

MINUTES
YORK COUNTY PLANNING COMMISSION

Regular Meeting
York Hall, 301 Main Street
January 8, 2020

MEMBERS

Montgoussaint E. Jons
Glen D. Titus
Donald H. Phillips
Michael S. King
Robert T. Criner
Robert W. Peterman
Bruce R. Sturk

CALL TO ORDER

Vice Chair Titus called the meeting to order at 7:00 p.m.

ROLL CALL

The roll was called and all members were present with the exception of Mr. King. Staff members present 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. Also in attendance was Susan D. Kassel, Director of Planning and Development Services.

REMARKS

Vice Chair Titus stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. He explained that this responsibility is exercised through recommendations conveyed by resolutions or other official means, all of which are matters of public record. He stated that the Commission is comprised of seven citizen volunteers appointed by the Board, including one representative from each voting district and two at-large members.

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

Vice Chair Titus led the Pledge of Allegiance.

Mr. Criner moved to adopt the minutes of the regular meeting of November 13, 2019. The motion was approved (6:0)

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. PD-51-20, Commonwealth Green, LLLP: Request to amend the conditions of approval for the Commonwealth Green Planned Development approved in February 2012. The applicant is proposing to amend the proffers by extending the deadline

for building the proffered road connection between George Washington Memorial Hwy (Route 17) and Commonwealth Drive (Route 1839) from 24 months after the issuance of the first townhouse building permit to 24 months after the issuance of the 29th townhouse Certificate of Occupancy. The applicant is also requesting to reduce the required amount of commercial space from 40,610 square feet to 35,460 and to eliminate the requirement that all commercial space in the development will be completed within two years of the issuance of the last residential Certificate of Occupancy in the development. The affected properties are located at 511 and 600 Commonwealth Drive and 201, 300-Z, 301, and 500 Keener Way and further identified as Assessor's Parcel Nos. 36-1-A2, 36-1-A3, 36C-1-C, 36C-1-A, 36C-1-D, and 36-1-A. The subject properties are zoned PDMU (Planned Development-Mixed Use and designated Mixed Use in the Comprehensive Plan with a Mixed Use overlay designation. The proffered road connection would be built across a one-acre parcel located at 1629 George Washington Memorial Highway (Assessor's Parcel No. 37-11A) and an adjacent parcel located at 223 Apple Lane (Assessor's Parcel No. 37-27-3). These parcels are zoned GB (General Business) and EO (Economic Opportunity) respectively and designated General Business and Economic Opportunity in the Comprehensive Plan.

Justin R. Atkins, Assistant County Attorney made a brief statement declaring that the original proffer statement for Commonwealth Green was signed by his mother-in-law, who owned the property at the time before selling it to the current owners in 2013. He said that since then, neither he nor his wife have had any financial interest in this property. He stated that he discussed this with the County Attorney, who is of the opinion that there is no conflict, real or perceived, . Mr. Atkins stated that he felt it was necessary to disclose this information to the Commission members and the general public.

Timothy C. Cross, Deputy Director of Planning and Development Services, summarized the staff report dated December 19, 2019, 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. PC20-1.

Dr. Phillips commented that what the applicants are now proposing with regard to sequencing is what they originally proposed to the Board of Supervisors in 2012 but that in order to get the project approved, they changed the proffers to include a deadline for completion of the commercial space.

Mr. Cross said that is basically correct, but he clarified that it was after the application was considered by the Commission that the applicants amended the proffers to include a deadline for the commercial construction, which was five years after completion of the residential construction. He stated that he believed it was at the Board of Supervisors meeting that they revised the five-year deadline to two years. He added that Dr. Phillips is correct that the lack of a firm commitment regarding the commercial space was a major issue when the original application went before the Commission and the Board

Vice Chair Titus asked if the worst-case scenario is that the County will have a mixed-use development with no commercial space and no road connection to Route 17.

Mr. Cross responded that there will be some commercial space since a commercial building is currently under construction with two more approved and slated for construction in the near future. He added that each of those buildings will have 4,500 square feet of commercial space.

Vice Chair Titus said that although the buildings may be constructed, there is no guarantee they will not be vacant.

Mr. Cross agreed that that is a possible scenario. Regarding the road connection, he stated that it is very unlikely that it will not be built. He explained that once the site plan for the road is approved, the County will require the developers to post surety to ensure completion of the road.

Dr. Phillips said he realizes that obtaining permits can delay a project but that his recollection from 2016 when the deadline for completing the road was first extended is that the applicants may have been partially responsible by failing to submit the paperwork properly.

Mr. Cross stated that he would defer to the applicant to explain the various problems that were encountered with the wetlands permit approval process but that he agreed that the reviewing agencies probably were not entirely responsible for the delays.

Mr. Jons asked if staff had recommended approval of the original application for this development in 2012.

Mr. Cross replied that staff recommended denial.

Mr. Jons asked what the reasons were for the staff's recommendation of denial.

Mr. Cross responded that staff had concerns about the overall layout of the project, which does not achieve the compact design that the mixed-use provisions intended, although he noted that it would be difficult to build a compact development on this property because of the very large wetland area in the middle. He added that the proffered sequencing standards were a concern, especially since they allowed the vast majority of the residential units – the Commonwealth at York apartments – to be built with no commercial space whatsoever. Lastly, he stated that the potential impact on school enrollment was a concern. He noted that so far, this concern has proved to be unfounded since the apartments have generated very few school students.

Vice Chair Titus opened the public hearing.

Donald W. Davis, 3630 George Washington Memorial Highway, spoke on behalf of the applicants. He stated that he is a land surveyor with Davis and Associates and is representing Jack Davis and Tom Tucker, the owners and developers of Commonwealth Green. He said the property is multi-family and mixed use, with residential and commercial components. He stated that the multi-family units have been completed while the second residential phase is under construction. In addition, he stated, the first mixed-use building is currently under construction and is expected to be completed by May 2020, to be followed by two more mixed-use buildings, with a combined total of approximately nine residential units and nine first-floor commercial units. Mr. Davis addressed the extension of the roadway from Keener Way to Route 17, stating that a general wetlands permit was granted in February 2012 for the main area which contained 0.81 acre. He stated that approval of the individual permit for an additional 0.38-acre piece of land located in the area slated for the road extension (Jeanette Drive) was delayed until 2019, partly because of a change in the type of permit that was required. He added that the developers paid almost \$250,000 in mitigation fees for the right to place the roadway through those wetland areas. The proposed commercial space reduction to 35,060 square feet, he stated, is in recognition of the amount of wetlands located in center of the site, which reduces the developable area. Lastly, he stated that the development has not proceeded as quickly as expected, partly because the original developer

of the townhouse phase of the project died, and it took two years to select a new developer and prepare new plans. He explained that construction of the three mixed-use buildings is still in the works but that they are requesting to remove the deadline for building on the commercial location in the northwest corner of the intersection of Keener Way and Commonwealth Drive. He stated that the basic layout of the development is largely in place and that he and the developer of the townhouse phased will soon be meeting with the Planning Director to discuss some modifications and that he expects to move quickly to build the rest of site as envisioned. He asked the Commission to recommend approval of the application.

Mr. Jons asked what the status is for filing an application with the Virginia Coastal Zone Management program, and Mr. Davis responded that the application has been filed with the Virginia Department of Environmental Quality (DEQ). Mr. Jons commented that he would like to see the project come to fruition but that he has a concern about the open-ended nature of the completion of the commercial space completion, and he asked if increasing the time frame from two to five years would help.

Mr. Davis said he is not opposed to an extension of time but that he feels the two-year time frame is reasonable to ensure that the work will happen.

There being no one else wishing to address the Commission on this matter, **Vice Chair Titus** closed the public hearing.

Mr. Peterman commented that mixed-use developments seem to have been problematic in the County. He stated that it would not be wise to require construction of commercial buildings that will remain unoccupied for a long time. He stated that he felt the best path to successful completion of the project is to approve the developers' requested changes, so he stated that he would support the application.

Mr. Criner agreed that he would like to see this development be successful and for the extension to Route 17 to be completed and stated that he would support the application.

Dr. Phillips stated that he has strong reservations about modifying requirements that were originally set in order for the application to be approved and that he does not support the application as it stands.

Vice Chair Titus asked Dr. Phillips if he has any suggested changes to the proposal that would make it more acceptable.

Dr. Phillips answered that he is most concerned about the request for an open-ended development schedule and that he is not opposed to extending the deadline for the road connection or reducing the amount of commercial space.

Mr. Sturk stated that he supports the application.

Mr. Jons said that he agrees with most of the developers' request but that he would like to see some firm deadline for completing the commercial space rather than waiting indefinitely for the real estate market to improve, which he felt is too vague to protect the interests of the County.

Mr. Peterman reminded the Commissioners that the Board of Supervisors approved the Kelton Station mixed-use development without any deadline for completion of the commercial space, so

the precedent for the developers' proposal has already been set. He said that he too would like to have a deadline but that because of the state of the commercial real estate market, it would not be practical or realistic.

Vice Chair Titus noted that if a five-year limit were established, the applicants could always come back at a later time to request an extension.

Mr. Cross pointed out that pursuant to the PDMU requirements of the Zoning Ordinance, the sequencing standards have to be proffered by the applicant and cannot be imposed by the Planning Commission.

Vice Chair Titus stated that he would like to see the project work and move forward to completion.

Mr. Peterman moved the adoption of Resolution No. PC20-1.

A RESOLUTION TO RECOMMEND APPROVAL OF AN APPLICATION TO
AMEND THE CONDITIONS OF APPROVAL APPLICABLE TO THE
PREVIOUSLY APPROVED COMMONWEALTH GREEN MIXED USE
DEVELOPMENT

WHEREAS, on February 21, 2012, the York County Board of Supervisors approved Application No. PD-31-12 to amend the York County Zoning Map by reclassifying approximately 45.9 acres of land located at the end of Commonwealth Drive (Route 1839) on the east side of the York County-City of Newport News boundary from Economic Opportunity (EO) to Planned Development Mixed Use (PDMU) for the purpose of developing a mixed-use development consisting of a maximum of 334 rental apartments, 94 townhouses, 16 "live-above" condominium or rental units, and a minimum of 40,610 square feet of commercial space; and

WHEREAS, on November 15, 2016, the Board of Supervisors approved an Application No. PD-44-16 to amend the conditions of approval to provide that the proffered road connection to Route 17 will be completed within two years of the issuance of the first building permit for a townhouse in the development rather than within two years of the issuance of the first building permit for a townhouse or apartment; and

WHEREAS, Commonwealth Green LLLP has submitted Application No. PD-51-20 to request various amendments to the conditions of approval for the above-referenced Commonwealth Green development now under construction on property located at 511, 600, and 701-Z Commonwealth Drive and 201, 300-Z, 301, and 500 Keener Way and further identified as Assessor's Parcel Nos. 36-1-A2, 36-1-A3, 36C-1-C, 36C-1-A, 36C-1-D, and 36-1-A, said amendments relating to 1) the deadline for completing the proffered road connection between George Washington Memorial Highway (Route 17) and Commonwealth Drive (Route 1839); 2) the minimum amount of commercial space to be built within the project; and 3) the proffered sequencing requirements for commercial and residential construction; 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 8th day of January, 2020, that Application No. PD-51-20 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the conditions of approval for the Commonwealth Green development as they apply to the property located at 511, 600, and 701-Z Commonwealth Drive and 201, 300-Z, 301, and 500 Keener Way and further identified as Assessor's Parcel Nos. 36-1-A2, 36-1-A3, 36C-1-C, 36C-1-A, 36C-1-D, and 36-1-A amending the conditions of approval set forth in Ordinance No. 12-1(R), as amended by Ordinance No. 16-13, to read and provide as follows:

1. General Layout, Design, and Density

- a) The development shall be designed and constructed in accordance with the provisions of 24.1-361.1, Planned Development Mixed Use district, except as modified herein.
- b) A site plan, prepared in accordance with the provisions of Article V of the Zoning Ordinance, shall be submitted to and approved by the Department of Environmental and Development Services, Division of Development and Compliance prior to the commencement of any land clearing or construction activities on the site. Except as modified herein, said site plan shall be in substantial conformance with the overall development master plan titled "Master Concept Plan of Commonwealth Green," prepared by Davis & Associates, P.C., dated October 25, 2011 ~~and received by the York County Planning Division December 2, 2011~~ as revised by the concept plan titled "Master Plan Commonwealth Green," prepared by Davis & Associates, P.C. and dated November 26, 2019, supplemented by the Narrative Description, Residential Design Guidelines, Sign Guidelines, and Building Materials Palette, with revisions through February 6, 2012, copies of which shall be kept on file in the office of the York County Planning Division.
- c) The maximum number of residential units shall be 444, including 334 rental apartments, 94 townhouses, and 16 "live-above" units. No accessory apartment, as defined by Sections 24.1-104 and 24.1-407 of the Zoning Ordinance, shall be permitted in conjunction with any residential unit in the development.
- d) The development shall include a minimum of ~~40,610~~35,460 square feet of commercial/office/civic/institutional (i.e., non-residential) floor area.
- e) Architectural design of all buildings shall be in substantial conformance with the building elevations and "Building Materials Palette" submitted by the applicant, copies of which shall be kept on file in the office of the York County Planning Division, and with the standards set forth in Zoning Ordinance Section 24.1-361.1(f), Planned Development Mixed Use district.
- f) Off-street and on-street parking for the rental apartment buildings shall be provided in accordance with the minimum numerical standards set forth in Section 24.1-606(a) of the Zoning Ordinance (1.5 spaces per unit plus one space for every 3 units for visitor parking). Any proposed deviation from this minimum standard shall be subject to approval by the Zoning Administrator following the submission of a site- and use-specific parking space analysis and plan in accordance with the provisions set forth in Section 24.1-604(b) of the Zoning Ordinance.

2. Signs

- a) Freestanding signage shall be limited to one development identification sign at each entrance to the project. Said signs shall be monument-style and shall not exceed forty (40) square feet in area and six feet (6') in height. Materials and colors shall be compatible with overall development architecture. In addition, the apartment component of the project may be identified by a monument-style community identification sign at each of its entrances from Commonwealth Drive with such signs not to exceed twenty-four (24) square feet and six (6) feet in height.
- b) In accordance with the Zoning Ordinance standards applicable to development in the LB (Limited Business) district, wall and marquee/canopy signs having a maximum cumulative area of 1.25 square feet for each linear foot of principal building width shall be permitted for the mixed-use and commercial buildings.

3. Streets and Roads

Subject to approval by the Virginia Department of Transportation (VDOT), the developer shall install a 200-foot southbound right-turn lane on George Washington Memorial Highway (Route 17) at the entrance to the project. All public road improvements shall be constructed in accordance with all applicable VDOT standards.

4. Fire and Life Safety

- a) In accordance with Section 503.1.1 of the 2009 International Fire Code, approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility.
- b) The roundabout, sidewalks, inside and outside curbs, traffic islands, parking lot islands, etc. shall be designed to accommodate the turning radius (33' inside) of large fire and rescue apparatus.
- c) A water supply shall be established with a minimum of 2500 GPM (gallons per minute) in accordance with Newport News Waterworks requirements.

5. Open Space and Recreation

- a) A minimum of 10.16 acres of common open space shall be provided as depicted on the overall development master plan and in accordance with the provisions set forth in Section 24.1-361.1(g)(2) of the Zoning Ordinance.
- b) Indoor recreational amenities shall consist of, at a minimum, a 1,800-square foot town center with a kitchenette, dining area, exercise area, and restrooms. Said facility shall be available to all property owners and residents of the development and their guests and shall be completed and available to residents.

6. Utilities

The proposed gravity sanitary sewer system shall connect into the existing York County Manhole #039208 at the lowest invert possible. The sanitary sewer pipeline shall be designed with the minimum slope allowed in accordance with York County Standards.

7. Environment

- a) Prior to the approval of any site plans for this development, the developer shall submit a Natural Resources Inventory of the property prepared in accordance with Section 23.2-6 and evidence of all environmental permits.
- b) Any proposed disturbance of wetlands on the property shall require a permit from the U.S. Army Corps of Engineers and/or Virginia Department of Environmental Quality.
- c) Development of the property shall be in accordance with the provisions of the Watershed Management and Protection Area overlay district set forth in Section 24.1-376 of the Zoning Ordinance.

8. Proffered Conditions

The reclassification shall be subject to the conditions listed in the proffer statement titled “Commonwealth Green Proffers-~~Revised~~,” dated October 25, 2011 and amended through ~~February 12, 2012~~ October 30, 2019, and signed by ~~Jeanette J. Keener and Thomas R. Tucker~~, as amended by the proffer statement addendum dated September 26, 2016 and signed by Thomas R. Tucker.

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, together with a duly signed copy of the October 30, 2019 proffer statement, 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 prior to application for site plan approval.

BE IT STILL FURTHER RESOLVED that the conditions set forth herein shall supersede previously approved conditions of approval set forth in Ordinance No. 12-1(R) and Ordinance No. 16-13 as they apply to the properties located at 511, 600, and 701-Z Commonwealth Drive and 201, 300-Z, 301, and 500 Keener Way and further identified as Assessor’s Parcel Nos. 36-1-A2, 36-1-A3, 36C-1-C, 36C-1-A, 36C-1-D, and 36-1-A.

On a roll call the vote was:

Yea: (4)	Titus, Criner, Sturk, Peterman
Nay: (2)	Phillips, Jons

OLD BUSINESS

There was no old business.

NEW BUSINESS

Mr. Cross stated that the only New Business item is to adopt the Commission’s meeting schedule

for 2020 through the adoption of proposed Resolution No. PC20-2.

Mr. Peterman moved adoption of Resolution No. PC20-2.

A RESOLUTION TO ADOPT THE PLANNING COMMISSION MEETING
SCHEDULE FOR 2020

WHEREAS, the Planning Commission is required by Section 15.2-2214 of the *Code of Virginia* to fix the time for regular meetings; and

WHEREAS, the Commission Bylaws state that the Planning Commission shall meet in regular session in York Hall, 301 Main Street, Yorktown, Virginia on the second Wednesday of each month at 7:00 p.m., except when such date falls on a legal holiday; and

WHEREAS, pursuant to the adopted Bylaws of the Commission, if the Chair, or the Vice Chair if the Chair is unable to act, finds and declares that weather or other conditions are such that it is hazardous for the Commission to attend a regularly scheduled meeting, the meeting shall be continued to the following Wednesday at 7:00 p.m. in York Hall, and all hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting without the need for further advertisement; and

WHEREAS, the Commission desires that all matters to come before it are scheduled in an orderly and consistent manner;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of January, 2020, that it does hereby adopt the following 2020 Planning Commission Meeting Schedule as its official meeting calendar:

2020 PLANNING COMMISSION
MEETING SCHEDULE

January 8
February 12
March 11
April 8
May 13
June 10
July 8
August 12
September 9
October 14
November 18
December 9

Note: All meetings begin at 7:00 p.m. and are held in
York Hall, 301 Main Street, Yorktown, Virginia

On roll call the vote was:

Yea: (6) Phillips, Criner, Sturk, Peterman, Jons, Titus
Nay: (0)

STAFF REPORTS

Mr. Cross referred to the January Development Activity Report, stating that at its December 17th meeting, the Board of Supervisors approved the use permit application for a solar farm on Penniman Road that the Commission recommended for approval in November. He stated that there are no Planning Commission items pending before the Board of Supervisors in January. He reported that for the upcoming February 12th meeting, there is one application, which is a request to rezone most of the Village Shops at Kingsmill property on Pocahontas Trail from General Business (GB) to Planned Development Residential in order for the shopping center to be demolished and replaced with a 150-unit independent living senior housing facility. Mr. Cross added that the draft Capital Improvements Program will be presented to the Commission for future action to certify conformance with the Comprehensive Plan.

Mr. Jons asked if the Village Shops proposal would remove all commercial development from the property. Mr. Cross responded that the applicant is proposing to retain some of the GB-zoned acreage for future commercial development.

COMMITTEE REPORTS

Mr. Jons reported that the York 2040 Committee met on January 6 and discussed parks and recreation, tourism, fire and life safety, and historic resources. He noted some highlights from the information that was presented, including the high number of emergency incidents in the Tabb Fire Station service area, the achievements of the Department of Fire and Life Safety, the improvements made for handicap accessibility on the Yorktown waterfront, and the addition of electric vehicle charging stations. Lastly, he spoke about parks and recreation and the collaboration with other organizations to offer classes and programs to the community.

Vice Chair Titus asked Mr. Jons if there was any discussion of the Senior Center.

Mr. Jons responded that the new lease agreement for the Senior Center will allow expansion of the hours of operation and additional programming.

Vice Chair Titus had nothing to report for the Home-Based Business Committee since it did not meet in December.

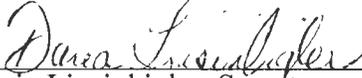
COMMISSION REPORTS AND REQUESTS

There were no Commission reports or requests.

ADJOURN

There being no further business to discuss, the meeting was adjourned at 7:58 PM.

SUBMITTED:



Daria Linsinbigler, Secretary

York County Planning Commission Minutes

January 8, 2020

Page 11

APPROVED:



Glen D. Titus, Vice Chair

DATE:

Feb 12, 2020