Minutes
City Planning Commission Meeting
City Council Chambers, 2400 Washington Ave
Wednesday, July 15, 2020, 2:00 PM

MEMBERS PRESENT: Katie Stodghill, Chairwoman; Sharyn L. Fox, Vice-Chairwoman; Michael F. Carpenter; N. Steve Groce; Willard G. Maxwell, Jr.; Mark W. Mulvaney; Elizabeth W. Willis; and Zachary Wittkamp

MEMBERS ABSENT: Daniel L. Simmons, Jr.

OTHERS PRESENT: Sheila W. McAllister, Planning Director; Flora D. Chioros, Assistant Director – Current Planning; Saul Gleiser, Senior Planner; Toluwalase Ibikunle, Senior Planner; Carolyn M. Poissant, Planner II; Johnnie Davis, Planner; Lynn Spratley, Deputy City Attorney; and Nyoka Hall, Zoning Administrator

A. Call to Order
   Ms. Stodghill called the meeting to order at 2:00 P.M.

B. Planning Commission Creed and Approval of the Agenda
   Ms. Willis read the Planning Commission’s purpose as stated in Section 15.2-2210 of the Code of Virginia. She made a motion to adopt the agenda before the Planning Commission. Ms. Fox seconded the motion. The City Planning Commission voted to adopt the agenda by acclamation.

C. Invocation
   The invocation was rendered by Dr. Maxwell.

D. Pledge of Allegiance
   Ms. Willis led the Planning Commission in the Pledge of Allegiance.

E. Minutes
   The minutes of the March 4, 2020 public meeting were approved as presented.

F. Public Hearing
   CONDITIONAL USE PERMITS

   CU-2020-0003, ROY E. CLARK & JOHN CRAIG KELLY, TRUSTEE. Request a conditional use permit to allow for the operation of an automobile gasoline supply station in
conjunction with a convenience store (7-Eleven) on parcels located at 10907 and 10911 Warwick Boulevard totaling 1.34 acres zoned C1 Retail Commercial. The One City, One Future 2040 Comprehensive Plan recommends community commercial for the parcels. The parcel numbers are 257.00.06.15 and 257.00.06.16.

Carolyn Poissant, Planner II, presented the staff report (copy attached to record minutes).

Ms. Willis asked if there is a Shell gasoline station next door to the subject property. Ms. Poissant stated yes.

Ms. Willis asked if there is a conceptual drawing on how the additional right lane is laid out on Cedar Lane. Ms. Poissant stated there is one in the agenda package (Appendix A-5).

Ms. Willis asked if there is a fence line between the subject property and the homes behind it. Ms. Poissant stated there is an existing fence at the house directly next to it, and along the rear of the property. Ms. Willis asked if the fence belongs to the homeowner or the subject property. Ms. Poissant stated she thinks the fence belongs to the homeowner. Ms. Willis asked if there has been a request for the applicant to install a fence between the subject property and the adjacent residences. Ms. Poissant stated no. Ms. Willis asked if the city has talked about installing a fence. Ms. Poissant stated no since there are existing fences, the city did not look into installing a second fence.

Ms. Willis stated that she likes how the entrance and exit driveways are set back from Warwick Boulevard. She asked if that was the applicant's plan or if city transportation staff required they have an entrance and exit behind the Shell gas station. Ms. Poissant stated it is the applicant's property and that it is beneficial to them for service deliveries.

Ms. Fox asked if the existing store will be where the proposed gas pumps are to be installed. Ms. Poissant stated yes, the existing store will be demolished and the convenience store will be rotated to face Cedar Lane. She stated the pumps will be adjacent to Cedar Lane. Ms. Fox asked if the gas pumps will be closer to the houses behind them. Ms. Poissant stated no, because there is a buffer as well as the egress area in that location.

Ms. Fox asked if the closed 7-Eleven was open 24 hours a day. Ms. Poissant stated she does not know. Mr. Carpenter stated he believes it was open 24 hours a day.
Mr. Mulvaney stated he is concerned that the entrance and exit has been pushed back on Cedar Lane and Elm Avenue, closer to the residences. He stated most of the traffic will be directly to and from Warwick Boulevard, but there will be delivery trucks and noise created in the throughway adjacent to the residences. Ms. Poissant stated that city transportation staff wanted the entrance moved further back to avoid stacking issues getting into the site, so that people entering the site would not be stacking onto Warwick Boulevard. Mr. Mulvaney stated we are potentially going to take the current Level of Service at that intersection from B to an E or F due to more traffic in that area.

Mr. Carpenter stated he lives in the area and typically there will be three or four cars stacked on Cedar Lane waiting to enter Warwick Boulevard. He stated by pushing the entrance/exit back on Cedar Lane it will put traffic closer to the residences behind the subject property, but the proposed layout would benefit traffic flow trying to enter the property.

Ms. Stodghill stated the front elevation is facing Cedar Lane. She asked if there will be a parapet to hide the mechanical units on the roof from traffic on Warwick Boulevard. Ms. Poissant stated there is a condition that all of the HVAC equipment will be screened from all public roads. She stated if the screening is not completely detailed in the schematic, then the Director of Planning will ensure the conditions are complied with and the screening carries all the way around the rooftop.

Mr. Carpenter asked if the elevation labeled “Left Elevation” is the elevation that will face Warwick Boulevard. Ms. Poissant stated yes. Mr. Carpenter stated the left elevation is where utility equipment is typically housed, and it is his opinion it should be placed on the right elevation. Ms. Poissant asked if he is referring to equipment on the ground level. Mr. Carpenter stated yes. Ms. Poissant stated that will be a function of where the most convenient and reasonable place is to put the utilities, and if needed additional screening can be added. Ms. Chioros stated building elevations in the agenda package are schematic and what was submitted by the applicant; however, we have notified the applicant that all building elevations, including all screening of mechanical equipment, etc., will need to be done in such a way so that they are not apparent as you drive down the street. She stated the proposed condition will require that all mechanical equipment is screened from all public rights-of-way.

Mr. Carpenter asked if there have been any calls in favor or against the application from neighborhood residents. Ms. Poissant stated there have been some calls and some residents are present. She stated most of the calls concerned having another gas station close to residential property and the impact that it would have.
Mr. Mulvaney asked if the mechanical equipment on the ground level can be placed on the right elevation. Ms. Chioros stated that will be addressed during building plan review. Mr. Mulvaney stated he is concerned about screening and the façade being complementary to the building. Ms. Chioros stated it will match the building materials per Condition No. 8.

Ms. Stodghill asked what is the height of the sign at Towne Bank. Ms. Chioros stated she does not know. She stated the bank sign is taller than what is being proposed for the subject property. She stated the proposed sign is conditioned to be 8 feet tall.

Ms. Fox asked if the Shell gasoline station is open 24 hours a day. Ms. Chioros stated she believes it was but may be operating with limited hours due to the pandemic.

Ms. Stodghill opened the public hearing.

Mr. Richard Marsh, 204 Botetourt Road, stated his backyard is adjacent to the proposed 7-Eleven. He stated the Shell gasoline station is open 24 hours a day. Mr. Marsh stated there are 8 gas stations within 1.5 miles of his house, so there is no lack of gas stations and convenience stores to take care of his neighborhood. He stated he does not think the traffic is going to do us any justice because it is a very busy area. Mr. Marsh stated he does not think we should have any more congestion on Warwick Boulevard than what we already have now. He stated he already has a 6 foot fence and does not think even an 8 foot fence would help keep him from hearing and seeing all of the lights and commotion coming from the proposed property.

Ms. Stodghill closed the public hearing.

Ms. Fox made a motion to recommend approval of conditional use permit CU-2020-0003 to City Council. The motion was seconded by Mr. Groce.

Mr. Mulvaney stated he does not believe the traffic will be improved by pushing the entrance/exit back on Cedar Lane. He stated stacking will still be an issue. Mr. Mulvaney stated he also does not understand the rationale for a 24 hour store. He stated the majority of traffic on Warwick Boulevard would be in the morning and into the early evening, and having the light shining 24 hours a day onto the residential property in the adjacent subdivision is a problem. Mr. Mulvaney stated it does not appear that the applicant has tried to do anything for the subdivision behind it, so he does not feel that the application is as complete as he would like it to be.
Ms. Willis stated she does not agree with Mr. Mulvaney on the stacking because she feels pushing traffic away from the intersection helps make it a safer intersection, but she would like to see a fence behind the property like many other convenience stores have to separate the commercial property from residential property. She stated a fence could help mitigate some of the noise from the 7-Eleven. Ms. Fox asked if a fence was ever discussed with the applicant. Ms. Poissant stated a fence was not specifically discussed with the applicant.

Mr. Carpenter stated this is a good use for the property, but he agrees with Ms. Willis that there needs to be a better method of separating the commercial use from the residential uses, whether it is more landscaping or a wall. Ms. Stodghill stated they are adding an accessory road between the property and the residences.

Ms. McAllister stated there is a 30 foot buffer next to that accessory road. Ms. Fox stated she still feels a fence would be appropriate.

Ms. Fox amended her motion to recommend approval of conditional use permit CU-2020-0003 to City Council to include a fence or wall at the discretion of the Director of Planning in the determination of height and materials. The amended motion was seconded by Ms. Willis.

Mr. Mulvaney stated the Planning Commission should put a minimum height on the fence or wall. He stated the appropriate height of a 6 foot fence or wall could potentially shield some of the downlighting from the property between the access road and the buffer.

Mr. Wittkamp asked that the Planning Commission take a step back and see if this is the best use for this property. He stated a lot of good points have been raised and a lot of good questions have been asked, but he does not know if this is the right land use for the property. Ms. Fox stated it is in accordance with our land use plan.

Ms. Stodghill reopened the public hearing.

Mr. James Sides, 202 Botetourt Road, stated he has lived at his home for 51 years and has dealt with the Shell gasoline station that does not keep the property clean. He stated that he and the other property owners have been taking care of the property. Mr. Sides stated if an 8 foot wall or fence is installed then he will not be able to get off of his property through his own 8 foot gated fence. He stated he does not understand why we need another gas station/convenience store there when there is a gas station/convenience store 200 feet next door. Mr. Sides stated he is assuming traffic
will also run along Elm Avenue, and next to his fence, behind the Shell gas station, he does not know what is going to happen there. He stated he does not think it is necessary to have another service station there. Mr. Sides stated 1.3 miles down Warwick Boulevard there is another 7-Eleven where they can put gas pumps instead of the proposed location. He stated there was already a 7-Eleven on this property and it was closed to build the one down the street. Mr. Sides stated he did not plan to speak to the Planning Commission but this fence or wall has provoked him to speak. He stated he has been keeping the property clean in absence of the property owner.

Ms. Stodghill closed the public hearing.

Ms. Fox stated she is not going to amend her motion on size or materials for the fence or wall referenced in her motion and will leave it to the discretion of the Director of Planning. She stated this is a conditional use permit and a convenience store is permitted to be in this retail commercial zoning district. She stated the only reason it is being heard by the Planning Commission is because of the gas pumps.

Ms. Willis asked staff to share the Conceptual Layout (Appendix A-5) with the audience. She stated the empty lot does not belong to Shell gas station or the former 7-Eleven. Ms. Willis stated one of the conditions in the conditional use permit is that the new owner would be responsible to maintain the cleanliness of the property, and if they do not comply, the city can help enforce that condition.

Mr. Wittkamp asked if the applicants are the current owners of the property. Ms. Poissant stated yes, the subject property and the adjacent property. Mr. Wittkamp asked if they are also the owner of the business. Ms. Poissant stated no.

Ms. Stodghill reopened the public hearing.

Mr. Chris Pecci, applicant, WP Development, LLC, 101 Shockoe Slip, Richmond, stated he will be the owner of the property when it gets developed and will have a lease with the tenants (7-Eleven). He stated WP Development is under contract with the owners to purchase the property. Mr. Pecci stated we have been working on the 30 foot buffer and filling it in to please the neighbors. He stated they have worked with the property owner directly behind the proposed 7-Eleven, Ms. Courtney Henson (62 Cedar Lane), and she is fine with the current fence, proposed buffer and access road. Mr. Pecci stated Ms. Henson is also comfortable with the entrance/exit being pushed back on Cedar Lane. He stated we worked with Traffic Engineering, Mr. Dave Wilkinson, to come up with a traffic plan to get the stacking away from Warwick Boulevard, and give access to Elm Avenue to push some of the traffic that way, and this layout gives better
ingress/egress for delivery trucks. Mr. Pecci stated we can also limit the hours when those trucks can make deliveries.

Mr. Carpenter asked if Ms. Henson lives in the house that fronts on Cedar Lane directly behind the property. Mr. Pecci stated yes.

Mr. Wittkamp asked if there are other locations that Mr. Pecci leases and operates in the area. Mr. Pecci stated no.

Ms. Stodghill closed the public hearing.

Mr. Carpenter stated he would still like the motion to address a wall made of permanent material instead of being wide open. He asked that, at the discretion of the Director of Planning and the property owners adjacent to the proposed 7-Eleven, doors be added for the adjacent parcels. Ms. Stodghill asked if Mr. Carpenter is assuming the wall is on the property line. Mr. Carpenter stated no, he is assuming the wall will be on the property owned by WP Development. Ms. Fox stated she is not going to amend her motion.

Ms. McAllister stated the property in the rear is private property. She stated the neighbors may have maintained it, but it is owned by someone else. Ms. McAllister stated now that 7-Eleven is purchasing the property, the transitional buffer area will be abutting those gates and those fences. She stated if there is some type of an agreement that the neighbors want with 7-Eleven, that is something that would need to be worked out because there would not be an entrance into the transitional buffer area. Ms. McAllister stated if you put a fence, there definitely will not be an entrance into that transitional buffer area because their backyards back up to the property that will be owned by the new owner. She stated if the property owners have gates there now, with the previous owner selling this property to someone else, the likelihood is they will not have access to that property anymore. Mr. Carpenter stated they would be trespassing on private property which basically is what they have been doing for years. Mr. Maxwell asked why Mr. Carpenter wants doors in the permanent fence. Mr. Carpenter stated a property owner has said if a wall is put up, he would not be able to get through from his property to the 7-Eleven property.

Mr. Maxwell stated he does not like vacant properties, and because someone is buying this property, he is happy. He stated he believes with the buffers and everything the applicant is willing to do, be it more trees or putting up a wall, he believes it makes a neighborhood safer when a building is occupied.
Ms. Willis stated she believes this will be a big improvement to an area that has had a vacant building on an empty lot for a while. She stated when 7-Eleven’s were coming in and getting closed up, people were complaining they were being taken away, so she believes people did enjoy having the 7-Eleven there in the past.

**Vote on Roll Call:**

**For:** Maxwell, Fox, Willis, Groce  
**Against:** Wittkamp, Mulvaney, Carpenter, Stodghill  
**Abstention:** None

The City Planning Commission vote was tied 4:4; therefore, the motion failed.

Mr. Carpenter made a motion to recommend approval of conditional use permit CU-2020-0003 to City Council with conditions amending the condition that the buffer at the rear of the property be substantially improved with additional landscaping and a permanent wall. The motion was seconded by Mr. Mulvaney.

Ms. Willis stated she liked the first motion because if there was any confusion over what kind of wall should be built and where the wall should be placed, it allowed some discussion between the land owner, the Director of Planning and any residents that may be involved. She stated this motion says they are getting a wall whether everyone wants one or not.

**Vote on Roll Call:**

**For:** Carpenter, Groce, Stodghill  
**Against:** Wittkamp, Mulvaney, Fox, Willis, Maxwell  
**Abstention:** None

The City Planning Commission voted 5:3 to recommend denial of conditional use permit CU-2020-0003 to City Council with conditions.

**CU-2020-0004, PAR 5 DEVELOPMENT GROUP, LLC.** Requests a conditional use permit to allow for the operation of a restaurant with drive-through service adjacent to residential property in a 1680 sq.ft. storefront of a multi-tenant building located at 15488 Warwick Boulevard on a 1.50 acre parcel zoned C1 Retail Commercial. The One City, One Future 2040 Comprehensive Plan recommends neighborhood commercial for the parcel. The Parcel No. is 063.00.02.96.
Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Mr. Mulvaney asked if there is an opportunity to dictate the service hours for the dumpster. He stated a lot of companies like to empty the dumpsters in the early morning hours, but the way the property is positioned it is right against residential property. Mr. Mulvaney stated if we can make the service hours for the dumpster during the daytime, there may be some night workers who will find the noise less intrusive. Mr. Gleiser stated that can be added to the conditions.

Mr. Carpenter asked if the shaded area on the side of the building adjacent to the drive-through where it says “Loading Zone” is where trucks will park while making deliveries. Mr. Gleiser stated yes.

Mr. Carpenter stated the layout shows two lanes. He asked if there is a double drive-through. Ms. McAllister stated it is a pass-through lane.

Mr. Carpenter stated the site plan shows a proposed pylon sign of less than 25 feet tall. Mr. Gleiser stated that the proposed conditions limit the freestanding sign to a monument style sign, not to exceed 8 feet in height. Mr. Carpenter asked if the sign would be larger in size in terms of square footage than the typical 50 square feet. Mr. Gleiser stated that is correct. He stated given the additional tenants the size will be up to 80 square feet.

Ms. Stodghill asked if the building will be brick or EIFS. Mr. Gleiser stated we do not really know what the building is going to look like. He stated usually we get final building elevations and in this case the applicant submitted a schematic of a building. Mr. Gleiser stated we are conditioning that we will look at the final design and that there will be brick accents. He stated the building could be a combination of EIFS and brick.

Ms. Fox asked where is the eastern side of the lot. Mr. Gleiser stated it is the back of the building along the rear of the property.

Ms. Willis asked if the 80 square foot sign will be put in the right-of-way where the landscape strip is. Mr. Gleiser stated no. Ms. Willis stated she is concerned that an 8 foot tall and 10 foot wide monument sign may block vehicular traffic from seeing the roadway when entering and exiting the site. Mr. Gleiser stated traffic engineering will be reviewing the final site plan and sign location.
Mr. Mulvaney asked if Mr. Gleiser is aware of anything that will change from the conceptual plans to the final site plans. Mr. Gleiser stated we need to see what the final drawings for the building are, and what modifications may be made for location of the sign, as well as sign materials.

Mr. Mulvaney asked if the position of the building will change. Mr. Gleiser stated generally, it will be placed as shown on the conceptual plans.

Ms. Stodghill opened the public hearing.

Mr. Timothy O. Trant, II, Attorney for the Applicant, 11815 Fountain Way, thanked Planning staff for their assistance. He gave a brief history of the application (copy attached to record minutes).

Mr. Mulvaney asked if the applicant would agree to provide service hours during the daytime of the refuse removal. Mr. Trant stated he does not know what their operating hours for the service of the dumpster are but he is sure they would want to be a good neighbor and accommodate the concerns and not be banging a dumpster at inappropriate hours of the night. He stated that within bounds of reasonable business operating hours that would be appropriate.

Ms. Stodghill closed the public hearing.

Mr. Groce made a motion to recommend approval of conditional use permit CU-2020-0004 to City Council with the amendment that the removal of refuse from the dumpster be made during daytime hours. The motion was seconded by Ms. Willis.

Vote on Roll Call:
For: Mulvaney, Carpenter, Fox, Willis, Groce, Maxwell, Wittkamp, Stodghill
Against: None
Abstention: None

The City Planning Commission voted unanimously (8:0) to recommend approval of conditional use permit CU-2020-0004 to City Council with conditions.

CU-2020-0005, SAMUEL PAGE STEWART. Requests a conditional use permit to allow for the operation of a restaurant with drive-through service adjacent to residential property located at 692 J. Clyde Morris Boulevard on a 0.65 acre parcel zoned C1 Retail
Commercial. The *One City, One Future 2040 Comprehensive Plan* recommends community commercial for the parcel. The Parcel No. is 214.00.02.25.

Saul Gleiser, Senior Planner, stated the applicant has requested a deferral to the August 5, 2020 public hearing.

Mr. Mulvaney asked if the application will need to be re-advertised. Mr. Gleiser stated yes. Mr. Mulvaney asked who covers the expense of re-advertisement. Mr. Gleiser stated the applicant pays a fee to defer the application.

Mr. Carpenter made a motion to recommend deferral of conditional use permit CU-2020-0005 to the August 5, 2020 planning commission public hearing. The motion was seconded by Ms. Fox.

**Vote on Roll Call:**

For: Carpenter, Fox, Willis, Groce, Maxwell, Wittkamp, Mulvaney, Stodghill  
Against: None  
Abstention: None

The City Planning Commission voted unanimously (8:0) to defer CU-2020-0005 to the August 5, 2020 public hearing.

G. **Executive Secretary Report**

Ms. McAllister stated we will be hearing conditional use permit CU-2020-0005 on August 5, 2020, which was deferred today.

Ms. McAllister stated Planning Commission will have a work session on August 19, 2020 to discuss the annual review of the *One City, One Future Comprehensive Plan 2040*. She stated we have plan amendments that need to come before the Planning Commission and we typically have a work session prior to you hearing those cases.

Ms. McAllister stated on September 2, 2020, along with any plan amendments that come out of the annual review of the comprehensive plan, we will hear a change of zoning from C1 Retail Commercial to C2 General Commercial at Jefferson Avenue and Meadow Creek Road and a conditional use permit for the same property for used auto sales. Also at that meeting a conditional use permit for a church on Industrial Park Drive will be heard.
Ms. McAllister stated Ms. Willis has been with us for 8 years and several months, and this is her last meeting. She stated there was an appointment made at City Council’s last meeting and today is Ms. Willis’ last meeting. Ms. McAllister thanked Ms. Willis for her service to the Planning Commission and city of Newport News.

Ms. McAllister stated our new Planning Commissioner will be Mr. Michael Taylor.

H. **Committee Reports**

Mr. Carpenter reported the Regulations Committee met prior to today’s public hearing and discussed short-term rentals, and a couple other items that will be heard on the August 5, 2020 public hearing.

I. **New Business**

Ms. Stodghill thanked Ms. Willis for her service on the Planning Commission. She stated Ms. Willis takes the mission of the Planning Commission seriously and she has learned a lot from her.

J. **Adjourn**

There being no further business, the meeting adjourned at 3:33 P.M.

Shown Live On
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www.nnva.gov
Project Team

- Par 5 Development Group, LLC - Owner
- WEDG Development, LLC - Contract Purchaser
- Kaufman & Canoles, P.C. - Legal
Project Overview

- New retail center anchored by Dunkin' Donuts
- Investment in an important corridor
- Reflects stability of the retail in proximity to Ft. Eustis
Summary

- Consistent with current zoning and Comprehensive Plan
- Important new investment during challenging economic times
- Supportive of ongoing investment and revitalization