



MINUTES
CITY OF COLONIAL HEIGHTS
Regular Meeting of the Planning Commission
Wednesday, September 6, 2023

I. Call to Order

The meeting was called to order at 6:00 p.m.

II. Roll Call

Present:

Mr. Hartson

Mrs. Schiff

Mr. Wade

Mr. Kwiek

Mrs. Levenson-Melvin

Mrs. Hamilton

Absent:

Mr. Kohan

III. Determination of Quorum

A quorum was determined.

IV. Approval of Minutes for the August 1, 2023 meeting

Mrs. Schiff made a motion to approve the minutes, Mr. Wade seconded the motion, and all Commissioners voted to approve the minutes as written.

Approved 6-0

V. Approval of Agenda

Mrs. Schiff made a motion to approve the agenda, Mr. Kwiek seconded the motion, and all Commissioners voted to approve the motion.

Approved 6-0

VI. Introduction of New Assistant Director Mr. Aaron Bond

Mr. Carter introduced the new Assistant Director of Planning, Mr. Aaron Bond, to the Commissioners. He shared that Mr. Bond has a Master's degree in Urban and Regional

Planning from the University of Illinois and a degree in Bachelor of Arts from the University of Virginia. Mr. Bond is a certified Planner by the American Institute of Certified Planners (AICP) and has worked for several localities including Chesterfield County. Mr. Bond worked as a Planner in the City of Richmond before coming to Colonial Heights.

VII. Hearing of Citizens Generally

No citizens spoke.

VIII. Public Hearings

A. PC RESOLUTION NO. 23-03; Ordinance Number 23-18

CP-23-01; Request for Comprehensive Plan Amendment – 105 Norfolk Ave.

Request to amend the City’s Comprehensive Plan (Master Plan) Land Use Map classification for 105 Norfolk Avenue, parcel identification number 41000402043, from Low Density Single-Family designation to Community Commercial designation.

Mr. Carter began his presentation by sharing that the public hearing being held today is because of the new information that was introduced upon the Commission’s request from staff and the applicant based on the comments received during the August public hearing.

Mr. Carter shared a brief background of the application. The owner of the convenience store located at 801 Boulevard proposes to expand the store onto a separate property of the owner, which is located east of the existing convenience store, at 105 Norfolk Ave. The owner proposes to expand the convenience store by 384 square feet on the north and east sides of the existing building. To accomplish this, the property at 105 Norfolk Avenue must be rezoned to allow convenience store use. To receive support for the rezoning, the applicant is requesting to change the land use map designation for the subject property from the Low Density Single-Family designation to the Community Commercial designation.

Mr. Carter presented the following information to the Commissioners as a follow-up to their request made during the August 1, 2023, Planning Commission meeting:

1. A list of past code violations for the Property
2. Inventory of zoning districts along Norfolk Ave.
3. Inventory of commercial uses along Norfolk Ave.
4. Information regarding a potential drainage issue for the alley and site.
5. Information regarding gaming machines and cause of calls for Police Dept.
6. Examples of public notice.

The Planning Commission requested the applicant address impacts expressed at the public hearing on August 1, 2023. The applicant has submitted a revised application with a proffer statement addressing these impacts.

During the presentation, Mr. Carter explained for the benefit of all attendees that a proffer is a legally binding commitment from the property owner that governs the use and operation of a property, regardless of ownership, when a governing body chooses to approve a rezoning. The proffer transfers with the property and is legally enforceable to the same extent as a zoning ordinance regulation.

Proffers must:

- Be written and from the property owner
- Intend to mitigate impacts generated by the application
- Be related to the physical development and operation of a use
- Meet state code provisions

Mr. Carter shared that the violation regarding gaming machines at the gas station/convenience store use located at 801 Boulevard was for more than 5 gaming machines. The citation was issued to this property and many other businesses along the Boulevard due to the emerging prevalence of gaming machines and the previous Director's determination that more than 5 was not an accessory use but primary use. The primary use is not allowed in the BB zoning district. The property owner contacted the City and brought the property into compliance, and no further issues have emerged for this property. The property was compliant upon the last site visit on August 28. The property owner has proffered to maintain the current number of gaming machines (4) and not to exceed that number. The Police Department's concerns are with gaming machines becoming the primary use of the site. The Police Dept.'s comments found the proffer to be acceptable and thanked the applicant for their cooperation.

Mr. Carter explained that due to topography, water flows away from other properties and flows towards the Boulevard. Any flooding cited by adjacent property owners is not caused by 801 Boulevard as it would require water to flow uphill, which does not occur.

Mr. Carter shared that the application depicts the security wall packs proposed to be installed, and no other lighting is proposed. City Code prohibits lighting from exceeding one (1) footcandle at the property line. The applicant must comply with this regulation.

Mr. Carter said the pictures of vegetation along fences between properties appear to be off-site. The tall grass ordinance does not regulate overgrown trees or bushes; hence the existing situation cannot be construed as being in violation of the City code. The plan proposes to develop this area so vegetation will be removed by the owner.

Mr. Hartson invited Mr. Hawkins, the representative of the applicant to address the Commissioners. Mr. Hawkins explained that the proffer that has been created in consultation with the Planning Department is very appropriate as it addresses the issue and goes above the requirements of the City Code in terms of buffers and landscaping.

Mr. Hartson opened the floor for the public hearing.

Ms. Betty Harger, property owner of 107 Norfolk Ave said that her son lives in the property at 107 Norfolk Ave. She followed up on the concerns she had raised during the previous meeting as well as over the email that she sent the Commissioners. She said the rezoning application has to be denied because the property at 105 Norfolk Ave has not been maintained and that the foot and vehicle traffic generated by the convenience store imposes safety issues on neighbors.

Ms. Stephanie Westone, the property owner of 120 Suffolk Avenue thanked the staff and applicant for providing more information that helped get a better understanding of what is

going to happen to the said property. She mentioned that she was not in favor of the rezoning idea as this sets a precedence for commercial properties moving into residential areas and changing the character of the neighborhood.

Ms. Freeland, the property owner of 111 Norfolk Avenue, pointed out information about the cases reported on the property with the Police which was asked during the August meeting. Mrs. Schiff responded that the Staff report indicated that there were 37 calls on the property during the last 2 years.

Ms. Freeland raised a concern about the implications the rezoning of the property might have on trash pickup for houses along Norfolk and Suffolk Ave as of the cars parked in the alley. The alleyway is used by the trash company to pick up the trash from the neighboring houses. Mr. Hartson asked Ms. Freeland if she had instances of trash not being picked up and if such instances were reported to which she responded saying she does.

Ms. Lynne Ivey, the owner of the property at 203 Norfolk Avenue, said her concern with the rezoning application continues to be about the future of the existing property on 105 Norfolk Ave.

Ms. Walker, a resident of the property at 122 Norfolk Avenue shared her fears that the gaming machines in the convenience store would disturb the peace and calmness of the neighborhood.

Ms. Sandra, the owner of 126 Suffolk Avenue, shared her concern about the traffic and noise that vehicles generate in the alleyway. Though these may not be attributed directly to the property at 801 Boulevard, she said, the nature of the business conducted at the property contributes to the traffic situation.

Mrs. Arcaro, a resident of 110 Tudor Road shared her concern about preserving the small-town character of Colonial Heights. She remarked that the hours of operation for most of the surrounding businesses are 9 a.m. to 5 p.m. This business stays open considerably later leading to safety issues in the neighborhood.

Mr. Borwick from 115 Suffolk Avenue, shared his concern that the rezoning will disturb the calm and quiet feel of the neighborhood with commercial activities encroaching on the residential neighborhood. He added that the character of the neighborhood changes from being strictly residential to mixed-use creating an unpleasant and uncomfortable environment for residents. He also shared that in several instances, used beer bottles are found in his trash can which come from the customers of the convenience store. Overall, he said he was not in favor of rezoning.

Mr. Hartson concluded the public hearing and invited Mr. Hawkins to respond to the questions and concerns raised by the residents.

Mr. Hawkins introduced Mr. Patel, the Vice President of RAH INC, the owner of the property, and Mr. Desai, the Site Manager of the property, to the Commissioners. Mr. Hawkins shared that the hours of operation of the business are 6 a.m. to 11 p.m. which is not

as long as that of Wawa across the street.

Mr. Hawkins shared that the applicant currently has only four gaming machines and has proffered to have only four gaming machines in the future. However, this may be a moot point as the recent developments related to the legislation regulating the gaming machines in the State may result in the total elimination of the operation of such skill-based gaming machines in the future depending on the outcome of the ongoing case in the Court of Law.

Mr. Hawkins added that the residence on 105 Norfolk will remain a residence and cannot be changed to a business-occupied property in the future according to the proffer that the applicant has submitted. The two parking spaces shown in the drawing are designated for residential use at 105 Norfolk Avenue and are not intended to be used by the business.

Mr. Hawkins clarified that the alleyway is owned by the City and maintenance of the alley is the responsibility of the City. Mr. Hawkins added that the proffers address all the concerns of the residents.

Mr. Hartson opened the floor for the Commissioners to ask questions of the applicant and the staff.

Mrs. Hamilton shared from the Planning Director's report that the applicant could expand the structure without going over to 105 Norfolk Avenue, thereby not necessitating the rezoning.

Mr. Carter clarified that the rezoning application was made because the expansion as proposed best accommodates the coolers. He added that most of the concerns raised by the residents such as the traffic in the alley, light, and parking in the alley exist today and are not necessarily attributed to the convenience store use. The issues will continue to exist irrespective of the Commission's decision on the application.

Mrs. Levenson-Melvin thanked the staff for providing all the additional information that the Commissioners had requested.

Mr. Wade shared that there has to be a balancing act to ensure that the real estate taxes and property taxes are not increased to meet the City's growing expenses. Economically this can be achieved by creating revenue to grow business. The proffers made by the applicant ensure the residential property at 105 Norfolk Avenue remains residential in the future as well and is kept well.

Mr. Kwiek appreciated the Staff's efforts in compiling an enormous amount of information for the Commissioners and the citizens within a short period of time. Mr. Kwiek asked what would happen to the property at 105 Norfolk Avenue if it were to burn down due to fire or get damaged due to an act of God referring to the proffer. Mr. Carter responded the property owner could choose to rebuild or keep it vacant. However, they will not be able to expand the use of the property based on the language of the proffer. Mr. Kwiek thanked the public for their participation and for sharing their feedback and concerns on the application.

Mr. Wade made a motion to approve Resolution 23-03 and Ordinance Number 23-18, which

recommends approval of the Comprehensive Plan Amendment application 23-01, Mr. Kwiek seconded the motion.

Vote: 2-4

Yes:

Mr. Hartson

Mr. Wade

No:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

Motion: Failed

Mrs. Schiff made a motion to recommend the denial of Resolution 23-03 and the Comprehensive Plan Amendment application 23-01, and Mrs. Levenson-Melvin seconded the motion.

Vote: 4-2

Yes:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

No:

Mr. Hartson

Mr. Wade

Motion: Pass

**B. PC RESOLUTION NO. 23-04; Ordinance Number 23-19
RZ-23-01; Request for Rezoning – 105 Norfolk Ave.**

Mr. Hartson opened the floor for the public hearing but stated all previous comments about the rezoning would be considered. No citizens spoke. Mr. Hartson concluded the public hearing.

Mr. Wade made a motion to approve Resolution 23-04 and Ordinance Number 23-19 that recommends approval of the Rezoning application 23-0, Mr. Kwiek seconded the motion.

Vote: 2-4

Yes:

Mr. Hartson

Mr. Wade

No:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

Motion: Failed

Mrs. Schiff made a motion that recommends denial of Resolution 23-04 and Rezoning Application 23-01. Mrs. Levenson-Melvin seconded the motion.

Vote: 4-2

Yes:

Mrs. Schiff

Mrs. Levenson- Melvin

Mrs. Hamilton

Mr. Kwiek

No:

Mr. Hartson

Mr. Wade

Motion: Pass

IX. Old Business

None

X. New Business/Reports

Reports

1. Chairman – Mr. Hartson

Mr. Hartson asked Mr. Carter if there was a potential for the City of Colonial Heights to develop a technology overlay district. Mr. Fisher pointed out that the question should be passed to the Director of Economic Development, Ms. Epps. Mr. Smith offered to pass the question to Ms. Epps on behalf of the Chair.

2. Director of Planning and Community Development – Mr. Carter

Mr. Carter shared that the Commissioners would be shortly receiving the invitations to the Boards and Commissions dinner, scheduled on September 28, 2023, and requested the Commissioners to RSVP if they plan to attend.

Mr. Carter shared about the upcoming items before the Commission.

- Public hearing on revisions to the City’s Floodplain ordinance based on the directions received from FEMA and the Department of Conservation and Recreation (DCR), Virginia, as the Floodplain maps and panels have been updated.
- Public hearing for short term rental ordinance for the City.

3. City Engineer or Designee –Director of Public Works – Mr. Ryan

Mr. Ryan updated the Commissioners on the status of the ongoing projects in the City.

- SRTS North Elementary Phase 2– Nearing completion. A walk-through with the

- contractor is scheduled for September 6, 2023.
- 200 ft sidewalk near the Middle School – Construction to begin next Summer
- Westover Right Turn Lane - The construction is ongoing, and scheduled to be completed by the end of October.
- Lakeview Modernization – Expected to complete by the end of October.
- Appomattox River Greenway Trail Phase V - Received bids from two contractors which were both higher than the allocation by \$1 Million. Efforts will be made to procure additional funding to deliver the project next year.
- High School Sidewalks – Right of Way acquisition is in process.
- Boulevard at Temple Intersection Improvements – The project is currently in the right-of-way phase.
- Branders Bridge Right Turn Lane – Project is completed and accepted.
- State of Good Repair paving– The project is expected to begin by September 18, 2023 and complete by April 15, 2024.
- Appomattox Greenway Trail Boulevard Spur - Awaiting authorization to open preliminary engineering to start from VDOT.
- Ridge Road Reconstruction – Design is in process.
- Lexington & Conduit Outfall – Right of Way acquisition complete.
- Towneplace Suites – Under construction.
- Panera Plan – Under construction.
- Colonial Heights High School Addition – Under construction.
- The Sanctuary (505 Lakeview) – Under construction.
- Rio Car Wash Site Plan – Under construction.
- Popeye’s Site Plan –Stormwater plan is under review.
- Southlake Pond Fill – The site plan is under review.
- Charles Dimmock and Jennick Car Wash (Flagstop) – Construction to begin soon
- Temple Ave Storage – Site plan and stormwater review in progress.

Mr. Wade and Mrs. Hamilton extended their appreciation to the Department of Public Works and Engineering team for their efforts and good work in the Lakeview Modernization Project. Mrs. Hamilton expressed her appreciation for the Department’s efforts in clearing the litter in the woodlands near Martin Luther King Bridge.

4. Others, as necessary or appropriate

a. City Manager – Mr. Smith

Mr. Smith shared that the Towneplace Suites is scheduled to open for business in the month of September 2023.

Mr. Smith brought the Commissioners’ attention to a new event being organized by the Department of Parks and Recreation on October 28th from 10 a.m. to 5 p.m., at Fort Clifton which is going to be a combined Fall-Halloween event.

b. City Attorney – Mr. Fisher

Mr. Fisher shared that the draft short term rental ordinance has been prepared after obtaining extensive inputs from the Planning Commission and the City Council. The draft ordinance will be presented before the Planning Commission at the October meeting for consideration.

Mr. Fisher shared that the revisions to the floodplain ordinance which will also be presented before the Commission in the October meeting are directions from the State based on the inputs from FEMA. The City has very little scope to make any changes.

XI. Adjournment

Mr. Wade made a motion to adjourn the meeting, Mrs. Schiff seconded the motion, and all Commissioners voted to adjourn the meeting. The meeting was adjourned at 8:15 pm.

X Mitchell Hartson
Mitchell Hartson
Chairman

X Joseph Carter Jr.
Joseph Carter Jr.
Secretary