

MINUTES OF THE PLANNING COMMISSION MEETING
Wednesday, July 18, 2018
City Council Chambers
2400 Washington Avenue
Newport News, Virginia

PRESENT: PRESENT: Mark W. Mulvaney, Chairman; Willard G. Maxwell, Jr.; Sharyn L. Fox; Zachary E. Wittkamp; Michael F. Carpenter; Katie Stodghill; Elizabeth W. Willis; N. Steve Groce (Staff: Sheila McAllister, Director of Planning; Flora Chioros, Planning Coordinator; Saul Gleiser, Senior Planner; Johnnie Davis, Planner; Connor Shapiro, Planning Intern; Lynn Spratley, Deputy City Attorney; Christine Mignogna, Zoning Administrator; Christin Frank, Zoning Coordinator)

ABSENT: Daniel L. Simmons, Jr., Vice-Chairman

CALL TO ORDER

Ms. Willis read the Planning Commission's purpose as stated in Section 15.2-2210 of the Code of Virginia. He made a motion to adopt the agenda before the Planning Commission. Mr. Mulvaney seconded the motion. The City Planning Commission voted to adopt the agenda by acclamation.

INVOCATION

Mr. Carpenter presented the invocation.

MINUTES

The minutes of the June 6, 2018 public hearing and June 20, 2018 work session were approved as presented.

PUBLIC HEARING

CHANGE OF ZONING AND CONDITIONAL USE PERMIT

CZ-2018-0001, Newport News Redevelopment and Housing Authority. Requests a change of zoning from R4 Single-Family Dwelling to R8 High Density Multiple-Family Dwelling with proffers which limits the use of the property to a parking lot on a 0.29 acre site at 1014 28th Street. The *Framework for the Future 2030* comprehensive plan recommends low density residential uses for the site. The *One City One Future* comprehensive plan recommends high density residential uses for the site. The Parcel No. is 307.01.01.07.

Mr. Wittkamp stated he has a potential conflict of interest and recused himself.

Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Ms. Willis stated at a previous public hearing we had talked about parking stickers for residents. She asked if they are able to control who parks there so it is just for the Whittaker apartments. Mr. Gleiser stated this parking lot will be for that purpose only and he is sure they will.

Mr. Carpenter asked if everything had been approved for this development and after the approvals were granted, the lender placed additional restrictions. Mr. Gleiser stated that is correct. Mr. Carpenter stated the regulations require a six foot fence and they are building an eight foot fence. Mr. Gleiser stated that is correct. Mr. Carpenter stated another requirement is the six foot setback and they are giving us eight as well. Mr. Gleiser stated it is a seven foot buffer and they are giving us eight, yes.

Ms. Stodghill asked if the clinic is vacating their building and leaving 42 spaces for the Whittaker apartments. Mr. Gleiser stated the 42 spaces is shared parking and the clinic will continue to use it during the day. He stated there are 42 shared parking spaces and 13 dedicated handicapped parking space for the apartments on their site. Mr. Carpenter stated the clinic is building a new building but not relocating. Mr. Gleiser stated the clinic is not relocating.

Mr. Mulvaney opened the public hearing.

Mr. Raymond Suttle, 701 Town Center Drive, Attorney for the applicant, thanked Planning staff for their assistance. He introduced Ms. Karen Wilds, Executive Director of the Newport News Redevelopment and Housing Authority and Mr. Franklin Bowster, Whittaker Development Group. Mr. Suttle stated we are available for questions.

Mr. Mulvaney closed the public hearing.

Mr. Groce made a motion to recommend approval of change of zoning CZ-2018-0001 to City Council with the submitted proffers. The motion was seconded by Ms. Fox.

Vote on Roll Call

For: Fox, Carpenter, Stodghill, Willis, Groce, Mulvaney

Against: None

Abstention: Wittkamp

The Planning Commission voted 6:0 with one abstention to recommend approval of change of zoning CZ-2018-0001 to City Council with the submitted proffers.

CU-2018-0006, Newport News Redevelopment and Housing Authority. Requests a conditional use permit to allow for the development of an off-site parking lot on property located at 1014 28th Street. The area is 0.29 acres and zoned R4 Single-Family

Dwelling The Parcel No. is 307.01.01.07. *(A pending rezoning to R8 High Density Multiple-Family Dwelling with proffers, CZ-2018-0001, accompanies this request.)*

Mr. Wittkamp stated he has a potential conflict of interest and recused himself.

Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Mr. Mulvaney stated on the Timmons Group exhibit, he does not see any handicapped spaces. He asked if the proposed parking lot will have any handicapped parking. Mr. Gleiser stated no, the 13 parking spaces on-site are all handicapped spaces.

Ms. Stodghill asked if there is site lighting at this parking lot. Mr. Gleiser stated there will be. He stated it is a requirement that they have site lighting. Ms. Stodghill asked if the YWCA's existing parking lot located behind the proposed parking lot has site lighting. Mr. Gleiser stated he is not sure. Ms. McAllister stated the YWCA's existing parking lot has one light.

Ms. Fox stated she has been on the Planning Commission for a while and this project has been one that we have eagerly anticipated for many years. She thanked the Newport News Redevelopment and Housing Authority and the Planning Department and the Developer for all coming together to make this a reality.

Mr. Mulvaney opened the public hearing.

Mr. Raymond Suttle, 701 Town Center Drive, Attorney for the applicant, thanked Planning staff for their assistance. He introduced Ms. Karen Wilds, Executive Director of the Newport News Redevelopment and Housing Authority and Mr. Franklin Bowster, Whittaker Development Group. Mr. Suttle stated we are available for questions.

Mr. Mulvaney closed the public hearing.

Ms. Fox made a motion to recommend approval of conditional use permit CU-2018-0006 to City Council with the submitted proffers. The motion was seconded by Mr. Groce.

Vote on Roll Call

For: Carpenter, Stodghill, Willis, Groce, Maxwell, Fox, Mulvaney

Against: None

Abstention: Wittkamp

The Planning Commission voted 7:0 with one abstention to recommend approval of conditional use permit CU-2018-0006 to City Council with the submitted proffers.

STORMWATER, SUBDIVISION & SITE REGULATIONS AMENDMENTS

CBPA-2018-0002, City of Newport News. Requests an amendment to Chapter 37.1, Stormwater Management, Article V., Chesapeake Bay Preservation, Section 37.1-55.1, Appeals, Limitations, by adding "Standard" in the heading and specifying what an aggrieved party must prove when appealing the action of the Board of Zoning Appeals to the Circuit Court.

Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Ms. Spratley stated one of the attorneys in her office prepared, and she reviewed, this draft amendment and sent the Planning Department a memo from the attorney that prepared it. She stated she looked at the amendment, but must have overlooked the statement in the staff report which said it was being recommended on the basis of state code changes on July 1, 2018, but that is not correct. Ms. Spratley stated this amendment is being recommended because of a case that was brought by an appeal from the Board of Zoning Appeals regarding interpretation of the Chesapeake Bay Preservation Act (CBPA) to the Circuit Court. She stated there was some confusion in the Circuit Court as to what the standard of review on appeals should be and our ordinance did not specify that, although appeals from the Board of Zoning Appeals are required to go to the Circuit Court, but the state statute does not specify the standard of review for appeals regarding decisions of interpretation of the CBPA. Ms. Spratley stated it does specify the standard review that is to be used for special exceptions when the Circuit Court reviews a decision of the Board of Zoning Appeals, and so the Circuit Court indicates that we have applied that standard that is used for special exceptions, which is listed in the draft ordinance. She stated our office is recommending that standard be applied in our CBPA ordinance, but this recommendation is not based on a recent state law change. Ms. Spratley stated it is just some kind of clean up that we are recommending so that the Circuit Court, when reviewing decisions from the Board of Zoning Appeals regarding interpretation of the CBPA, will have a standard of review to apply to those cases. She stated the standard is that the Board of Zoning Appeals' decision is presumed to be correct and the aggrieved party has to rebut that presumption by showing that the Board of Zoning Appeals decision was erroneous and they interpreted law incorrectly or that it is plainly wrong. Ms. Spratley stated we just included that in the ordinance.

Mr. Mulvaney asked, with that said, would this ordinance have the requirement to go through the Regulations Committee prior to coming to Planning Commission. Ms. Spratley stated what happened is those cases were set on the Regulations Committee meeting agenda and, from her recollection, the Regulations Committee had reviewed these as individual members who agreed to take the ordinance(s) forward to the Planning Commission. Mr. Gleiser stated it was assumed it was a state code requirement. Ms. Spratley stated we sent the memo, but it was an oversight in terms of the characterization of this amendment. Ms. McAllister stated the ordinance went to the

Regulations Committee. She stated we polled the Regulations Committee who agreed to bring the ordinance to Planning Commission. Ms. Spratley stated that is correct, but the ordinance was not deliberated on at a meeting. Mr. Mulvaney asked if the ordinance was presented to Regulations Committee as a state regulation. Ms. McAllister stated yes, it was our understanding it was from a state case. Mr. Mulvaney asked if it is currently not a state change. Ms. McAllister stated that is correct; however, Planning Commission can still act on it if they choose to. Ms. Spratley stated she does not know if the Planning Commission is going to hear more than what she is telling them, which is simply that we wanted to clean up this ordinance to make it clear what standard the Circuit Court should apply when reviewing decisions of the Board of Zoning Appeals with regard to the interpretation of the CBPA. Ms. Fox asked if the state law does not contain that specific language. Ms. Spratley stated it does not. She stated this specific language, with regard to appeals from the Board of Zoning Appeals, involves special exceptions. Ms. Spratley stated the state law is silent on this issue, and so when we had the case before the Circuit Court, the court decided to apply this standard, but the state law is silent on what state law should be used. Mr. Mulvaney stated that, although he believes that the outcome would be the same, procedurally this ordinance was presented to the Regulations Committee who then made a motion based on information that was not provided based on something else. He stated his preference would be to defer this ordinance to the Regulations Committee. Ms. Fox stated she agreed.

Mr. Carpenter made a motion to remand CBPA-2018-0002 to the Regulations Committee. The motion was seconded by Ms. Willis.

Vote on Roll Call

For: Stodghill, Willis, Groce, Maxwell, Fox, Wittkamp, Carpenter, Mulvaney

Against: None

Abstention: None

The Planning Commission voted unanimously (8:0) to remand CBPA-2018-0002 to the Regulations Committee.

SO-2018-0002, City of Newport News. Requests an amendment to Appendix B, Subdivision Regulations, Article IX., Minimum Improvements Required, by adding a new section named "Section 9-05.1, Use of Groundwater."

Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Mr. Mulvaney opened and closed the public hearing.

Ms. Fox made a motion to recommend adoption of subdivision ordinance amendment SO-2018-0002 to City Council. The motion was seconded by Ms. Willis.

CPC MINUTES

PAGE 6

July 18, 2018

Vote on Roll Call

For: Willis, Groce, Maxwell, Fox, Wittkamp, Carpenter, Stodghill, Mulvaney

Against: None

Abstention: None

The Planning Commission voted unanimously (8:0) to recommend adoption of subdivision ordinance amendment SO-2018-0002 to City Council.

SR-2018-0002, City of Newport News. Requests an amendment to Chapter 33.02, Site Regulations, Article III., Site Plan Regulations and Standards, Section 33.02-51, Landscaping and Green Area Required, by adding a tree canopy provision for cemeteries that must be identified on a site plan.

Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Mr. Mulvaney opened and closed the public hearing.

Mr. Carpenter made a motion to recommend adoption of site regulations amendment SR-2018-0002 to City Council. The motion was seconded by Mr. Groce.

Vote on Roll Call

For: Groce, Maxwell, Fox, Wittkamp, Carpenter, Stodghill, Willis, Mulvaney

Against: None

Abstention: None

The Planning Commission voted unanimously (8:0) to recommend adoption of site regulations amendment SR-2018-0002 to City Council.

EXECUTIVE SECRETARY REPORT

Ms. McAllister stated that on June 26, 2018, City Council approved the three text amendments: communications towers, Board of Zoning appeals and misdemeanor fines; all of which the Planning Commission had recommended approval. She stated the draft sign ordinance was presented to City Council at their July 10, 2018 work session with minimal comments. Ms. McAllister stated it will be scheduled for Planning Commission's public hearing on August 1, 2018. She stated the comprehensive plan will be scheduled for City Council's public hearing on August 14, 2018.

Ms. McAllister stated we have no applications for August 15, 2018. Mr. Mulvaney made a motion to cancel the August 15, 2018 meeting. The motion was seconded by Mr. Wittkamp. The Planning Commission voted by acclamation.

Ms. McAllister stated on July 6, 2018 the city of Newport News and the Housing Authority were notified that we were not selected to receive the Department of Housing

and Urban Development (HUD) Choice Neighborhoods implementation grant. She stated we feel good about our efforts. Ms. McAllister stated this was our first time applying and we made it as a finalist, so we feel that is excellent. She stated there is a next round coming up and the deadline is September 17, 2018, so we will be working diligently to get our application in.

Ms. McAllister stated this is our Zoning Administrator's last Planning Commission meeting. She stated Christine Mignogna will be retiring at the end of July 2018. Ms. McAllister stated we will miss her and bid her farewell.

Mr. Mulvaney stated that for many, many years he has worked closely with Ms. Mignogna and she will be a big loss to the city of Newport News. He stated she has done so much for this community and people do not see it or recognize it when you work behind the scenes. Mr. Mulvaney stated Ms. Mignogna has always been a phone call away and he thinks it is remarkable what she has done and he wished her well in retirement.

Ms. Mignogna thanked Mr. Mulvaney and stated it has been a pleasure.

Ms. Mignogna introduced Ms. Christin Frank, Zoning Coordinator. She stated the new Zoning Administrator will be coming Monday, July 23, 2018 and should hopefully be at the next meeting, where she will be introduced at that time.

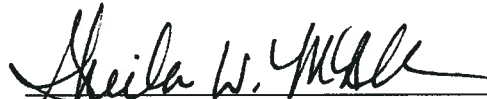
NEW BUSINESS

Ms. Willis asked if Planning staff has started the Denbigh-Warwick Area Plan. Ms. McAllister stated a consultant is on-board and we have started working. She stated there will be a tour the morning of July 26, 2018 and a community meeting that evening at Mary Passage Middle School from 6:00 P.M. to 8:00 P.M.

There being no further business, the meeting adjourned at 2:43 P.M.



Recording Secretary



Executive Secretary