



**CITY OF COLONIAL HEIGHTS, VIRGINIA
MEETING OF THE PLANNING COMMISSION
Council Chambers in City Hall, 201 James Avenue
Tuesday, October 6, 2020
7:00 p.m.**

MINUTES

I. Call to Order

The meeting was called to order at 7:00 PM.

II. Roll Call

Present:

Mr. Hartson

Mrs. Schiff

Mr. Cherry

Mr. Kohan

Mrs. Levenson-Melvin

Mr. Wade

Absent:

Mrs. Hamilton

III. Determination of Quorum

A Quorum was determined.

IV. Approval of Minutes for September 1, 2020 Meeting

Mrs. Schiff made a motion to approve the September minutes and Mr. Wade seconded the motion with all commissioners in favor.

V. Approval of Agenda

Mrs. Schiff made a motion to approve the agenda and Mr. Cherry seconded the motion with all commissioners in favor.

VI. Hearing of Citizens Generally

No citizens spoke.

VII. Public Hearings

A. PC RESOLUTION NO. 20-11 AND AN ORDINANCE NO. 20-25

To grant a special use permit to the City of Colonial Heights to allow a 110-foot monopole tower plus a 4-foot lightning rod at the top of the tower, for an overall height of 114 feet, at the Public Safety Building located at 100 Highland Avenue, known as parcel identification number 5100020102C; and repealing Ordinance No. 17-13.

Ms. Hall presented the proposal to commissioners and illustrated where the tower would be located through images and diagrams. She stated that because 100 Highland Avenue is zoned RO-Residential Office, a special use permit must be issued. The reason for the additional 10 feet is for an ice bridge and anticipated tree growth. Staff recommended approval of PC Resolution 20-13.

Cheryl Taylor of Pyramid Network Services stated that the ice bridge protects existing equipment against hail and other weather damage. She also stated that accounting for anticipated tree growth is common as the tower is guaranteed for 20 years.

Mr. Wade asked if Motorola is the service provider and would they be serving the unit for repairs. Ted Hixon, engineer with Motorola, stated that the agreement with Colonial Heights is that the City owns the tower and there is a 20-year warranty in place which covers Motorola providing service to remedy any issues. This is the standard timeframe for Motorola service agreements, and it covers the entire new radio system as well as the tower.

Mr. Cherry made a motion to approve Resolution 20-11 and Ordinance 20-25 and Mrs. Schiff seconded the motion.

Vote: 6-0

Yes:

Mrs. Melvin
Mrs. Schiff
Mr. Hartson
Mr. Cherry
Mr. Kohan
Mr. Wade

No: none

Motion: Unanimous Pass

B. PC RESOLUTION NO. 20-12 AND AN ORDINANCE NO. 20-26

To grant a special use permit to Enright Properties, LLC to permit a pawn shop at 651 Boulevard, known as parcel identification number 4000020A01A, which is zoned BB – Boulevard Business District.

Ms. Hall presented the staff presentation showing the existing pawn shop is 50 yards from the proposed new location. Enright Properties purchased 651 Boulevard, the former Cash2U Loans building, in August 2020. It is zoned BB-Boulevard Business and pawn shops are not permitted in this zoning district. A “pawn shop” is defined in the zoning code as an establishment engaged in the loaning of money on the security of property pledged to a pawnbroker and the incidental sale

of such property. The existing location on Pickwick Avenue is considered a non-conforming use as the use was established prior to the 2012 Zoning Code revision. Non-conforming uses are permitted to continue, provided the use is not discontinued for more than two years, the use is not converted or replaced in whole or in part by a permitted use, and buildings containing nonconforming uses are structurally maintained. Ms. Hall cited the zoning code "It is the intent of this chapter that the continuance of nonconformities shall not be indefinite, and that non-conforming structures, uses, or characteristics shall be gradually removed." She also said the proposed new location is 251 square feet smaller than the current location. Ms. Hall stated that she spoke with Captain Steve Groat of the Colonial Heights Police Department, to assess the burden the pawn shop had on the City's public safety infrastructure. His analysis of the last year determined that there had only been seven service calls to the establishment which is common for any business across the City. All seven service calls were labeled as benign, none were related to violent crime, and the majority were as a result of the alarm system being triggered. Staff recommended denial for PC Resolution 20-12 due to the fact the Boulevard Pawn Shop is a nonconforming use and relocation of the business is extending that use.

Mr. Hartson indicated that the nonconforming use conditions do not explicitly state the business cannot relocate. Mr. Fisher explained that both the city and State codes discourage nonconforming uses and encourage their elimination whenever possible. The reason behind this is to prevent businesses from operating contrary to the city zoning ordinance. He stated that this was an unusual situation and that he has seldom seen a non-conforming use attempt to relocate. The fact that the business wants to relocate does indeed mean it would be extending the nonconformity, and therefore is against the zoning code. From a legal standpoint, Mr. Fisher suggested it would make more sense for the applicant to attempt to rezone the property so the zoning where the applicant wants to relocate, conforms to the use.

Mr. Hartson asked why the staff forwarded to the Commission an application for which it recommended denial. Mr. Fisher explained that staff alone does not have the authority to deny and the Planning Commission may still recommend approval, but it is ultimately up to City Council to make the final decision.

Mr. Dennis Enright Jr., applicant and manager of Boulevard Pawn Shop, was present to answer questions.

Mrs. Schiff asked Mr. Enright if he knew that the building wasn't zoned for pawn shops when he purchased it. Mr. Enright replied that he was told he needed to own the building in order to apply for a special use permit, so he took the chance. He stated that the Pawn Shop is a 20-year old business and has a good working relationship with the police.

Mrs. Schiff asked if Ms. Hall would prefer for Mr. Enright to proceed with a rezoning instead of the special use permit. Ms. Hall stated that she does not agree with Mr. Fisher's suggestion of rezoning the property because that would still be continuing the use of the Pawn Shop which she and Mr. Fisher agreed goes against the decisions made in the 2012 Zoning Code rewrite.

Mr. Enright spoke to the Planning Commission in regards to his business. He stated that they have been in business for over 20 years, are veteran-owned and father-son business. Mr. Enright's father is the owner and he is the co-manager. He expressed his determination to keep the business going. He believes the new building at 651 Boulevard would be perfect for a pawn shop because of certain features. The building already has a partition wall with bulletproof glass, and especially in light of the pandemic this is convenient. He stated that pawn shops get a bad rap and are misunderstood,

but that it's one of the oldest forms of banking. Their business helps people in the community with small, quick loans to pay for necessities such as gas or medicine. They have many repeat customers and it is mainly a retail store; loans are about 30% of the business.

Mr. Wade said it seemed the new building at 651 Boulevard is more secure. Mr. Enright agreed that it is safer and a better building for a pawn shop, because it has partitions, bulletproof glass, and two vaults, as the building was once a bank. Mr. Wade asked if the vaults were still working, and Mr. Enright replied that they were as he recently replaced the locks.

Mr. Hartson asked if he had stated that part of the space would be retail. Mr. Enright explained that pawn shops mainly buy, sell, and trade items, so a large part of the business is retail. Mr. Wade asked Ms. Hall if the retail aspect of the business is within the zoning code. Ms. Hall explained that the fact that pawn shop operations are occurring on the site, which is standard as a part of the pawn shop operations, means it is still fully covered under the pawn shop definition, and therefore does not meet the zoning code.

Mrs. Schiff asked for clarification on the longevity of a special use permit. She proposed that if they granted this special use purpose and someone else bought the building in 10 years' time, the new owner would need to reapply for a special use permit, but that if the property were rezoned it could continue in the use indefinitely. Ms. Hall confirmed that special use permits are tied to the property owner, and it was her understanding that there was no way to transfer a special use permit. Mr. Fisher stated that it was not entirely clear under the law, variances run with the land, but special use permits are open to debate.

Mr. Wade asked if there is an expiration date to a special use permit, or if the business continues as long as he owns it. Mr. Fisher confirmed that the business may continue as long as the applicant own it.

Mr. Kohan asked about title loan business and how they differ from pawn shops, as they are an allowed use on the Boulevard. Ms. Hall explained that title loan businesses are not differentiated from banks in the zoning code. She explained that this is common but that some jurisdictions do separately define title loans and check-cashing establishments to differentiate them from banking. She stated that if this is something Planning Commission would like staff to research and pursue, it would be possible.

Mr. Fisher reiterated that there is authority if the Planning Commission chooses to recommend approval of the special use permit for this applicant. He also urged the Planning Commission to consider that when the Zoning Ordinance was approved in 2012, a conscious decision was made by City Council to not allow uses such as pawn shops and adult uses on the Boulevard.

Mr. Wade asked if in 2012 there were check-cashing and title loan businesses on the Boulevard. Ms. Hall stated that there were some, but more have come to the City since 2012.

Mr. Enright stated that the pawn shop industry is much more regulated than title loan services, and title loan services are more predatory than pawn shops. Pawn shops are mandated by the state to be 30-day loans with a 15-day grace period, and his business gives an additional 15 days of grace beyond the mandated grace period.

Mr. Dennis Enright, Sr. stated that the current building on Pickwick Avenue isn't in good shape, and the business needs to move.

Mr. Wade asked if the space on Pickwick Avenue was leased. Mr. Enright, Jr. stated that they lease the space from Swearingen Realty, and owning a building gives him equity, and helps his business to grow.

Mrs. Schiff made a motion to approve Resolution 20-12 and Ordinance 20-26. Mr. Wade seconded the motion.

Mr. Cherry stated that he was very divided on his decision.

Vote: 6-0

Yes:

Mrs. Levenson

Mrs. Schiff

Mr. Hartson

Mr. Cherry

Mr. Kohan

Mr. Wade

No:

None

Motion: Unanimous Pass

C. PC RESOLUTION NO. 20-13 AND AN ORDINANCE NO. 20-27

To grant a special use permit to POTS, LLC allowing for an accessory off-street parking area at parcel identification number 2300020E015, which lacks a principal use, for the benefit of the business at 1400 Boulevard.

Ms. Hall made a presentation based on her staff report. Midas Auto is located at 1400 Boulevard; the subject parcel is proposed for additional parking. Midas has been at the property since 2007. POTS, LLC owns the property at 1400 Boulevard and is a contract purchaser of the subject parcel. The property was formerly a Texaco station. Parking is an accessory use, and parking is not permitted as a principal use in any zoning district, thus it necessitates a special use permit. The only permitted parking use in this zoning district is a public or pay-to-park lot that anyone may use and is not tied to a specific business. The applicant has stated that need for additional parking is both for the current business needs and to accommodate future business growth. As of this meeting, Midas had also applied for a variance for expansion of their building, but Ms. Hall emphasized that the variance has not been heard by the Board of Zoning Appeals, and the fact that they applied for a variance should not influence the decision of this special use permit. The decision must be made based purely on current business operations. The parking lot at 1400 Boulevard has 21 parking spaces. This additional lot would add 23 parking spaces for Midas, for a total of 44 parking spaces between both lots. The minimum off-street parking requirements for a minor auto repair service is 3 spaces per service bay, and 1 space per employee on shift. Service bays are not defined in the City Code, but Ms. Hall defined it based on other localities as the number of vehicles that may be serviced at the same time. Current business operations include 6 service bays with 1 employee on shift per bay, and the minimum requirement is 25 parking spaces. The business' current parking lot is four spaces short of the required minimum. The zoning code defines the absolute minimum requirement, but businesses are allowed to exceed the minimum.

From a business perspective, due to their high volume of drop-off service, Midas would need at least 27 parking spaces. The proposed expanded business operations based on the variance application would necessitate a minimum of 37 spaces, and Midas believes they would use all 44. The conceptual plan includes a small triangular hardscaped area that Mr. Smith intends to use as a community space, specifically for residents to set up chairs during the annual Christmas parade. The required street trees would be located behind this hardscaped area.

Mr. Hartson asked for clarification because the subject parcel doesn't meet the minimum square footage for development. Ms. Hall explained that if the site were to be developed, regardless of whether it is a permanent by-right use, it would require a variance or special use permit to be developed, for the mere fact that it is less than 15,000 square feet.

Mr. Wade asked if the property had underground tanks and lines since it was previously a gas station, and if they would need to be removed. Mr. Cherry stated that he believed they were removed. Mr. Chisolm stated that they are typically removed when the service station goes out of commission as part of the closing out process.

Mr. Hartson asked in the event that the tanks have not been removed, would it be required of the new owners. Ms. Hall stated that it would be discussed during the site plan review process.

Mrs. Schiff stated that the lot has been an eyesore on the boulevard, and this development would be an improvement.

Staff recommends approval due to the fact minimum parking requirements are not met with current business operations.

Mr. Kohan asked what defines a minor auto repair shop versus a major auto repair. Ms. Hall stated that it has to do with the type of repair. Major repairs are noisier activities, such as body shops, but minor repairs such as oil change places are more suitable to be located closer to residential properties.

Mark Smith, Midas of Richmond, spoke to the Planning Commission. He stated that Midas has owned the shop since 2007, the shop has done exceptionally well, and have reached a point where they have more business than they can handle. Year-to-date the business was up 40%. He stated that upon completion, he would like to offer the use of the parking lot to the community for car washes, the Christmas parade, and Red Cross blood drives.

Mrs. Schiff made a motion to approve resolution 20-13 and ordinance 20-27 and Mr. Wade seconded the motion.

Vote: 6-0

Yes:

Mrs. Melvin

Mrs. Schiff

Mr. Hartson

Mr. Cherry

Mr. Kohan

Mr. Wade

No: none
Motion: Unanimous Pass.

VIII. Plans of Development/Preliminary Subdivision Plans

A. SUB 20-3 Preliminary Subdivision for Southpark Shopping Center

Property owner McBerw Southpark LLC proposes subdivision of 1891-1909 Southpark Boulevard, parcel identification number 68204700018, with a legal description of Parcel 18 of the Southpark Subdivision. The subject parcel is 6.055 acres and is zoned GB – General Business District. The proposed subdivision will create one new parcel in addition to the parent parcel.

The Planning Commission previously saw the site plan for this parcel for a proposed restaurant, Panera Bread, in the spring of 2020. The proposed subdivision is so that Panera may be on their own property. This is not uncommon for a property to operate as part of the shopping center while also owning their property. Ms. Hall provided examples and stated that some stores in Pickwick Shopping Center are independently owned but operate as a shopping center, and three of the properties in the Southgate Square shopping center are independently owned. She explained that it is important to understand that the property will still operate as part of the shopping center, which means their parking is shared with the shopping center, and the site plan includes improvements to the shopping center to upgrade the parking lot. If the restaurant were not a part of the shopping center, all parking would need to be accommodated onsite and additional perimeter landscaping would be required. Staff recommended approval, provided that the changes requested are completed before the final plan is submitted and approved to Public Works and Engineering.

Mr. Jonathan Ritchie, Bohler Engineering, stated that this development is dependent on the approval of the subdivision. He reiterated Ms. Hall’s points that they would be improving the parking lot and be a part of the shopping center.

Mr. Cherry made a motion to approve Subdivision 20-3 and Mrs. Levenson-Melvin seconded the motion.

Vote: 6-0

YES:

Mrs. Levenson
Mrs. Schiff
Mr. Hartson
Mr. Cherry
Mr. Kohan
Mr. Wade

No: none

Motion: Unanimous Pass

B. SUB 20-4 401 Subdivision of Temple Avenue

Property owner Kroger Limited Partnership I proposes subdivision of 401 Temple Avenue, parcel identification number 5400020000H. The subject parcel is 10.84 acres and zoned GB – General Business District. The proposed subdivision will create two new parcels in addition to the parent parcel.

Ms. Hall showed Planning Commission images of the proposed subdivision. She stated that all the proposed parcels meet site development standards. Staff recommended approval.

Mr. Paul Sprouse and Mr. Mark Boyd, both of Rebkee, were present to answer staff questions. There were no questions.

Mrs. Schiff made a motion to adopt Subdivision 20-4 and Mr. Wade seconded the motion.

Vote: 6-0

Yes:

Melvin
Schiff
Hartson
Cherry
Kohan
Wade

No: none

Motion: Unanimous Pass

C. PD – 20-2 401 Temple Avenue

Property owner Kroger Limited Partnership I proposes development of 401 Temple Avenue, parcel identification number 5400020000H, on two of the three parcels noted in proposed subdivision SUB 20-4. Preliminary site plan shows a gas station/convenience store and car wash on the westernmost parcel, and a minor automobile repair service on the middle parcel.

Ms. Hall displayed the preliminary site plan for the Planning Commission.

Mr. Hartson asked how many pumps would be at the gas station. Ms. Hall replied that there would be 16 stalls, 8 pumps with access from either side. He also asked if Valvoline was limited to lubrication and minor repairs. Mr. Fisher replied that the city zoning ordinance defines “Minor Automobile Repair Service” as including typical uses such as tire sales and installation, wheel and brake shops, oil and lubrication services, and similar repair and service activities for minor repairs and routine maintenance.

Mr. Wade asked if there would be a dedicated access lane on Hamilton Avenue as well as Temple Avenue. Ms. Hall stated that the applicant is not doing a new traffic study, because it is a similar traffic flow to the study Kroger previously had done. This study accounted for a right-in, right-out entrance on Temple Avenue as a result of the median, and the ingress/egress on Hamilton Avenue allows for both directions.

Mr. Hartson remarked that the distance between the entrance to Hamilton Avenue and the entrance on Temple Avenue may lead to a slowdown of traffic in that area.

Mr. Paul Sprouse of Rebkee stated that the businesses were excited about the location and thanked the Planning Commission for their consideration. He continued that they would like to pick up where the Kroger plan left off and had spoken with VDOT in regards to ensuring they would not

impede the flow of traffic.

Mrs. Schiff stated that she was excited about the possibility of developing that piece of property.

Mrs. Schiff made a motion to approve Plan of Development 20-2 and Mrs. Levenson-Melvin seconded the motion.

Vote: 6-0

Yes:

Mrs. Melvin

Mrs. Schiff

Mr. Hartson

Mr. Cherry

Mr. Kohan

Mr. Wade

No: none

Motion: Unanimous Pass

Mildred Morrison of 329 Ridge Rd asked if any changes would be made to the road in anticipation of traffic, and that she was concerned about the 24-hour operation of the convenience store.

Mr. Sprouse stated that Hamilton Avenue would be widened per the Kroger traffic study, as well as a second left turn lane on Temple Avenue.

IX. Old Business

None.

X. New Business

None.

Reports

- i. **Chairman** – Mr. Hartson—nothing to report.
- ii. **Director of Planning and Community Development** – Ms. Hall—There will be a meeting in November to address the Comprehensive Plan review. This review will be divided between the November and December meetings. The November meeting will take place on Wednesday after election day.
- iii. **City Engineer or Designee** – Mr. Chisolm, Assistant Director of Public Works—Mr. Chisolm reported that the department was ahead of schedule for the Conduit Road sewer repair project. At the time of the meeting they were working on resurfacing asphalt.
- iv. **Others, as necessary or appropriate**
 1. **City Manager** – Mr. Smith—Mr. Smith updated Planning Commission on the small business grant program, and stated that 60 grants had been approved for a total of \$345,000. At that time, the grant application period had been extended through October 31st. The Violet Bank pre-bid was held that day, and 19 contractors were

in attendance. The bids are due October 23 and all work is to be completed by May 1, 2021. He also stated that July sales taxes were reported to be 10% higher than in 2019, and above the calendar year average for 2019. Mr. Smith stated that Regal Cinemas is closing once again, and this was a company-wide decision.

2. **City Attorney** – Mr. Fisher—nothing to report.

XI. Adjournment

Mr. Cherry made a motion to adjourn and Mrs. Schiff seconded the motion with all commissioners in favor.

The meeting was adjourned at 8:35 PM.

X *Kelly Hall*

Kelly Hall
Secretary

X *Mitchell Hartson*

Mitchell Hartson
Chairman