

## MINUTES OF THE PLANNING COMMISSION MEETING

Wednesday, May 1, 2019  
City Council Chambers  
2400 Washington Avenue  
Newport News, Virginia

**PRESENT:** Daniel L. Simmons, Jr., Chairman; Katie Stodghill, Vice-Chairwoman; Willard G. Maxwell, Jr.; Sharyn L. Fox; Mark W. Mulvaney; Michael F. Carpenter; Zachary E. Wittkamp; Elizabeth W. Willis; N. Steve Groce; (Staff: Sheila W. McAllister, Director of Planning; Flora D. Chioros, Assistant Director – Current Planning; Rhonda L. Russell, Assistant Director – Comprehensive Planning; Saul Gleiser, Senior Planner; Johnnie Davis, Planner; Elizabeth McRae, Landscape Planner; Lynn Spratley, Deputy City Attorney; Nyoka Hall, Zoning Administrator)

**ABSENT:** None

### CALL TO ORDER

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

### INVOCATION

Mr. Mulvaney presented the invocation.

### MINUTES

The minutes of the April 3, 2019 public hearing and April 17, 2019 work session were approved as presented.

### PUBLIC HEARING

### DEFERRED CONDITIONAL USE PERMITS

**CU-2019-0001, The Mariners' Museum** (*Deferred from Planning Commission meeting of March 6, 2019*) Requests a conditional use permit to allow for the installation and operation of a communication tower on property located at 100 Museum Drive. The lease area is 2,500 square feet of a 463.9 acre parcel and zoned P1 Park. The *One City, One Future Comprehensive Plan 2040* land use map recommends parks and recreation uses. The Parcel No. is 231.00.01.01.

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Mr. Gleiser stated the applicant has requested a deferral of this application to June 5, 2019 (copy attached to record minutes).

Mr. Will Shewmake, 901 East Byrd Street, Richmond, Attorney for the Applicant, asked for a longer deferral to the September 4, 2019 public hearing. He stated based on the feedback from the April 17, 2019 Planning Commission work session, it is apparent to us that we will not be ready by June 5, 2019 because we have to do a new balloon test and consult with the Federal Aviation Administration (FAA). He stated we would like to defer to the September 4, 2019 meeting so we do not come up short and have to ask for another deferral on June 5, 2019.

Mr. Carpenter stated he is in favor of seeing a new cell tower within the general vicinity of the Mariners' Museum for better coverage and safety purposes, as well as a stream of revenue to support the museum, but not at the location in this application.

Mr. Carpenter made a motion to recommend deferral of conditional use permit CU-2019-0001 September 4, 2019 Planning Commission public hearing. The motion was seconded by Ms. Fox.

**Vote on Roll Call**

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

**Against:** None

**Abstention:** None

The Planning Commission voted unanimously (9:0) to recommend deferral of conditional use permit CU-2019-0001 to the September 4, 2019 Planning Commission public hearing.

**CU-2019-0003, Taylor Made Holdings NN LLC (Deferred from Planning Commission meeting of April 3, 2019)** Requests a conditional use permit to operate a private school with less than 200 students for children with autism on property located at 803 Diligence Drive. The parcel contains 3.23 acres and zoned C4 Oyster Point Business. The *One City, One Future Comprehensive Plan 2040* land use map recommends regional commercial uses. The Parcel No. is 196.00.01.23.

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

Mr. Simmons asked if there are any concerns regarding the possibility of changing from a 50 to 80 students. Mr. Gleiser stated we have not heard from the Department of Engineering who are reviewing a revised Traffic Impact Statement (TIS). He stated right now we are recommending up to 50 students since the approved TIS covers that number. Ms. Chioros stated originally the applicant indicated the maximum they would have is 50 students at this location. She stated the applicant requested a deferral on April 3, 2019 when we recommended a condition with a maximum number of 50

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students. Ms. Chioros stated the applicant has submitted a revised TIS schematic for the 80 students to the Department of Engineering unfortunately we did not receive it until last week and it is not approved at this time. Mr. Simmons stated he does not have a problem with 50 students, he just wants to ensure the Planning Commission is aware of which number of students we are looking at. He asked if 50 students is the recommended number. Mr. Gleiser stated yes.

Ms. Fox asked if we approve the application for 50 students and they decide to expand to 80 students, could they come back and request an additional conditional use permit. Mr. Gleiser stated yes.

Mr. Mulvaney asked if it is possible to approve 50 students today and condition that if the applicant has the TIS approved by the Department of Engineering prior to the City Council public hearing that it would change to 80 students. Mr. Mulvaney stated it appears that the other five classrooms are there and the only thing that is lacking is the Department of Engineering's approval of the TIS. Ms. Spratley stated one problem with approving a conditional use permit with the provision that 50 students were permitted but they could go up to 80 students if the TIS is approved, is that the TIS may come back with some provision items and the Planning Commission would not have the benefit of knowing. Ms. Spratley stated it is not the best way to do things because you do not know what the details of the TIS will say, even if it suggests that 80 students is permissible. Mr. Mulvaney stated if the application is approved today for 50 students there would be nothing to preclude them from building out internally to prepare for potentially having 80 students, and if the TIS comes back favorable, then the applicant would come back before Planning Commission and then City Council, but it would allow them to meet the school year for this need. Ms. Spratley stated yes, if they are approved today for 50 students, they can do that. Mr. Gleiser stated right now the plan shows that 6,000 square feet in the front portion of the building is going to be used by the property owner. He stated the school will be operating in 10,000 square feet in the rear portion of the building. Mr. Gleiser stated we were not given a schedule as to when they think they will be expanding into the entire building.

Ms. Willis stated she works in the Oyster Point area and there is another school there that uses buses to transport students to the school. She stated she called the school and was told they have approximately 35 to 50 students and they only have stacking for three busses in their parking lot. Ms. Willis stated that school pulls from the regional area as well.

Mr. Simmons opened the public hearing.

Mr. Tim Trant, 11815 Fountain Way, Attorney for the Applicant, gave a brief presentation of the application (copy attached to record minutes). He stated a supplemental TIS was submitted to the Department of Engineering on April 11, 2019 which estimated and projected what a build-out to accommodate 80 students would look like. Mr. Trant stated we expect that growth will happen over time but there is no

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specific time line. He stated the Board at Faison is making a significant investment and they are uncomfortable moving forward with any property that would not accommodate, with some relative degree of certainty, their full build-out potential of 80 students in order for the mission of the school to be realized and the economics to support the use over time. Mr. Trant stated The Faison Center is under extreme pressure to open for the start of the school year in late August/early September, and time is critical because we need to go before City Council and get an approval before we can begin our build-out in order to be open and meet commitments to localities that will utilize this facility. He asked that the Planning Commission see fit to recommend approval of the conditional use permit and alter Condition No. 1 to increase the limit from 50 students to 80 students.

Ms. Fox asked with how many students does the school plan to open. Mr. Trant stated the initial build-out would be able to accommodate 40 students. Ms. Fox asked if they are anticipating starting the school with 80 students. Mr. Trant stated no. Ms. Fox asked if it would create an undue hardship if the school started with 50 students. Mr. Trant stated on Day 1 we will only have the right to occupy 10,000 square feet. He stated the applicant is uncomfortable committing to a facility where they do not have assurance of their ability to expand to 80 students. Mr. Trant stated that getting an approval for 50 students and having to come back at a later date to request an amendment to that conditional use permit to expand to 80 students is an undesirable situation for them. He stated they would much prefer the certainty of their ability to expand before they invest in and occupy any facility. Mr. Simmons stated the applicant does not have the square footage requirement to have 80 students right now. Mr. Trant stated no, but we have lease options in our lease agreement with the landlord. He stated if, in the future, the landlord vacates their 6,000 square feet, the applicant would have "first right of refusal" to take over that space. Mr. Trant stated it is part of the applicant's business plan to expand when that space comes available.

Mr. Mulvaney stated he is hearing the applicant did not submit a request for 80 students when they could have, and now they are asking the Planning Commission to do things to accommodate the 80 students when they have a lease condition for it, but not a guarantee. He stated it sounds like a business matter. Mr. Mulvaney stated it also sounds like they will not move forward with the application unless they have 80 students.

Ms. Fox stated she is trying to understand why coming back for a conditional use permit to expand to 80 students at some point in the future would be such an onerous burden.

Mr. Michael Laing, 1812 Hanover Avenue, Richmond, Agent for the Applicant, stated we have a facility in Newport News that is maxed out at 16 kids. He stated part of the reason that Faison acquired the Peninsula School of Autism is because we recognize there is a need here. Mr. Laing stated as an organization, we serve 28 municipalities in Virginia and this is a natural place for us to continue to expand our services. He stated we will open the school in the fall with a minimum of 16 students, who would be coming

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from the current location. Mr. Laing stated it will take us a period of time to ramp up from 16 students to 40 students, due to the nature of the students we have and the training that is necessary for our staff. He stated if we open in September with 16 to 24 students we may by year-end have 24 to 32 students. Mr. Laing stated one of the appeals about this property is that the landlord occupying space on the property may choose to expand and move, which would allow the applicant to lease additional space within the building as the school grows over the course of several years. Mr. Laing stated the school attendance would not jump from 40 to 80 students immediately, again, it would ramp up based on staff training and demand. He stated when we had our initial meeting with Planning staff to talk about the application, the most immediate thing for us was to have 40 students to get the application moving. Mr. Laing stated another aspect of the plan was having the physical ability to expand. He stated when we learned we would be limited to 50 students we had to defer the application because we did not know a limit would be imposed.

Mr. Simmons stated he would like to echo Mr. Mulvaney's comments in regard to project planning and projecting. He stated moving forward with 50 students with this application is a great start, and as Mr. Laing said, it will take some time to ramp up to 80 students.

Mr. Mulvaney asked if the maximum of 80 students could not be achieved today, would the applicant continue to move forward with the application allowing 50 students or move from the proposed site. Mr. Trant stated that is a decision for the applicant and its Board of Directors. He stated he thinks getting approval for 50 students is the most important thing and having an opportunity to open in the fall.

Mr. Simmons closed the public hearing.

Ms. Fox stated the School for Autism has been a real asset to families on the peninsula for many years and she wishes the applicant nothing but success.

Ms. Fox made a motion to recommend approval of conditional use permit CU-2019-0003 to City Council with conditions. The motion was seconded by Mr. Groce.

**Vote on Roll Call**

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

**Against:** None

**Abstention:** None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-2019-0003 to City Council with conditions.

**CU-2019-0004, North Riverside Baptist Church and City Life Church.** Requests a conditional use permit to allow for the operation of a pre-school with child care center as part of a community facility on property located at 311 Selden Road. The parcel

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contains 5.38 acres and zoned R3 Single-Family Dwelling. The *One City, One Future Comprehensive Plan 2040* land use map recommends community facilities uses. The Parcel No. is 237.00.03.32.

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

Ms. Willis asked if Condition No. 1 is a conflicting statement or, if the condition is met when they file for religious exemption because they are a church. Mr. Gleiser stated the condition met is with the religious exemption.

Mr. Simmons opened the public hearing.

Pastor Fred Michaux, 311 Selden Road, Applicant, thanked Planning staff for their assistance and stated he is available for questions.

Ms. Stodghill asked if school buses would be stacked in the parking lot. Pastor Michaux stated no, the only vehicular traffic would be parents in their personal vehicles picking up and dropping off children.

Ms. Fox asked if the before and after school program was operated under the auspices of North Riverside Baptist Church. Pastor Michaux stated yes.

Mr. Simmons read an email submitted by Ms. Jean Anderson, sent to Saul Gleiser regarding a concern about the gate (copy attached to record minutes).

Mr. Simmons asked if the gate issue has been vetted and worked through. Pastor Michaux stated we are going to comply with whatever is required of us based on the ordinances in place.

Mr. Carpenter asked how do we define a religious service, and when the gate would be opened or shut. Pastor Michaux stated North Riverside Baptist Church has dissolved, and City Life Church is taking over the property. He stated he is not in a place to speak for how the opening and closing of the gate has been maintained by the previous owner, but he can say that as the new owner we are going to comply with the ordinances that are in place. Pastor Michaux stated if the gate needs to be closed when there is no worship service taking place, then we are going to make sure it is closed. He stated his understanding is that the definition of a worship service would be a gathering and not a bible study or a small group.

Ms. Stodghill asked if there are 64 kids in the before and after school program, where would the personal vehicles stack. Pastor Michaux stated the parking lot is massive so there is more than enough room for that to happen in the parking lot. Ms. Stodghill asked if there is curbside drop-off, and if so, where the kids are going to be picked up.

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Pastor Michaux stated the parents will need to park their cars and come into the building to sign their kids in and out of the program.

Mr. Simmons closed the public hearing.

Mr. Groce made a motion to recommend approval of conditional use permit CU-2019-0004 to City Council with conditions. The motion was seconded by Mr. Carpenter.

**Vote on Roll Call**

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

**Against:** None

**Abstention:** None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-2019-0004 to City Council with conditions.

**ZONING TEXT AMENDMENTS**

**ZT-2019-0004, City of Newport News** Requests an amendment to the zoning ordinance to add the definition of short-term rental in Section 45-201.

Flora Chioros, Assistant Director – Current Planning, presented the staff report (copy attached to record minutes).

Mr. Carpenter stated the Regulations Committee vetted and support the proposed zoning text amendment.

Mr. Simmons opened and closed the public hearing.

Mr. Mulvaney made a motion to recommend adoption of zoning text amendment ZT-2019-0004 to City Council. The motion was seconded by Mr. Groce.

**Vote on Roll Call**

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

**Against:** None

**Abstention:** None

The Planning Commission voted unanimously (9:0) to recommend adoption of zoning text amendment ZT-2019-0004 to City Council.

**ZT-2019-0005, City of Newport News** Requests an amendment to the zoning ordinance to add short-term rentals to the use matrix, Section 45-402.

Flora Chioros, Assistant Director – Current Planning, presented the staff report (copy attached to record minutes).

Mr. Simmons opened and closed the public hearing.

Ms. Fox made a motion to recommend adoption of zoning text amendment ZT-2019-0005 to City Council. The motion was seconded by Mr. Groce.

**Vote on Roll Call**

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

**Against:** None

**Abstention:** None

The Planning Commission voted unanimously (9:0) to recommend adoption of zoning text amendment ZT-2019-0005 to City Council.

**ZT-2019-0006, City of Newport News** Requests an amendment to the zoning ordinance to add general regulations for short-term rentals, Section 45-517.1.

Flora Chioros, Assistant Director – Current Planning, presented the staff report (copy attached to record minutes).

Ms. Stodghill asked if parking must be on-site, does that mean no parking on the street. Ms. Chioros stated the proposed regulation requires a minimum of three parking spaces on-site. Ms. Stodghill asked if guests can still park on the street. Ms. Chioros stated when you have a residence, two spaces are required to be on your property so the addition of a short-term rental requires an additional parking space to be on the site. She stated if you have public street parking we cannot prohibit anyone from parking there, but many of our neighborhoods require residential parking permits and that would restrict on-street parking. Ms. Stodghill stated if you cannot have any more than six guests and the parking is provided on-site, not all six guests are required to park on-site. Ms. Chioros stated we are not assuming that six different people are going to show up in six different cars. She stated we also do not allow for multiple rentals to different people, so it is essentially a family or a group of people that are coming together. Ms. Chioros stated they could have more than one car, but they would have at least three on-site spaces to park. Ms. Stodghill stated in each building you can have a maximum of six unrelated people renting rooms. Ms. Chioros stated that is correct. Ms. Stodghill stated they can all come with six different cars. Ms. Chioros stated potentially, they could. Ms. Stodghill asked if they would all have to park on-site. Ms. McAllister stated the ordinance states some parking is provided on-site, not that all of the parking has to be provided on-site. Ms. McAllister stated if you have a dwelling with no on-site parking, then you cannot get a permit. Ms. Stodghill stated if you have six people renting a building with six cars, three of them could park on-site. Ms. Chioros stated yes, according to the regulations, you need to have a minimum of three parking spaces on-site. She stated six people is the maximum allowed in the rental, but we are assuming that it is not six people with six cars.



Ms. Stodghill asked what is the definition of a boarding house. Ms. Chioros read "a boarding house is an owner-occupied building other than a hotel or motel where for compensation, lodging with or without meals is provided for four or more people." She stated boarding houses are not allowed in single-family neighborhoods and are only permitted in R7, R8 or C3 with a conditional use permit. Ms. Chioros stated short-term rentals are being proposed in single-family neighborhoods. She stated there will be some nuisances, but part of the need for the regulation is that the use is already occurring and the regulations would allow our Zoning Administrator a way to address potential nuisances. Ms. Stodghill stated short term rentals are allowed in R1, R2, R3, R4 and R5, so there is no overlap with boarding houses. Ms. Chioros stated that is correct.

Ms. Fox asked if the rentals are limited to overnight stays. Ms. Chioros stated it is overnight lodging with a limit on the number of days. She stated commercial meetings, including luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities or other gatherings for direct or indirect compensation are prohibited.

Mr. Simmons opened and closed the public hearing.

Ms. Fox made a motion to recommend adoption of zoning text amendment ZT-2019-0006 to City Council. The motion was seconded by Mr. Willis.

**Vote on Roll Call**

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

**Against:** None

**Abstention:** None

The Planning Commission voted unanimously (9:0) to recommend adoption of zoning text amendment ZT-2019-0006 to City Council.

**EXECUTIVE SECRETARY REPORT**

Ms. McAllister stated on April 23, 2019, City Council approved the three text amendments for food truck vendors on private property.

Ms. McAllister stated on May 15, 2019 we will have a work session presentation of the draft Denbigh Warwick Area Plan at 2:00 P.M. in the City Council conference room.

Ms. McAllister stated the public hearing on June 5, 2019 will include the master plan for the Tech Center Research and Development Park and a conditional use permit for an electronic display sign for a community facility at 12716 Warwick Blvd.

Ms. McAllister stated we are still waiting to hear a response on the Choice Neighborhoods Initiative grant.

There being no further business, the meeting adjourned at 3:35 P.M.

  
Recording Secretary

  
Executive Secretary