

MINUTES
JAMES CITY COUNTY PLANNING COMMISSION
REGULAR MEETING
COUNTY GOVERNMENT CENTER BOARD ROOM
101 MOUNTS BAY ROAD, WILLIAMSBURG, VA 23185

October 2, 2024

6:00 PM

A. CALL TO ORDER

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

B. ROLL CALL

Planning Commissioners Present:

Tim O'Connor
Jack Haldeman
Frank Polster
Stephen Rodgers
Jay Everson

Planning Commissioners Absent:

Scott Maye
Kira Allmann

Staff Present:

Susan Istenes, Director of Planning
Liz Parman, Deputy County Attorney
Terry Costello, Senior Planner
Morgan Risinger, Senior Planner
Will Albiston, Community Development Assistant

C. PUBLIC COMMENT

Mr. O'Connor opened Public Comment.

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

D. REPORTS OF THE COMMISSION

Mr. O'Connor noted there was no Development Review Committee (DRC) meeting nor Policy Committee meeting in September.

E. CONSENT AGENDA

1. Minutes of the September, 4, 2024, Regular Meeting

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

On a voice vote, the Commission approved the Consent Agenda. (5-0-2)

F. PUBLIC HEARING(S)

1. SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School

Ms. Terry Costello, Senior Planner, addressed the Commission regarding the Special Use Permit (SUP) application. She noted the SUP would allow for a school within the existing site of Wellspring United Methodist Church. Ms. Costello highlighted traffic, enrollment, operation hours, and other factors of the application. She noted staff's recommendation in support of the SUP application was contingent on conditions stated in the Agenda Packet. Ms. Costello stated the applicant was available for any questions.

Mr. Haldeman asked if there were any additional outside areas other than the picnic area.

Ms. Costello responded there were no additional buildings, adding occasional science projects could take place in the gardens behind the church. She noted those classroom activities were a consideration.

Mr. Haldeman referenced Condition No. 6. He noted that item stated if the facility was closed for a year, then the SUP would be lost. Mr. Haldeman questioned the logic of that condition.

Ms. Costello responded that point was to avoid any school going in to use the facility. She noted the condition reflected if the school no longer remained then the SUP would no longer remain.

Mr. Haldeman referenced the COVID-19 pandemic and if the school closed under a similar situation.

Ms. Costello noted another SUP would be required if the original SUP expired. She further noted the possibility of an extension, adding the state had allowed for some SUP extensions due to the pandemic.

Mr. Haldeman thanked Ms. Costello.

Mr. Polster asked if Condition No. 6 wording could be rephrased. He recommended rewording to specify that any entity other than the Montessori to come in for the school use would invalidate the SUP. He asked for legal clarification.

Ms. Liz Parman, Deputy County Attorney, responded that generally SUPs were tied to the land and not to the landowner. She noted it would not be applicable.

Mr. Polster noted the applicant was not the landowner.

Mr. Rodgers referenced the school and the pandemic and questioned the definition of no activity.

Ms. Costello noted if a decision to no longer use the building as a school was the result. She further noted if the school vacated the building, then the SUP would disappear.

Mr. Polster stated he had concerns with the intent of the wording.

Ms. Costello stated if the school left then the SUP would be void.

Mr. Polster noted the concern regarding the school.

Ms. Costello stated another school could come in and use the property, but it would have to adhere to the same conditions of student enrollment number and other factors stated.

Mr. Polster stated the significance of the wording change to reflect that if the Montessori school was vacated in one year. He added the condition was specific to the use and the person using the school.

Mr. O'Connor referenced Ms. Parman's earlier comment that the SUP condition was tied to its use, but not to an entity. He noted if a pandemic occurred, the possibility of online schooling was a consideration. Mr. O'Connor spoke to these points in more detail.

Mr. Polster stated an alternative was to remove that condition and eliminate any misunderstanding.

Mr. Haldeman suggested consideration of a two-year timeframe.

Mr. Polster agreed with the two-year suggestion. He asked if two years could be incorporated in Condition No. 6.

There were no objections from staff or Planning Commissioners.

Mr. Polster asked if the applicant was agreeable to that change. He noted the applicant nodded her head in agreement. Mr. Polster stated Condition No. 6 would be revised to reflect two years regarding closure.

Mr. O'Connor thanked Ms. Costello.

Mr. O'Connor opened the Public Hearing.

As there were no speakers, Mr. O'Connor closed the Public Hearing.

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors of SUP-24-0022. 4871 Longhill Road Williamsburg Montessori School with the conditions and modifications to Condition No. 6 of two years as opposed to one year.

On a voice vote, the Commission approved the motion. (5-0-2)

Mr. O'Connor noted Item Nos. 2 and 3 would be presented collectively with separate votes on the items.

2. AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal

Ms. Morgan Risinger, Senior Planner, addressed the Commission regarding details of the Agricultural and Forestal District (AFD) withdrawal and SUP applications. She noted the AFD withdrawal of approximately 15 acres would allow for the SUP to operate the event venue. Ms. Risinger addressed the AFD withdrawal policy and its criteria. She noted staff determined no disruption to the AFD would be made with this application and that the proposed land use would be compatible with the Rural Lands designation. She further noted staff determined no public purpose would be served with the request nor was an unforeseen circumstance a consideration in the withdrawal request. Ms. Risinger stated the AFD Advisory Committee recommended approval of the withdrawal request to the Planning Commission and the Board of Supervisors at its July 18, 2024, meeting. She noted staff recommended the Planning Commission recommend denial to the Board based on the application failing to meet all four criteria of the Board's withdrawal policy.

Ms. Risinger stated the proposed event venue would host one event per day with no more than three events per week with a 360-attendee cap. She provided details on the venue features and barn space as well as the utilities. Ms. Risinger addressed the A-1 Zoning District's performance standards for event facilities as outlined in the Zoning Ordinance. Ms. Risinger

noted the SUP failed to meet all the performance standards which included maximum number of attendees, access from a local road rather than a major road, and the placement of structures or improvements on soil considered prime farmland and farmland of statewide importance by the United States Department of Agriculture. She addressed these points in more detail, adding that Condition No. 5 had been included to ensure vegetation preservation along Old Stage Road. Ms. Risinger noted other factors for consideration included stormwater concerns which were addressed in Condition Nos. 8-10. She further noted the number of attendees and parking as other considerations in the conditions. Ms. Risinger highlighted access to the venue and traffic data along Fire Tower Road and Old Stage Road, adding Condition No. 4 addressed road widening as part of the site plan submittal.

Ms. Risinger noted the existing single-family residence's operation as a tourist home was also incorporated into the application. She further noted there was an existing driveway from Old Stage Road. Ms. Risinger provided additional details regarding the conditions as they pertained to the residence. She noted staff recommended that the Planning Commission recommend approval to the Board of Supervisors. Ms. Risinger stated Mr. Stephen Romeo of Vanasse Hangen Brustlin, Inc. (VHB) and Mr. David Nice were present and available for questions.

Mr. Everson noted Condition No. 5 and the reference of a buffer along Fire Tower Road. He questioned what buffering was envisioned.

Ms. Risinger stated Condition No. 5 had no provision for buffering along Fire Tower Road. She explained the buffering referenced the area at the intersection of Old Stage Road to the northern end of the project site.

Mr. Everson thanked Ms. Risinger for the clarification.

Mr. O'Connor referenced an email he had received. He asked if the acreage was not withdrawn from the AFD, then was a by-right option for use still applicable if agri-tourism was still supported.

Ms. Risinger confirmed yes. She explained the AFD withdrawals restrict the issuance of an SUP for commercial use; therefore, the withdrawal request was necessary. Ms. Risinger noted if a facility was proposed which met all the performance standards or performed solely for agri-tourism events then neither the SUP nor the withdrawal would be required.

Mr. O'Connor asked what enforcement mechanism would be in place to determine if an event was supporting agri-tourism or a wedding.

Ms. Christy Parrish, Zoning Administrator, responded that if the SUP were granted then a wedding, agri-tourism supported event, corporate event, or other type of event could occur at the venue.

Mr. O'Connor noted no report regarding events was required.

Ms. Parrish noted there was a fine line in reference to the enforcement mechanism. She further noted review of the use would be based on a complaint basis or additional information received by staff. Ms. Parrish stated staff would then investigate, communicate with the property owner, and establish a plan as needed.

Mr. Polster asked for the definition of an agri-tourism event.

Ms. Parrish responded interpretation of State Code and County Ordinances were considerations. She compared the Sweethaven Lavender of Williamsburg as an example. Ms. Parrish noted the use of agri-tourism and guidance from the Attorney General's Office and spoke to those points in more detail. She further noted if the withdrawal request and SUP application were removed,

then Mr. Nice could still rent the house as a tourist home for the farm enjoyment by-right.

Mr. Rodgers questioned the timeline for the AFD withdrawal.

Ms. Risinger noted the next AFD renewal was slated for 2026. She further noted that staff would send letters out in May to all the properties in the AFD as well as to adjacent properties. Ms. Risinger stated the letters notified owners of the opportunity to request property withdrawal, adding that was by-right. She noted the specified removal would occur.

Mr. Rodgers asked if that was two years.

Ms. Risinger confirmed yes.

Mr. O'Connor thanked Ms. Risinger.

Mr. O'Connor opened the Public Hearing.

Mr. Stephen Romeo of VHB, Inc., 115 Tides Run, Yorktown. He highlighted the VHB project with a PowerPoint presentation which included a video of the property. Mr. Romeo noted one significant point of this project centered on access with the SUP supporting that point. He further noted Fire Tower Road was considered the safer access route as opposed to Old Stage Road. Mr. Romeo stated the speed limit was a major consideration. He added Fire Tower Road had a posted 25 mph speed limit. Mr. Romeo addressed the number and guests and access off Old Stage Road and by-right considerations, adding this process ensured a safe venue.

Mr. O'Connor thanked Mr. Romeo.

Mr. David Nice, 4571 Ware Creek Road, spoke on the property. He noted prior to the beginning of the project, Mr. Tom Coghill, Director of the County's Building Safety and Permits Division, had spoken with him assuring him as the property was an operating farm, exemptions were in place regarding building permits and inspections. Mr. Nice stated the project was built with the highest standards in place. He noted the original purpose was a musical venue. Mr. Nice further noted the home on the property would be used for brides rather than for Airbnb rentals. He spoke in more detail about the venue and the agri-tourism aspect. Mr. Nice stated if the applications were approved then he hoped the venue would open in the spring, adding calls were coming in daily regarding the venue. He addressed the minimum AFD withdrawal and emphasized the family had no intention of developing the farm.

Mr. O'Connor thanked Mr. Nice.

Ms. Sharon Seltzer, 9804 Fire Tower Road, addressed the Commission noting she lived in the house across from the proposed venue. She noted she had no opposition to the property becoming a wedding or musical venue, but she had some concerns and questions. Ms. Seltzer stated single-family homes were along Fire Tower Road which had a posted 30 mph speed limit. She expressed concern regarding traffic. Ms. Seltzer referenced the peak hour trip data and consideration of a Traffic Impact Analysis. She noted Dream Catchers was also nearby and the increased traffic activity when Dream Catchers hosted events. Ms. Seltzer referenced recent traffic accidents along Old Stage Road. She emphasized consideration for the best option for traffic access with regard to Fire Tower Road. Ms. Seltzer questioned the hours for the music, light pollution, and buffering for the area and the impact on the local residents.

Mr. O'Connor thanked Ms. Seltzer.

As there were no additional speakers, Mr. O'Connor closed the Public Hearing.

Mr. Polster noted his confusion regarding the agri-tourism definition. He further noted the

positive direction of the proposed venue toward the agri-business aspect within the County. Mr. Polster recognized the Nice family's commitment to that point over the years. He stated he was pleased the access would not be from Old Stage Road. Mr. Polster acknowledged a traffic light at Stonehouse would be needed with the last three developments occurring. He noted one of the conditions addressed lighting, noise, and other factors for consideration. Mr. Polster further noted those points were considerations staff reviewed regularly with applications. He spoke in favor of the entrance access off Fire Tower Road, buffer maintenance off Old Stage Road, and widening of the road, adding he would support the application.

Mr. Haldeman questioned the voting.

Mr. O'Connor clarified two votes would occur with one for the AFD withdrawal and the other for the SUP.

Mr. Haldeman spoke favorably about the project in its beauty and support of the local farming economy. He noted his support of the venue and tourist home, but stated he had concerns with the AFD withdrawal. Mr. Haldeman addressed the AFD policy.

Mr. Rodgers noted out-of-town guests generally were not late-night attendees at the wedding venues from his experience. He further noted that point could minimize disruption to surrounding homes and residents. Mr. Rodgers addressed the use of the barn and the preservation component of the venue. He supported the application, adding he felt the AFD withdrawal was more a removal with no disturbance to the land as the structures were already in place.

Mr. Everson echoed that point. He noted the public purpose of the agri-business aspect. Mr. Everson referenced the Comprehensive Plan to that point. He further noted his support of the application.

Mr. O'Connor echoed Mr. Haldeman's concern regarding the AFD withdrawal. He noted that if the entire parcel had been requested for withdrawal, he would be opposed. Mr. O'Connor further noted approximately 15 acres were requested for withdrawal with the balance of the land to remain in the AFD with an agricultural use. He referenced the Comprehensive Plan and how this application supported many of its components such as preservation and setbacks. Mr. O'Connor noted the agri-tourism uses while supporting open space preservation. He stated his support of the AFD withdrawal and the SUP.

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors on AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal.

Mr. O'Connor clarified a yes vote represented withdrawal from the AFD.

On a roll call vote, the Commission voted to make a recommendation to the Board of Supervisors on approval of AFD-24-0003. 9812 Old Stage Road Barnes Swamp AFD Withdrawal. (5-0-2)

3. SUP-24-0021. Niceland Farm Event Venue and Tourist Home

Mr. Polster made a motion that the Planning Commission recommend approval to the Board of Supervisors on SUP-24-0021. Niceland Farm Event Venue and Tourist Home with the conditions.

On a roll call vote, the Commission voted to make a recommendation to the Board of Supervisors on approval of SUP-24-0021. Niceland Farm Event Venue and Tourist Home with the conditions. (5-0-2)

Mr. O'Connor thanked the attendees of the meeting.

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for Planning Commission consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - October 2024

Ms. Istenes stated that she did not have any additional information.

Mr. Polster questioned Ms. Istenes' response regarding no Policy Committee meetings for the remainder of the year.

Ms. Istenes responded that she would follow up with Mr. Paul Holt, Director of Community Development, and reply to the Commissioners via email.

Mr. Polster noted his appreciation to that point.

Ms. Istenes stated an application had been received for the October 23, 2024, DRC meeting. She stated she thought the application would move forward.

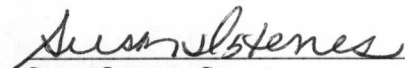
I. PLANNING COMMISSION DISCUSSION AND REQUESTS

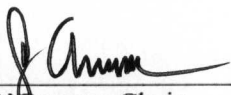
Mr. O'Connor noted Mr. Maye had coverage for the Board of Supervisors October meeting.

J. ADJOURNMENT

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 6:51 p.m.


Susan Istenes, Secretary


Tim O'Connor, Chair