

MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
August 12, 2020

MEMBERS
Montgoussaint E. Jons
Glen D. Titus
Mary P. Leedom
Michael S. King
Robert T. Criner
Robert W. Peterman
Bruce R. Sturk

CALL TO ORDER

Chair King called the electronic meeting to order at 7:00 p.m.

ROLL CALL

The roll was called and all members were present or participating remotely via electronic means. Staff members participating remotely were Timothy C. Cross, Deputy Director of Planning and Development Services; Justin R. Atkins, Assistant County Attorney; Amy Parker, Senior Planner; Earl W. Anderson, Senior Planner; and Daria Linsinbigler, Planning Assistant.

REMARKS

Chair King called the meeting to order and stated that the meeting was being held by electronic means without a quorum being physically assembled in one place, pursuant to an emergency ordinance adopted by the York County Board of Supervisors on June 16. He stated that the meeting is being held remotely under the emergency “continuity of government” ordinance adopted under Code of Virginia Section 15.2-1413, allowing public meetings of County boards, commissions, and authorities to meet remotely. He said the action was taken because of the health emergency resulting from the coronavirus pandemic, making an assembly of the Commission and staff and members of the public in one place unsafe because of the highly contagious nature of the coronavirus pandemic. Chair King noted that as with all live Planning Commission meetings, this meeting is available to watch live on WYCG-TV, Cox Cable Channel 46, Verizon FiOS Channel 38, or live streaming at yorkcounty.gov/TV. He introduced himself, stating that he was physically present in the Board Room at York Hall, along with the other Commission members and County staff participating remotely.

Earl W. Anderson, Senior Planner; explained the procedures for the electronic meeting.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

Chair King led the Pledge of Allegiance.

Mr. Criner moved to adopt the minutes of the regular meeting of July 8, 2020. The motion was approved (6:0) with Mr. Sturk abstaining.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. ZM-186-20, York County Economic Development Authority: Request to amend proffered conditions, pursuant to Section 24.1-114(h) of the York County Zoning Ordinance, applicable to the development of approximately 62.4 acres of land in the Busch Industrial Park located on the north side of Penniman Road (Route 641) and accessed by Alexander Lee Parkway (Route 705). The properties include all or portions of the following parcels: 123, 238, 241-Z, 323, and 415 Alexander Lee Parkway; 1306-Z Penniman Road; 101, 134, and 144 Stafford Court; and 100, 111, and 149 Warwick Court. The applicant is requesting to remove all conditions of approval set forth in Ordinance No. O90-1(R), adopted by the Board of Supervisors on January 18, 1990. These proffers relate to development on slopes; commercial entrances; landscaped open space, and limitations on permitted uses. The subject properties are zoned a combination of conditional EO (Economic Opportunity) and R13 (High density single-family residential) and are designated Economic Opportunity and High Density Residential in the Comprehensive Plan. No change to the previously approved use of the property as a business and industrial park is proposed, and there is no density range associated with this use. The Economic Opportunity designation is intended to provide opportunities for a mix of office, light industrial, commercial, and tourist-related uses, while the High Density Residential designation is intended to provide opportunities for single-family housing having a maximum density of 3.0 dwelling units per acre.

Timothy C. Cross, Deputy Director of Planning and Development Services, summarized the staff report dated July 30, 2020, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval through the adoption of proposed Resolution No. PC20-15.

Mr. Criner asked if all of the affected property owners were in agreement with the request.

Mr. Cross confirmed that they were all in agreement and have signed statements in support of the application.

Mr. Titus asked if this was basically a “clean-up” exercise.

Mr. Cross responded that the application was triggered by a parcel that was under contract for an office/warehouse development. He explained that in the original, preliminary review of the site plan, it appeared some portions would be affected by the proffers. He said under closer review, staff determined that the parcel actually is not subject to the original proffers but that the Economic Development Authority (EDA) decided to move forward with the application nonetheless, as a preventative measure for future development of the other parcels. He noted that the entire industrial park is located in the Chesapeake Bay Resource Management Area, in addition to being in the Watershed Management and Protection area overlay district surrounding Jones Pond, so any development will be subject to rigorous environmental review even without the proffers. He stated that staff feels the performance standards and protective covenants make the proffers duplicative and unnecessary.

Chair King opened the public hearing.

James W. Noel, Jr., York County Director of Economic Development, spoke on behalf of the applicant. He commended staff for doing an excellent job presenting the application and he concurs with their analysis and recommendations. He stated this application represents an issue that has been overcome by time, development, adoption of protective covenants, and changes to the Zoning Ordinance and that the proffers are no longer necessary. He said is the proffers could potentially be an impediment to the development of the unsold twenty acres in the industrial park because of slopes not meeting the criteria set forth in the proffers, even though they meet the current Zoning Ordinance. He added that the contracted parcel is an important project for the County to offer flex space for new businesses. He stated that the proffers could hinder the County's efforts to attract good business investment.

Doug Holroyd, 103 Marina Point asked to view a slide from Mr. Cross's presentation and had no further questions.

Mr. Jons said the purpose of the proposed resolution was clear and agreed that current ordinances and protections will accomplish the same objectives as the proffers.

Mr. Titus stated that it was a good application and he supports it.

Mr. Criner said he agreed with the EDA that the proffers have been eclipsed.

There being no one else wishing to address the Commission on this application, **Chair King** closed the public hearing.

Mr. Jons moved the adoption of Resolution No. PC20-15

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
REPEAL PREVIOUSLY PROFFERED CONDITIONS APPLICABLE TO
PORTIONS OF BUSCH INDUSTRIAL PARK ON PENNIMAN ROAD

WHEREAS, on January 18, 1990, the York County Board of Supervisors adopted Ordinance No. O90-1(R) to approve an application to amend the York County Zoning Map by reclassifying approximately 114.3 acres on the north side of Penniman Road (Route 641) – including 62.4 acres on the west side of Interstate 64 and 51.9 acres on the east side – from various residential zoning classifications to IL (Limited Industrial) subject to voluntarily proffered conditions set forth in proffer statements dated December 6, 1989, and January 18, 1990, and signed by James D. Gleason, General Manager, Pleasurama/Williamsburg, Inc.; and

WHEREAS, property subject to the proffered conditions referenced above include all or part of the parcels located at 123, 238, 241-Z, 323, and 415 Alexander Lee Parkway; 1306-Z Penniman Road; 101, 134, and 144 Stafford Court; and 100, 111, and 149 Warwick Court; further identified as Assessor's Parcel Nos. 11-16-14 (GPIN G13b-3598-3617), 11-27B (GPIN G13b-3951-3494), 11-16-A3 (GPIN G13b-4638-4556), 11-16-7 (GPIN G13b-4603-3992), 11-16-6 (GPIN G13b-4910-3836), 11-16-A2 (GPIN G13b-3289-3227), 11-16-5A (GPIN H13a-0386-3933), 11-16-2-3A1 (GPIN H14c-0348-0124), 11-16-2-4 (GPIN G13b-4897-4778), 11-16-8 (GPIN G13b-4205-4106), 11-16-10A (GPIN G13b-3883-3995), and 11-16-9 (GPIN G13b-4254-4591) respectively; and

WHEREAS, the Economic Development Authority of York County has submitted Application No. ZM-186-20 to repeal the conditions proffered in 1990 and set forth in Ordinance No. O90-1(R); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of August, 2020, that Application No. ZM-186-20 be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval to repeal the conditions applicable to the properties identified above contained in Ordinance No. O90-1(R), adopted by the Board of Supervisors January 18, 1990, and set forth in proffer statements dated December 6, 1989, and January 18, 1990, and signed by James D. Gleason, General Manager, Pleasurama/Williamsburg, Inc.

BE IT FURTHER RESOLVED that in accordance with Section 24.1-114(e)(1) of the York County Zoning Ordinance, a certified copy of the ordinance approving this application shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court within thirty (30) days of the approval of this application.

On a roll call the vote was:

Yea: (7) Titus, Leedom, Criner, Sturk, Peterman, Jons, King
Nay: (0)

Application No. ZM-187-20, Brian D. Jaynes: Request to amend the York County Zoning Map by reclassifying two approximately 0.7-acre parcels of land located at 2429 and 2431 Pocahontas Trail (Route 60), further identified as Assessor's Parcel Nos. 15-23 and 15-24, from RR (Rural Residential) to GB (General Business). The GB district is intended to provide opportunities for a broad range of commercial activities; the applicant has not indicated a specific use for the property. The property is designated General Business in the Comprehensive Plan. The General Business designation is intended to provide opportunities for retail and other commercial uses oriented primarily toward supplying goods or services for a community or regional market.

Earl Anderson, Senior Planner, summarized the staff report dated July 28, 2020, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC20-16.

Mr. Jons commented that as houses fell into disrepair in this area, they might have been good candidates for affordable housing; he added that with the passage of time and the increase of traffic, it does make it impractical. He asked if York County coordinates its planning efforts with James City County.

Mr. Anderson responded in the affirmative, stating that James City County staff was given an opportunity to review application and made comments related to various site plan issues.

Chair King opened the public hearing.

Mr. Brian Jaynes, 122 Jennings Drive spoke as the applicant. He said he had nothing to add to Mr. Anderson's presentation and offered to answer questions.

Mr. Peterman asked Mr. Jaynes if he had any initial ideas as to the development of these parcels.

Mr. Jaynes responded that he currently has no plans for it and that it would be more cohesive to have all of the parcels zoned General Business for future development.

There being no one else wishing to address the Commission on this application, **Chair King** closed the public hearing.

Mr. Criner said the application appeared to be straightforward and would provide for a better use of the property.

Mr. Titus agreed that commercial use would be more appropriate and asked why the adjacent property to the east was not rezoned at the same time.

Mr. Anderson responded that the remaining parcels belongs to Dominion Virginia Power and have power lines across them.

Chair King stated that any time there is an opportunity to align zoning closer to the adopted Comprehensive Plan he is in favor of doing so.

Mr. Titus moved the adoption of Resolution No. PC20-16

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO REZONE TWO APPROXIMATELY 0.7-ACRE PARCELS OF LAND LOCATED AT 2429 AND 2431 POCAHONTAS TRAIL (ROUTE 60) FROM RR (RURAL RESIDENTIAL) TO GB (GENERAL BUSINESS)

WHEREAS, Brian D. Jaynes has submitted Application No. ZM-187-20 which requests to amend the York County Zoning Map by reclassifying two approximately 0.7-acre parcels of land located at 2429 and 2431 Pocahontas Trail (Route 60) and further identified as Assessor's Parcel Nos. 15-23 and 15-24 (GPINs I11b-2887-3860 and I11b-3005-3712) from RR (Rural Residential) to GB (General Business); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of August, 2020, that Application No. ZM-187-20 be, and it is hereby, forwarded to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying two approximately 0.7-acre parcels of land located at 2429 and 2431 Pocahontas Trail (Route 60) and further identified as Assessor's Parcel Nos. 15-23 and 15-24 (GPINs I11b-2887-3860 and I11b-3005-3712) from RR (Rural Residential) to GB (General Business).

On a roll call the vote was:

Yea: (7) Leedom, Criner, Sturk, Peterman, Jons, Titus, King
Nay: (0)

Application No. UP-956-20, Newport News Waterworks: Request for a Special Use Permit, pursuant to Section 24.1-306 (category 17, no. 6) of the York County Zoning Ordinance, to authorize the construction of an approximately 144-foot tall elevated water storage tank on a 0.9-acre parcel located at 1301 Lightfoot Road (Route 646) and further identified as Tax Assessor's Parcel No. 2-13C. The property is zoned EO (Economic Opportunity) and designated Economic Opportunity in the Comprehensive Plan.

Amy Parker, Senior Planner, summarized the staff report dated August 3, 2020, stating that staff recommends the Commission forward the application to the Board of Supervisors with a recommendation of approval subject to the conditions set forth in proposed Resolution No. PC20-17.

Mr. Jons asked about the rationale for the proposed water tank and whether it is needed to address an existing deficiency in water service to the area or to address projected future population growth.

Ms. Parker responded that there is sufficient water capacity of and that the project is related to future growth. She deferred to the applicant for further explanation.

Chair King opened the public hearing.

Yann Le Gouellec, Assistant Director of Newport News Waterworks (NNWW), 700 Town Center Drive, Newport News, spoke as the applicant. He thanked Ms. Parker for her thorough presentation. He replied to Mr. Jons' question, stating that significant growth is not expected in this area and that the need is more for reliability. He introduced project engineers, Jay Allen and Eric Nice, to provide further information.

Mr. Jay Allen stated that the project benefits are additional water storage to address current and

future needs for reliability, fire protection needs, and to improve pressure management.

Mr. Eric Nice added that the water storage tank is also intended to accommodate future growth.

Mr. Jons asked if customers in the area who are currently experiencing water pressure problems will have the problem alleviated with this additional storage tank.

Mr. Chris Basford, Distribution System Engineer for NNWW, said the tank will allow the pumping of water from the lower system up to Lightfoot without causing water hammers. He stated that the tank will help maintain flow during fire situations and will help keep water pressure steady on a constant basis.

Mr. Peterman asked why such a tall tower is required.

Mr. Basford responded that it is a matter of basic physics, stating that a taller tank would be empty all the time and a lower tank would be empty all the time. He explained the calculations by which the height of the tower is determined, and he added that the varying ground elevation in Lightfoot makes it more complicated.

Mr. Doug Holroyd, 103 Marina Point, said that a lot of residents in the Fenton Mill Road area have had to re-drill wells because they have gone dry. He stated that this tower is fed from the aquifers and asked what plans are in place to address the issue of dry wells.

Mr. Basford responded that the tank does not cause additional water to be pulled from the ground and that the problem is caused by customer demand. He explained that the storage tank will simply allow for better control of the water pressure. He said NNWW is permitted to pull a specified amount of water from the ground and is well under that maximum limit.

Mr. Holroyd reiterated his concern about the impact on the aquifer.

There being no one else wishing to address the Commission on this application, **Chair King** closed the public hearing.

Chair King stated that while he recognizes the concern expressed about the wells, Newport News Waterworks is improving its water service delivery capabilities, which will allow for future growth and reliability. He said he is in support of the application.

Mr. Criner moved the adoption of Resolution No. PC20-17

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT APPLICATION TO AUTHORIZE CONSTRUCTION OF AN APPROXIMATELY 144-FOOT TALL ELEVATED WATER STORAGE TANK AT 1301 LIGHTFOOT ROAD

WHEREAS, Newport News Waterworks has submitted Application No. UP-956-20, pursuant to Section 24.1-306 (category 17, no. 6) of the York County Zoning Ordinance, to authorize construction of an approximately 144-foot tall elevated water storage tank on a 0.9-acre parcel located at 1301 Lightfoot Road (Route 646) and further identified as Assessor's Parcel No. 2-13C (GPIN B20b-4238-2678); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 12th day of August, 2020, that Application No. UP-956-20 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize construction of an approximately 144-foot tall elevated water storage tank on a 0.9-acre parcel located at 1301 Lightfoot Road (Route 646) and further identified as Tax Assessor's Parcel No. 2-13C (GPIN B20b-4238-2678), subject to the following conditions:

1. This use permit shall authorize construction of an approximately 144-foot tall elevated water storage tank on a 0.9-acre parcel located at 1301 Lightfoot Road (Route 646) and further identified as Tax Assessor's Parcel No. 2-13C (GPIN B20b-4238-2678).
2. A site plan, prepared in accordance with the provisions of Article V of the York County Zoning Ordinance, shall be submitted to and approved by the Development Services Division prior to commencement of any land clearing or construction activity on the subject property. Except as modified herein, said plan shall be substantially in conformance with the sketch plan submitted by the applicant titled "York County Elevated Tank," prepared by Whitman, Requardt and Associates, LLP and dated June 11, 2020, a copy of which shall remain on file in the Planning Division office.
3. Tower height, design, color, and construction site layout shall be as set forth in the document titled "York County Elevated Tank Special Use Permit Application," prepared by Whitman, Requardt and Associates, LLP and received by the Planning Division on June 29, 2020, a copy of which shall remain on file in the Planning Division office.
4. The needed acquisition of property from the adjacent property owner as shown on the sketch plan referenced in Condition No. 2 above and as described in the application document referenced in Condition No. 3 above shall be completed prior to site plan approval.
5. Advertising and signage on the water storage tank shall be expressly prohibited, except for warning signs associated with the operation of the tank or its equipment.
6. Prior to site plan approval, the applicant shall submit written statements from the Federal Aviation Administration and any other review authority with jurisdiction over the water storage tank, stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations.
7. Existing security fencing shall be supplemented/extended to encompass the area of the proposed water storage tank. Evergreen plantings equivalent to a Type-25 Transitional Buffer shall be installed along the northern and eastern side of the parcel as shown on the sketch plan referenced in Condition No. 2 above.

8. Development of the subject property shall be in conformance with York County Code Chapter 23.2, Chesapeake Bay Preservation Areas, Chapter 23.3, Stormwater Management, Chapter 24.1-493, Standards for All Utilities Uses, and all applicable standards of the Virginia Uniform Statewide Building Code.
9. In accordance with Section 24.1-115(b)(6) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner(s) as grantor(s) in the office of the Clerk of the Circuit Court prior to application for site plan approval.

BE IT FURTHER RESOLVED that this Special Use Permit is not severable and invalidation of any word, phrase, clause, sentence, or paragraph shall invalidate the remainder.

On a roll call the vote was:

Yea: (7) Criner, Sturk, Peterman, Jons, Titus, Leedom, King
Nay: (0)

OLD BUSINESS

There was no old business.

NEW BUSINESS

There was new business.

STAFF REPORTS

Mr. Cross referred to the August Development Activity Report, stating that since there was no Planning Commission meeting in June, there are no actions to report for land use cases from the Board of Supervisors. He stated that at its August 18 meeting, the Board will consider the proposed assisted living facility at The Reserve at Williamsburg Planned Development on Mooretown Road and the proposed gun shop on Dare Road, both of which were recommended for approval by the Commission in July. He said that the other two applications from the July Planning Commission meeting would be considered by the Board at its September 15 meeting, along with the three applications from tonight's meeting. He reported that the Fenton Mill Planned Development application will not come before the Planning Commission before October. Lastly, Mr. Cross said that since no new applications were received, staff recommends canceling the September Planning Commission meeting and it was unanimously agreed upon.

COMMITTEE REPORTS

Chair King reported that the York 2040 Committee meeting scheduled for August 7th was postponed because of Tropical Storm Isaias. He added that a make-up date is to be determined.

COMMISSION REPORTS AND REQUESTS

There were no Commission reports or requests.

ADJOURN

There being no further business to discuss, the meeting was adjourned at 8:08 PM.

SUBMITTED:

Daria Linsinbigler
Daria Linsinbigler, Secretary

APPROVED:

Michael S. King
Michael S. King, Chair

DATE:

14 OCT 20