



**CITY OF COLONIAL HEIGHTS, VIRGINIA
MEETING OF THE PLANNING COMMISSION
Tuesday, January 4, 2022
7:00 p.m.**

MINUTES

I. Call to Order

The meeting was called to order at 7:00 p.m.

II. Roll Call

Present:

Mr. Hartson

Mrs. Schiff

Mrs. Hamilton

Mr. Kohan

Mr. Kwiek

Mrs. Levenson-Melvin

Mr. Wade

Absent: none

III. Determination of Quorum

A quorum was determined.

IV. Approval of Minutes for December 8, 2021 meeting

V. Approval of Agenda

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

VI. Hearing of Citizens Generally

VII. Organizational Matters

- Election of Chairman and Vice-Chairman
Mr. Wade nominated Mr. Hartson as Chairman, and Mrs. Schiff seconded the nomination. All commissioners were in favor.

Mrs. Hamilton nominated Mrs. Schiff as Vice-Chairman and Mr. Wade seconded the

nomination. All commissioners were in favor.

- Appointment of Secretary
Mrs. Hamilton nominated Mrs. Payne to be appointed as secretary, and Mr. Wade seconded the nomination. All commissioners were in favor.
- Adoption of Rules of Procedure
Mr. Hartson emphasized paragraph 7.2 that the Commission may go into a closed meeting pursuant to the Freedom of Information Act, as the commission intended to go into a closed meeting later in the evening. Mrs. Schiff made a motion to adopt the rules of procedure and Mrs. Levenson-Melvin seconded the motion with all commissioners in favor.
- 2021 Annual Report
Mrs. Levenson-Melvin made a motion to approve the 2021 Annual Report and Mrs. Schiff seconded the motion with all commissioners in favor.
- Adoption of Planning Commission Meeting Schedule for the Next 12 Months
Mrs. Schiff made a motion to adopt the meeting schedule for the next 12 months and Mrs. Levenson-Melvin seconded the motion with all commissioners in favor.

VIII. Public Hearings

A. PC RESOLUTION 22-01 AND AN ORDINANCE NO. 22-01

To grant a special exception permit to Southpark Mall, CMBS, LLC, property owner, to permit multi-family residential apartments at the site of the former Sears Building, located at Southpark Circle, also known as parcel identification number 68204700013, which is zoned GB – General Business District.

Mr. Hartson defined the difference between a “Special Exception Permit” (SEP) and a “Special Use Permit” (SUP). He stated that a special exception permit is required due to City code section 286-310.04(A)(2) which lists multi-family dwellings as a permitted use in the general business zoning district only if a special exception permit is obtained.

Mrs. Brown presented visuals of the former Sears building and Southpark Mall as well as renderings of the proposed apartment buildings. She stated that the average apartment would be 1100 square feet. The developer does not propose any tax incentives and will be seeking market-rate financing where there will be no affordable housing component on the project. Mrs. Brown reiterated that the zoning ordinance allows multi-family dwellings in the General Business District subject to obtaining a special exception permit in addition to complying with additional modified and more stringent standards as listed in article V use and design standards. In accordance with the City zoning ordinance Section 286-622 Special Exception Permits General Standards where City Council has the authority to issue a Special Exception Permit subject to the following: 1) Conformance with Article V Use and Design Standards 2) Conformance with the City’s Comprehensive Plan and 3) Minimum adverse impacts on surrounding neighborhood or community. Adverse impacts shall be evaluated with consideration to items such as, but not limited to, traffic congestion, noise, lights, dust, drainage, water quality, air quality, odor, fumes, and vibrations. In

considering impacts, consideration shall be given to the timing of the operation, site design, access, and other matters that might be regulated to mitigate adverse impacts. Proposed conditions if the Commission votes to recommend granting this Special Exception Permit to allow this multi-family housing project: 1) The development shall be in substantial accord with the concept site plan prepared by Poole and Poole Architecture LLC 2) A site plan will be required where the development complies with all city standards and specifications unless otherwise exempted by City Council.

Staff received one public comment on this case requesting additional information.

Mr. Shane Burnett was present representing the applicant, Southpark Mall CMBS, LLC. as well as Architect, Dave Kelly, and Lewis Gilpin of CBL properties on conference call.

Mr. Burnett shared an overview of the project which would contain 280 market-rate, luxury apartments. It would be a complete redevelopment and the former Sears building would be demolished to build the structures. The project consists of 69 one-bedroom, 168 two-bedrooms, and 43 three-bedroom apartments. He proposed two donut-shaped buildings with interior amenities. Mr. Burnett shared the renderings of the proposed structures. He felt this was an intervening project and a great opportunity for the community to galvanize the mall. He cited similar projects in the region such as Regency Square and Westchester Commons and stated that “retail needs rooftops”. Mr. Burnett also stated that because Colonial Heights lacks a market rate apartment complex, people are leaving Colonial Heights and moving elsewhere where such housing exists. He also cited the Comprehensive Plan and how this project aligns with it.

Mr. Wade verified that the project is not seeking Virginia housing assistance. Mr. Burnett stated that was correct, as the project is all market-rate luxury apartments. Mr. Wade asked if the project would be seeking any HUD funding. Mr. Burnett explained that HUD is just a financing mechanism and does not use vouchers.

Mrs. Hamilton asked if the project would be a gated community. Mr. Burnett stated it was not a gated community but that all entry points would have access control. This means residents would need a key fob or other device to access the buildings and amenities. He stated that the security would have camera monitoring as well.

Mrs. Hamilton asked about the building materials of the project. Mr. Burnett stated that it's a combination of masonry and fiber-cement siding and it would be a very durable building.

Mrs. Hamilton stated that she was not familiar with the term “Class A” rental properties. She asked whether that referred to amenities or appearance. Mr. Burnett stated that it was an all-encompassing term: location, amenities, and interior space as well. He stated that these apartments would have granite

countertops and solid wood cabinetry. She asked if there would be a clubhouse. Mr. Burnett stated that they have seen more success with shared spaces in their projects so this would have shared office spaces and a coffee bar, and conference rooms that could be booked.

Mr. Hartson stated that initially he was concerned about the increase in traffic as a result of this project, but he concluded that it would equate to the traffic that was experienced when the mall first opened. Thus, the space is ready to accommodate such traffic and then asked if this was a fair conclusion to make. Mr. Burnett and Mr. Gilpin agreed stating that the mall initially over-estimated the amount of parking and traffic so they have seen that they can even cut down on existing parking and in similar projects, the apartments did not have an impact on existing traffic.

Mr. Kohan asked if the school system can accommodate the potential influx of children living in the apartments. Mr. Smith stated that he had discussed this with the school superintendent and that they estimated the need for additional buses and five staff members. However, Mr. Smith stated that they cannot be sure what percentage of tenants will have school-age children, so a fair estimation cannot be made. Mr. Smith also stated that the additional real estate tax revenue that the City would gain from the project would be shared with the schools as well. He stated that keeping in mind not only the real estate tax revenue, but the additional foot traffic in shopping and dining as a result will create more revenue to fund any potential accommodations. Mr. Burnett predicted that tenants may include soldiers stationed at Fort Lee, or employees of the pharmaceutical companies coming to the region.

Mr. Kohan asked how the parking for residents will be handled separately from mall shoppers. Mr. Burnett stated that they had discussed it, and that because there is ample parking, they may not have to regulate parking. Mr. Kelly stated that the available parking would be well above the standard required for a development of this size. He also stated that the apartment parking would only be accessible from Southpark Boulevard which would keep it separated from the greater mall parking.

Mr. Fisher stated that the previous zoning ordinance requirements had led to an excess of parking at Southpark Mall, so there should be ample parking to accommodate the proposed apartments.

Mr. Kohan asked if amenities would include a playground for children. Mr. Kelly and Mr. Burnett stated that based on their market study, that was not in the plans as of yet. They stated that there is the space for it if it was decided at a later date.

Mr. Kohan asked how many projects similar to this that the developers owned. Mr. Burnett replied that they owned about eight to ten developments similar to this proposed project.

Mr. Kwiek expressed concerns about walkability and lack of sidewalk around the mall and shopping centers for anticipated residents.

Mr. Wade asked if there were any other partners besides CBL and Schell Brothers. Mr. Burnett explained that this project is led by a subsidiary of Schell Brothers, SB Apartments and they are the primary on the project. CBL properties has a percentage stake and right of refusal.

Mrs. Levenson-Melvin asked for elaboration on safety and security of the proposed project. Mr. Burnett stated that they are not sure if additional security will be necessary at this time. He believed because of the controlled access and security cameras that additional security would not be necessary. Mr. Burnett read an excerpt from a study done on mixed use and crime which insinuated that this type of development makes the whole area safer.

Mrs. Levenson-Melvin asked if the apartments would allow pets. Mr. Burnett stated that they typically allow pets and that these days, pets are people's children, so it is common to allow pets in luxury apartments. Mr. Kelly said that these days you can't build without including pet amenities such as a dog park.

Mrs. Schiff stated that this is a wonderful solution to a big problem in regards to the vacant Sears building.

Tara Botts of 901 Germar Ct came to the podium to express her concerns in regards to this project. She asked if the City has the infrastructure to support this project. She stated that she is a substitute at Tussing Elementary which would be where the apartments would be zoned for and that the school is experiencing overcrowding. She believed that being off of Interstate 95 there should be more meals and sales tax coming in, and that if this project fails, there is a loss of a potential commercial business that could have been at the site. She stated that comparing Colonial Heights to Henrico and Chesterfield is not fair as they are much larger municipalities with other revenue sources. Additionally, Ms. Botts stated that the City lacks a well-devised traffic flow and that there is often major congestion. She is concerned that the project would add to already severe traffic in the area. She said she is not totally opposed to the project, but that these factors must be considered.

Mike Hamilton of 118 Marvin Ave stated that he believed the only traffic was during rush hours. He also said that Roslyn Park is nearby for pet owners to walk their dogs. He believed this project would be an improvement, and we can't be sure of traffic or school age children until tenants arrive.

Mrs. Schiff made a motion to approve PC resolution 22-01 and Mrs. Levenson-Melvin seconded the motion.

Vote:
Yes:
Mr. Hartson
Mrs. Schiff
Mrs. Hamilton
Mr. Kohan
Mr. Kwiek
Mrs. Levenson-Melvin
Mr. Wade
No: none
Motion: **Unanimous Pass**

B. PC RESOLUTION 22-02 AND AN ORDINANCE NO. 22-02

To grant a special use permit to Southpark Mall CMBS LLC, property owner, located at Southpark Circle, also known as parcel identification number 68204700013, and zoned GB – General Business, to allow the redevelopment of the former Sears Building into multi-family residential apartments.

Mrs. Brown stated that the special use permit is needed to allow multi-family residential dwellings in the general business district without complying to the following City code provisions: 1) The multi-family use shall be allowed only in the same structure as and in conjunction with an associate civic office commercial use type, 2) The civic office commercial use type must occupy at least 50% of the gross floor area of the structure. The applicants cannot meet the above conditions in the General Business district. As multi-family units these will be standalone structures and not located in the same structure as and in conjunction with any civic office or commercial use type. And there are no civic office or commercial use types associated with this proposal. Proposed conditions if the Commission votes to recommend a special use permit: 1) the development shall be in substantial accord with the concept site plan prepared by Poole and Poole Architecture, LLC. 2) A site plan will be required for the development which complies with all other City standards and specifications unless exempted by City Council.

Staff recommended approval.

Mr. Wade clarified that the developers are not seeking any incentives.

Mr. Kohan asked how long the project would take to complete. Mr. Burnett stated that between site plan approval and completion probably two to three years.

Mrs. Hamilton made a motion to approved PC resolution 22-02 and Mr. Wade seconded the motion.

Vote:

Yes:

Mr. Hartson
Mrs. Schiff
Mrs. Hamilton
Mr. Kohan
Mr. Kwiek
Mrs. Levenson-Melvin
Mr. Wade
No: none

Motion: **Unanimous Pass**

IX. Old Business

- A. Closed meeting pursuant to Paragraph A.8 of Section 2.2-3711 of the Code of Virginia, to consult with legal counsel employed by a public body regarding a specific legal matter – the appropriate zoning of a specific use type – requiring the provision of legal advice by such counsel.

By a vote of 7-0, the Commission voted to go back into an Open Meeting.

The Commission has been in a closed meeting pursuant to Paragraph A.8 of Section 2.2-3711 of the Code of Virginia, to consult with legal counsel employed by a public body regarding a specific legal matter – the appropriate zoning of a specific use type – requiring the provision of legal advice by such counsel.

Consideration of the following certification:

Each member will now certify that to the best of the member's knowledge (i) only public business matters lawfully exempted from open meeting requirements of the act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member who believes there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place.

Roll Call. An affirmative vote shall constitute certification of compliance. The certification was approved by a vote of 7-0.

X. New Business/Reports

- A. **SUB 22-1 Southpark Shopping Center, Parcel 18 – Panera Restaurant
Parcel ID#68204700018**

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.

Mrs. Brown reminded Planning Commission that they had approved the preliminary site plan on May 5, 2020. The applicants are now requesting a minor division to subdivide the restaurant into its own parcel. She provided the Planning Commission with visuals of the proposed subdivision. Staff recommended approval provided that Public Works comments were addressed.

Ryan Yauger, of Bohler Engineering was present to represent the applicant.

Mr. Hartson clarified that this subdivision means that Panera would own its own building rather than leasing from the shopping center.

Mr. Kohan asked if there would be a separate ingress/egress on Temple Avenue or if they would use the existing entrance. Mr. Yauger stated that they would use the existing access.

Mrs. Schiff asked what would happen to the existing Panera building and Mr. Yauger stated that he was unsure.

Mrs. Schiff made a motion to approve Subdivision 22-1 and Mrs. Levenson-Melvin seconded the motion.

Vote:

Yes:

Mr. Hartson

Mrs. Schiff

Mrs. Hamilton

Mr. Kohan

Mr. Kwiek

Mrs. Levenson-Melvin

Mr. Wade

No: none

Motion: **Unanimous Pass**

Reports

1. Chairman-No report

2. Director of Planning and Community Development – Mrs. Brown
No report

3. City Engineer or Designee – Asst. Director of Public Works – Mr. Ryan

Mr. Ryan stated that the Safe Routes to School project at North Elementary had been completed and they were moving on with phase two. Utility relocation had begun and was slated to be completed in February. The Westover right-turn lane project was finishing up right-of-way negotiations, utility relocation was underway and was set to be completed in two weeks. The Lakeview Avenue modernization had its bid opening in November, but the two bids were over their allocation. They are working with

Council and the Metropolitan Planning Organization to procure additional funds in order to execute the project. They are requesting an additional 1.8 million dollars in funds. According to VDOT about 80% of projects are coming in 50-80% over the engineers estimates. The Appomattox River Trail Phase Five from Roslyn Landing to Jennick Drive is in the processes of obtaining approval from Virginia DEQ. They are expecting to see approval by mid-February. They have selected a consultant for the High School sidewalks along Conduit Rd. and surveying is underway. The Boulevard and Temple Avenue Intersection environmental improvements have received approval from VDOT. Townplace Suites has begun breaking ground and Roslyn Farm is planning to build a new office building next to the pond on Temple Lake Drive.

Mr. Kohan asked about the boarded house on Dupuy Avenue. Mr. Ryan explained that the City owns that property as well as the property next to the courthouse and have subdivided the property for development.

Mr. Wade asked about flooding on Huntington Drive and Conjuror's Drive. Mr. Ryan stated that they are estimating what new infrastructure would need to be created.

4. Others, as necessary or appropriate

a. City Manager – Mr. Smith

Mr. Smith stated that Mission BBQ would open on January 18th.

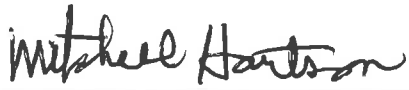
b. City Attorney – Mr. Fisher

No report.


XI. Adjournment

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

The meeting was adjourned at 9:28pm.

X 

Mitchell Hartson
Chairman

X 

Maxie Brown
Interim Secretary