Holt, Director of Community Development and Planning
Liz Parman, Deputy County Attorney
John Risinger, Planner

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

Ms. Sharon Dennis, 100 St. George's Boulevard, addressed the Commission regarding residential and commercial development in the Historic Triangle.

As no one else wished to speak, Mr. O'Connor closed Public Comment.

D. REPORTS OF THE COMMISSION

Ms. Barbara Null stated that the Development Review Committee (DRC) met on March 3, 2022 to consider several cases.

Ms. Null stated that the DRC considered SP-19-0001. Powhatan Terrace. Ms. Null stated that the item was placed on the Agenda with a request to allow the installation of utilities, entrance features, and signs within the 150-foot buffer along the property's frontage with Jamestown Road. Ms. Null stated that the Committee had no questions for staff and the applicant and voted to recommend approval of the proposed features within the 150-foot buffer with a vote of 3-0.

Ms. Null stated that the Committee also reviewed C-22-0021.3341 Chickahominy Road Overhead Utility. Ms. Null stated that the Zoning Ordinance requires all new utility connections to be placed underground. Ms. Null further stated that the applicant was requesting a waiver of this requirement. Ms. Null noted that there were no questions for staff and that the applicant

was not present. Ms. Null stated that the DRC recommended approval of the waiver request by a vote of 3-0.

Ms. Null stated that the Committee considered SP-20-0037. Smith Memorial Baptist Church Parking Expansion. Ms. Null stated that the proposal is to add 78 parking spaces to the current 156 spaces on-site for a total of 234 parking spaces. Ms. Null noted that the Planning Director denied the parking waiver based on non-compliance with the Community Character Corridor (CCC) buffer requirement for a 50-foot buffer. Ms. Null stated that the applicant, Mr. Graham Corson, AES Consulting Engineers, made a presentation outlining the scope of the project and stated that the current standard of one parking space accommodating five people was out of date. Ms. Null stated that the applicant stated that their research included comparable churches indicated that one parking space was needed for 1.5 people. Ms. Null stated that the Smith Memorial Baptist Church currently has agreements with adjacent property owners for overflow parking. Ms. Null further stated that Smith Memorial Baptist Church has two services on Sunday with 300 parishioners in attendance at each service. Ms. Null stated that this is a growing church and wants to build the additional parking space so that, if in the future they are denied the ability to use the overflow parking in adjacent properties, they can accommodate parishioner parking. Ms. Null stated that if the 50-foot buffer requirement is not waived, the church would lose 18 parking spaces. Ms. Null stated that the applicant, hearing the concerns expressed by the Committee on not waiving the 50-foot buffer requirement, proposed three alternatives that would add a reduced buffer. Ms. Null stated that discussion centered on option three with a 25-foot buffer and the loss of six parking spaces. Ms. Null stated that Mr. Josh Crump, Principal Planner, requested a deferral, stating that staff had not had a chance to evaluate and discuss the proposals with the applicant. Ms. Null stated that the DRC agreed to the deferral.

Mr. Frank Polster stated that there was no report from the Policy Committee.

E. CONSENT AGENDA

Mr. Jack Haldeman made a motion to approve the Consent Agenda. On a voice vote, the Commission approved the Consent Agenda. (7-0)

1. Minutes of the March 2, 2022 Regular Meeting
2. Minutes of the March 14, 2022 Regular Meeting
3. Development Review Committee Action Item: SP-19-0001. Powhatan Terrace
4. Development Review Committee Action Item: C-22-0021. 3341 Chickahominy Road Overhead Utility Waiver
5. SPLN-21-0001. Stonehouse Land Bay 5

F. PUBLIC HEARINGS

1. SUP-22-0001. 3 Marclay Road Tourist Home

A motion to Approve was made by Rich Krapf, the motion result was Passed.

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

Ayes: Haldeman, Krapf, Null, O'Connor, Rodgers, Rose

Nays: Polster

Mr. John Risinger, Planner, stated that Ms. Kenya DeValle has applied for a Special Use

Permit (SUP) to permit the short-term rental of a four-bedroom single-family home at 3 Marclay Road. Mr. Risinger stated that the property is zoned R-8, Rural Residential, is designated Airport on the Comprehensive Plan Land Use Map, and is located inside the Primary Service Area (PSA). Mr. Risinger stated that the property is served by public sewer and a private well. Mr. Risinger stated that if granted, this SUP would allow for short-term rentals throughout the year. Mr. Risinger noted that no changes to the footprint of the home are proposed.

Mr. Risinger stated that staff finds some favorable factors for this application, such as the presence of adequate off-street parking and that the applicant will obtain the proper licensing and inspections.

Mr. Risinger further stated that staff finds the proposed use would not negatively impact surrounding property or development nor is it expected to negatively impact Levels of Service for roads and other public services.

Mr. Risinger stated that while staff believes the location can be considered uniquely and complimentary to the Airport Comprehensive Plan designation, staff finds that the proposal is not fully consistent with the adopted 2045 Comprehensive Plan recommendations for short-term rentals. Mr. Risinger stated that staff is unable to recommend approval of this application.

Mr. Risinger noted that should the Planning Commission recommend approval of this application, staff has included proposed conditions for consideration.

Mr. Steve Rodgers inquired about the phrase "uniquely and complimentary to."

Mr. Risinger stated that the primary use for the property would be aviation and secondary uses would include airport-related commercial and office development. Mr. Risinger stated that the short-term rental could be considered complimentary to the airport use for patrons of the airport.

Mr. Rodgers noted that he was also curious about the use of the word unique.

Mr. Risinger stated that the recommendations for short-term rentals allow consideration of unique situations or locations such as this property.

Mr. Holt noted that this designation is unique since it is only these few parcels in the entire County with the airport designation.

Mr. O'Connor opened the Public Hearing. Ms. Kenya DeValle, 4001 Cedarwood Lane, applicant, provided the Commission with an overview of the proposal and requested that the Commission support the application.

Mr. Rodgers inquired if Ms. DeValle is the property owner.

Ms. DeValle stated that Mr. Larry Waltrip owns the property. Ms. DeValle noted that Mr. Waltrip's representative was present.

Ms. Null noted that the narrative stated the property would be managed; however, no one would be on-site. Ms. Null inquired if there is a contract in place with a property management company.

Ms. DeValle stated that there is an option for someone to live in the home should the SUP be approved.

Ms. Emily Martel, 2886 Lake Powell Road, addressed the Commission in support of the application.

Mr. Vernon Geddy, III, Geddy, Harris, Franck and Hickman, LLP, 1177 Jamestown Road, addressed the Commission on behalf of the property owner to support the application.

Mr. Rodgers inquired if the intent is for someone to reside on the property.

Ms. DelValle stated that should the SUP be approved, there could be someone residing on the property as required.

Mr. Rodgers inquired if anyone currently resides in the home.

Ms. DelValle stated that the home is currently unoccupied.

Mr. Rodgers inquired if the applicant would provide a live-in caretaker.

Ms. DelValle confirmed.

Ms. Sharon Dennis, 100 St. George's Boulevard, addressed the Commission in support of the application.

As no one else wished to speak, Mr. O'Connor closed the Public Hearing.

Mr. O'Connor opened the floor for discussion by the Commission.

Mr. Rich Krapf stated that this particular application would not create any intrusion in a residential area. Mr. Krapf further stated that the performance standards for short-term rentals are designed to provide safeguards residential neighborhoods. Mr. Krapf noted that the Comprehensive Plan standards are more stringent than the Zoning Ordinance requirements. Mr. Krapf stated that since this is not a residential area, he is inclined to find that this is a unique application and recommend approval. Mr. Krapf further stated that it appears that the applicant is also willing to arrange for a live-in caretaker, thus meeting the performance standards. Mr. Krapf stated that he is willing to support the application.

Mr. Polster inquired if there is a method to enforce having a caretaker reside in the dwelling.

Ms. Liz Parman, Deputy County Attorney, stated that if it is not in the Zoning Ordinance, it would probably not be enforceable. Ms. Parman further stated that an SUP condition might or might not be enforceable.

Mr. Holt stated that, should the Commission so desire, staff could work with the County Attorney's office to develop appropriate language for an SUP condition prior to the matter being heard by the Board of Supervisors.

Mr. Polster stated that his concern with short-term rental SUPs is that the SUP runs with the land in perpetuity and without enforceable conditions, there is no opportunity to ensure adherence to the Comprehensive Plan performance standards. Mr. Polster further stated that the neighboring short-term rental property has an owner living on-site. Mr. Polster stated that the issue has been covered at length during the Comprehensive Plan review under a charge from the Board of Supervisors to develop standards that were ultimately adopted. Mr. Polster stated that he does not want to set aside those adopted standards at random. Mr. Polster stated that he is not inclined to support the application.

Dr. Rose stated that he has fewer concerns about whether an owner lives on-site or not

because he believes Mr. Waltrip would continue to be a good steward of the property. Dr. Rose stated that his concerns relate to what happens should the property be sold. Dr. Rose noted that many properties are being acquired for short-term rental and even AirBnB is buying properties in local communities. Dr. Rose noted that it appears there is no mechanism for tying the SUP to the current owner of the property. Mr. Krapf asked for clarification on whether a condition requiring the owner to live on-site would be enforceable. Ms. Parman stated that there might be some question of enforceability.

Ms. Parman further stated that the Commission is welcome to have the appropriate language drafted and recommend that the Board of Supervisors include it as an SUP condition.

Mr. O'Connor inquired if the wording could be "or the owner's agent" since in this case the property will be managed. Mr. O'Connor stated that given the location and that it is part of the airport, it seems as though this would be accessory to the airport. Mr. O'Connor noted that there are no hotels close by and that it would benefit users of the airport. Mr. O'Connor stated that he would be inclined to support the application.

Mr. Haldeman stated that he is comfortable with an application because this is a unique situation. Mr. Haldeman further stated that when the property is within an established neighborhood, he has been more inclined to recommend denial since the use has the potential to disrupt the community. Mr. Haldeman noted that this property is not in a residential area and is suited to the commercial nature of the airport. Mr. Haldeman stated that he is inclined to support the application.

Mr. Krapf clarified that he will not be recommending the addition of a condition to specify that a property owner or caretaker must reside on the property.

Mr. Krapf made a motion to recommend approval of the application with the conditions proposed by staff.

On a roll call vote, the Commission voted to recommend approval of SUP-22-0001. 3 Marclay Road Tourist Home. (6-1)

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - April 2022

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

Mr. Krapf thanked Mr. Holt for making the linked list of development cases available to the public on the Planning Commission web page. Mr. Krapf noted that he has received positive feedback from citizens.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

Mr. Polster noted that it would be helpful to ensure that Ms. Sue Sadler, Stonehouse Representative for the Board of Supervisors, is aware of the potential for installation of a traffic signal that will mitigate potential issues with Stonehouse traffic, as well as with Hazelwood Farms Enterprise Center and Village Center.

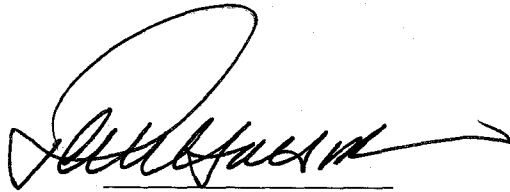
Mr. O'Connor noted that he has concerns that the Virginia Department of Transportation is not always held to the same standards for erosion and sediment control that developers must meet. Mr. O'Connor noted that the County is investing in protecting and improving the watersheds and he is concerned that lack of care on road projects is negating those efforts. Mr. O'Connor stated that he hoped the Board of Supervisors would include these considerations in legislative updates.

Mr. Polster concurred with Mr. O'Connor's concerns. Mr. O'Connor noted that Mr. Haldeman has the Board of Supervisors coverage in April.

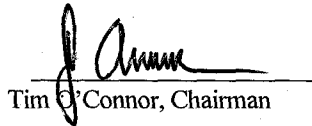
J. ADJOURNMENT

Ms. Null made a motion to adjourn.

The meeting was adjourned at approximately 6:46 p.m.



Paul D. Holt, III, Secretary



Tim O'Connor, Chairman