

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

Staff Present:

Susan Istenes, Director of Planning
Liz Parman, Deputy County Attorney
Christy Parrish, Zoning Administrator
Josh Crump, Principal Planner Terry Costello, Senior Planner
Ben Loppacker, Planner I
Amanda Frazier, Community Development Assistant
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. Rodgers stated that the Development Review Committee (DRC) did not meet for its Regular Meeting on Wednesday, June 19, 2024, due to the Juneteenth holiday.

Mr. Rodgers stated the DRC met for a Special Meeting on Tuesday, June 24, 2024, at 4 p.m.

Mr. Rodgers stated that the new business item was a request from Mr. Vaughn Poller, James City County Neighborhood Development Administrator, had requested an exception to Section 19-47 of the Subdivision Ordinance to allow for lot frontage along an existing street for a major subdivision rather than requiring the lots to front onto a new road. Mr. Rodgers further stated that this item was part of the James City County Neighborhood Development Division's Clark Lane Workforce Housing Development.

Mr. Rodgers stated that the members of the DRC had a brief discussion regarding the existing

conditions of the area and the potential impact of Section 19-47 on that planned development. Mr. Rodgers stated that these lots back tightly to an existing railroad line without reasonable space to build a private road. Mr. Rodgers further stated that nearby homes on the same street front the existing street in the same manner as proposed.

Mr. Rodgers stated that the DRC voted 3-0 to approve the exception request. Mr. Rodgers noted that the meeting was attended by nearby residents interested in staying informed regarding the progress of the project.

E. CONSENT AGENDA

1. Development Review Committee Action Item: C-24-0042. 179 and 191 Clark Lane Lot Frontage Exception Request

Mr. O'Connor called a vote on the remaining items of the Consent Agenda.

On a voice vote, the Commission voted to approve the DRC Action Item: C-24-0042. 179 and 191 Clark Lane Lot Frontage Exception Request. (7-0)

2. SPLN-22-0006. Settlement at Powhatan Creek Phase 4 Preliminary Plat Approval

Mr. Polster requested to discuss SPLN-22-0006. Settlement at Powhatan Creek Phase 4 Preliminary Plat Approval.

Mr. Ryan Stephenson, AES Consulting Engineers, 5248 Olde Towne Road, representing the applicant, came forward to answer questions of the Commission.

Mr. Polster raised questions regarding the proposed retaining walls on the development plan. Mr. Polster also raised concerns about the stormwater management plan in relation to the Watershed Master Plan.

Mr. Polster asked Mr. Stephenson if his client would be willing to do a water quality impact assessment in the Resource Protection Area to evaluate the streambed.

Mr. Stephenson stated that his client would be willing to study and consider providing further mitigation in the development's stormwater management plan.

Discussion ensued regarding the language of the condition Mr. Polster wished to add to a motion to approve the application.

Ms. Parman, Deputy County Attorney, stated that the condition would have to be stated with more specificity and relate to the Subdivision Ordinance.

Further discussion ensued.

Mr. Everson raised a question regarding Stormwater and Resource Protection Division's approval of the proposed plat.

Mr. Stephenson stated that improvements had been made to previously existing and approved plans for the site.

Further discussion ensued.

Mr. Haldeman raised concerns regarding increased traffic on nearby roadways.

Mr. Polster made a motion to approve the plan with the condition that the applicant consider further mitigation in the development's stormwater management plan.

On a roll call vote, the Commission voted to approve SPLN-22-0006. Settlement at Powhatan Creek Phase 4 Preliminary Plat Approval with the attached condition. (4-21 with Mr. O'Connor abstaining)

3. Minutes of the June 5, 2024, Regular Meeting

On a voice vote, the Commission voted to approve Minutes of the June 5, 2024, Regular Meeting. (7-0)

F. PUBLIC HEARING(S)

1. SUP-24-0008. 135 Country Club Road Two-Family Unit

Ms. Terry Costello, Senior Planner, stated that Mr. Benming Zhang of Kaufman & Canoles, P.C. had applied on behalf of Ms. Rita Roney for a Special Use Permit (SUP) to allow for a two-family dwelling at 135 Country Club Drive. Ms. Costello stated that the property is zoned R-2, General Residential, is designated Low Density Residential on the Comprehensive Plan Land Use Map, and is located inside the Primary Service Area (PSA). Ms. Costello further stated that the property is served by public water and private sewer.

Ms. Costello stated that the three-bedroom residence is approximately 2,557 square feet. Ms. Costello stated that the second dwelling is approximately 648 square feet, bringing the total square footage to 3,205 square feet.

Ms. Costello stated that at the time the building permit was issued in September of 2022, the second unit was proposed to be an attached accessory apartment. Ms. Costello stated that the proposal met all the criteria set forth in Section 24-32(a) of the Zoning Ordinance for accessory apartments. Ms. Costello stated that the intent of the Ordinance was to ensure that the dwelling appeared to be a single-family residence.

Ms. Costello stated that during an inspection, it was noted that the accessory apartment did not meet the criteria stated in the Ordinance. Ms. Costello stated that the owner and builder initiated discussions with staff about changing the plans to allow the addition to remain as is. Ms. Costello stated that staff determined that the appearance was not that of a single-family residence and would be considered a two family dwelling.

Ms. Costello noted that Section 24-260 states the special provisions for two-family dwellings. Ms. Costello stated that the dwelling at 135 Country Club Drive meets three of the four criteria, the one being the connection to public sewer. Ms. Costello stated that the Board of Supervisors may grant a waiver from the public sewer connection if the lot was legally in existence before the date of the adoption of this section of the Ordinance, the Virginia Department of Health had approved the application, the property is in the PSA, and the James City Services Authority has approved the application. Ms. Costello stated that all these criteria have been met.

Ms. Costello stated that with the proposed conditions, staff found this proposal to be compatible with surrounding development and consistent with the 2045 Comprehensive Plan and Zoning Ordinance. Ms. Costello stated that staff recommends that the Planning Commission recommend approval of this application to the Board of Supervisors, subject to the proposed conditions. Ms. Costello stated that staff also recommends that the Planning Commission recommend approval of the waiver to connect to public sewer.

Mr. Maye asked for clarification regarding the structure of the dwelling and the need for the

SUP.

Mr. O'Connor opened the Public Hearing.

Mr. Benming Zhang, Kaufman & Canoles, P.C., 4801 Courthouse Street, Suite 300, applicant, addressed the Commission in support of the application.

Ms. Ann Merkley, 136 Country Club Drive, addressed the Commission in support of the application.

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

Mr. Polster requested clarification regarding the structure and the original building permit for an attached accessory apartment.

Ms. Costello stated that the building permit could not be approved administratively as an attached accessory apartment.

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

On a roll call vote, the Planning Commission voted to recommend approval of SUP24-0008. 135 Country Club Road Two-Family Unit. (6-1)

Mr. Haldeman made a motion to recommend approval of the waiver for the residence to connect to public sewer.

On a roll call vote, the Planning Commission voted to recommend approval of the waiver for the residence to connect to public sewer. (7-0)

2. SUP-24-0011. Revocation of Special Use Permit No. 2-92, Colonial Golf Design, Inc.

Ms. Chrisy Parrish, Zoning Administrator, made a presentation to the Commission on the revocation of the SUP-2-92, Colonial Golf Design, Inc. Ms. Parrish stated that the existing SUP was approved on April 20, 1992, which allowed an 18-hole golf course, driving range, clubhouse, 3-hole practice course, maintenance building, and turf nursery. Ms. Parrish stated that the SUP was subject to 12 conditions.

Ms. Parrish noted that the operation of the golf course ceased more than a decade ago and that due to the disuse of the property, the golf course was not in compliance with one or more conditions of the existing SUP including: (1) failure to maintain Best Management Practices (BMP) and (2) failure to submit annual integrated pest management reports to the County.

Ms. Parrish stated that after reviewing the existing property conditions and evaluating the property in accord with the requirements for revocation of SUPs, staff recommends that the Planning Commission recommend that the Board of Supervisors revoke SUP-2-92, Colonial Golf Design, Inc. in accordance with Section 24-12 of the Zoning Ordinance for the following reasons:

1. Lengthy closure of the existing golf course use;
2. Deteriorated conditions which prevent the existing BMP from effectively controlling and maintaining the rate and quality of stormwater runoff as designed when approved;
3. Failure to comply with existing SUP conditions;
4. Increased number of housing units within a two-mile radius; and

5. Reopening of the existing golf course after a lengthy closure without the benefit of being reevaluated in accordance with Section 24-9, Special use permits, of the Zoning Ordinance, could result in negative impacts to surrounding properties including but not limited to increased traffic along a rural Community Character Corridor, and possible incompatibility of the use due to the existing surrounding character of the area and the 2045 Comprehensive Plan.

Ms. Parrish noted that upon speaking with a representative of the owner, the owner of the property does not object to the revocation of the SUP for the existing golf course as a different use for the property was being planned.

Mr. Everson raised a question regarding the practical impact of revoking the SUP.

Ms. Parrish stated that revoking the current SUP would allow staff and governing bodies to review a new application for a golf course under current conditions of the area, such as increased surrounding development and an updated Comprehensive Plan.

Mr. O'Connor opened the Public Hearing.

Mr. John Sharp, 3406 N Riverside Drive, addressed the Commission in support of the application.

Ms. Paula Bennett, 3320 N Riverside Drive, addressed the Commission in support of the application.

Ms. Meryl Lessinger-Bely, 3340 N Riverside Drive, addressed the Commission in support of the application.

Mr. Frank Lobash, 3356 N Riverside Drive, addressed the Commission in support of the application and raised concerns about deteriorating conditions on the property.

Ms. Virginia McLaughlin, 3336 N Riverside Drive, addressed the Commission in support of the application.

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

Mr. Polster discussed the Watershed Master Plan for Diascund Creek and noted the current condition of the watershed. Mr. Polster stated that revoking the current SUP provides the opportunity to protect the condition of the watershed.

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

On a roll call vote, the Planning Commission voted to recommend approval of SUP-24-0011. Revocation of Special Use Permit No. 2-92, Colonial Golf Design, Inc. (70)

3. SUP-24-0010. 724 Arlington Island Road Tourist Home

Mr. Josh Crump, Principal Planner, addressed the Commission stating that the applicant requested a deferral of the application to the August 7, 2024, Regular Meeting.

Mr. O'Connor opened the Public Hearing.

Dr. Ken Latimer, 704 Arlington Island Road, addressed the Commission in opposition to the application.

Mr. Polster made a motion to defer the application to the August 7, 2024, Regular Meeting.

On a voice vote, the Planning Commission voted to defer SUP-24-0010. Arlington Island Road Tourist Home to the August 7, 2024, Regular Meeting.

Mr. O'Connor stated that the Public Hearing would be continued to the August 7, 2024, Regular Meeting.

G. PLANNING COMMISSION CONSIDERATIONS

There were no items for consideration.

H. PLANNING DIRECTOR'S REPORT

1. Planning Director's Report - July 2024

Ms. Istenes stated that she had nothing in addition to the report provided in the Agenda Packet. Ms. Istenes also reminded the Commission of the Board of Supervisors' meeting schedule, stating that the Board would not be meeting in August.

I. PLANNING COMMISSION DISCUSSION AND REQUESTS

There were no items for discussion and requests.

J. ADJOURNMENT

Mr. Haldeman made a motion to adjourn.

The meeting was adjourned at approximately 7:20 p.m.

Susan Istenes, Secretary

Tim O'Connor, Chair