



CITY OF COLONIAL HEIGHTS, VIRGINIA
MEETING OF THE PLANNING COMMISSION
Wednesday, January 2, 2013

AGENDA

- I. Call To Order
- II. Roll Call
- III. Determination Of Quorum
- IV. Approval Of Agenda
- V. Approval Of Minutes
 - A. Minutes
April 6, 2021 Minutes

Documents:

[202104_PC_MINUTES_V2.PDF](#)
- VI. Hearing Of Citizens Generally
- VII. Public Hearing
 - A. Planning Commission Resolution No. 12-7
To recommend that the City Council approve Ordinance No. 21-11, to amend § 286-410.62 of Chapter 286, Zoning, of the Colonial Heights City Code, to authorize the operation of mobile food units on a less restrictive basis.

Documents:

[PCRESO_21-07.PDF](#)
[AN ORDINANCE NO 21-11.PDF](#)
- VIII. Old Business
- IX. New Business/Reports

- X.** Reports
- XI.** Chairman
- XII.** Director Of Planning And Community Development
- XIII.** City Engineer Or Designee
- XIV.** Others, As Necessary Or Appropriate
 - A.** City Attorney
 - B.** City Manager



**CITY OF COLONIAL HEIGHTS, VIRGINIA
MEETING OF THE PLANNING COMMISSION
City Council Chambers, 201 James Avenue, Colonial Heights, VA 23834
Tuesday, April 6, 2021
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

Mrs. Hamilton

Mr. Kohan

Mr. Kwiek

Mrs. Levenson- Melvin

Mr. Wade

Absent: none

III. Determination of Quorum

A quorum was determined.

IV. Approval of Agenda

Mrs. Hamilton made a motion to approve the agenda and Mrs. Levenson-Melvin seconded the motion, with all commissioners in favor.

V. Approval of Minutes for March 2, 2021 meeting

Mr. Hartson requested that the minutes be corrected to properly convey his statement regarding General Motors moving to electric vehicles in 2035 and not 2025. He also recommended a few minor grammatical edits.

Mr. Wade made a motion to approve the minutes pending these minor edits and Mrs. Hamilton seconded the motion with all commissioners in favor.

VI. Hearing of Citizens Generally

No citizens spoke.

VII. Public Hearings

A. PC RESOLUTION NO. 21-3 AND AN ORDINANCE NO. 21-5

To grant a special use permit to Southgate Square Virginia LLC to permit a hookah establishment at 90 Southgate Square, Suite 180, also known as parcel identification number 69010300001, which is zoned GB – General Business District. A hookah establishment is a lounge where patrons share flavored communal hookah or from one placed at each table or bar.

The location of suite 180 is adjacent to Tropical Smoothie Café in the former Plato's Closet space. The applicant's power of attorney is Mr. John T Wood.

Ms. Hall explained what hookah is and the history of hookah. The Special Use permit is necessary because the Zoning Ordinance does not define a use type for establishments dedicated to smoking. While some localities define use types for smoking establishments such as a cigar lounge, the Colonial Heights Zoning Code does not.

Staff recommended approval.

Mr. John Wood, Attorney, came to the podium representing Southgate Square Virginia LLC, owners of the shopping center. Mr. Wood explained what changes would need to be made to the former retail space, and also what would be offered at the location in addition to hookah including food and drink.

Mr. Wood introduced Mr. Oziat Mirza and Mr. Elipaz Banks, the businessman proposing the hookah lounge and prospective tenants of Southgate Square. The tenants plan to lease the space for a minimum of five years and invest \$240,000 renovating the space which was the former clothing store, Plato's Closet. The renovation will include \$60-70,000 for the kitchen. The only change from the outside of the lounge will be a new sign. The food served will be Mediterranean finger food such as falafels, humus, and paninis. Initially there will be mocktails, and eventually an application for an ABC license will be submitted by the prospective tenants. The shopping center already has wide sidewalks and plenty of parking and the hookah lounge will only be open to patrons 21 and older.

Mr. Wood went on to define a hookah café as a space for cultural and social gatherings such as anniversaries, retirement parties, or birthday parties. The hookah is placed in the middle of a table and shared with three to seven patrons, each patron has a different hose and their own mouthpiece. The patrons inhale flavored water vapor. The water vapor is usually flavored with some sort of fruit

extract such as orange, pineapple or strawberry. The property will also be outfitted with a new HVAC system.

Mr. Wood stated that the hookah lounge would probably open around noon and close in the evening similar to other restaurants in the area; the hookah lounge would not be a competitor to restaurants already in the shopping center and more complementary to the existing businesses. Mr. Wood concluded that the hookah lounge will help reduce blight and a detrimental atmosphere since the retail space has been vacant for so long.

Mr. Hartson asked for clarification that the fluid in the hookah does contain nicotine. Mr. Wood replied that yes, they do, but that most of it is a flavoring of nicotine and tobacco that each patron chooses.

Mr. Wade asked what the hours of the establishment would be and Mr. Wood stated it would have similar hours to the surrounding businesses, likely 12pm-10pm.

Mr. Wade expressed concern that someone would be able to tamper with the bowl and add their own ingredients. The prospective tenants explained that they are completely sealed, and have a covering over it so that patrons cannot access the tobacco or the heating coals Mr. Wood explained that it would only be accessible by the server.

Mr. Wade asked if the owners had any other businesses. Mr. Wood stated that the business owner's family has another hookah lounge business in Houston, Texas.

Mr. Wade asked if they were obtaining an ABC license. Mr. Wood responded that they were waiting until approval before pursuing one.

Mr. Wade asked if there were any other businesses in that strip mall that offered alcoholic beverages and commissioners replied that three of the restaurants, Koreana, Los Bandidos, and Volcano Crab all serve alcohol.

Mr. Hartson stated that he had not tried hookah, but that he had been to the Mona Lounge in West Broad Village (Short Pump, VA) many times. It is a cigar bar, which is why he had gone. The Mona Lounge also offers hookah, and he has seen patrons using hookah many times and has never seen a problem involved in it. Mr. Hartson was curious if vaping isn't allowed indoors at other restaurants, which is also water vapors, why would hookah be. Ms. Hall explained that it is addressed in the Virginia Indoor Clean Air Act, and that any smoking whether it is smoke or vapors must adhere to the Act. So, in a restaurant there has to be two separate areas, non-smoking and smoking, and there must be special ventilation installed to meet the requirements of the Indoor Clean Air Act. Mr. Hartson asked if Sedona Taphouse wanted to allow vaping if they would need to apply for a special use permit. Ms. Hall explained that the City does not currently permit smoking establishments, whether as a primary or an accessory use. Because our

zoning code does not define it, any business allowing indoor smoking would require a special use permit.

Mrs. Hamilton was happy to hear that patrons must be 21 and older. She asked what age group would enjoy this. Mr. Wood explained that it depends on someone's life experience. Older people who have spent time in or are from the Middle East and Northern Africa would be attracted to it, but the demographic most interested would likely be people in their 20's to 40's. He explained that in the Middle East it is the equivalent of a pub, where people go to socialize and gather.

Mr. Kohan asked if a hood suppression system would be necessary for each hookah since they have a flame? The prospective tenants explained that it is just a self-contained coal and that there is no actual exposed flame. Ms. Hall explained that the building code and health code will ensure it meets all requirements.

Ms. Hall received an email at 11:25am on April 6, 2021 from Karen Pond-Tomlinson, and no address was provided. The email expressed concerns about crime and outsiders as a result of this establishment causing strain on the police. She was also concerned that the legalization of marijuana would lead to the addition of marijuana to their menu.

Donna Pritchett of 210 Winston Ave came to the podium to speak. Ms. Pritchett stated that hookah is more harmful than cigarettes, and that a pretty picture was painted, which ignored the reality.

Mrs. Schiff stated that she was aware that smoking can be harmful and that drinking alcohol can be harmful; but, it is up to the individual as an adult to make these choices. She clarified that she is not advocating smoking; she is simply advocating giving permission for the business to operate.

Mrs. Schiff made a motion to approve PC Resolution 21-3 and Ordinance 21-5 and Mrs. Levenson-Melvin seconded the motion.

Vote: 6-1

Yes:

Mr. Hartson

Mrs. Schiff

Mrs. Hamilton

Mr. Kohan

Mr. Kwiek

Mrs. Levenson- Melvin

No:

Mr. Wade

Motion: Pass

B. PC RESOLUTION NO. 21-4 AND AN ORDINANCE NO. 21-6

To change the land use classification of a 0.65 acre property owned by Cynthia Evelyn Peroe, Trustee of the Urma J. Spaight Estate Trust, and which is known as 217 Battery Place, parcel identification number 3000010F012, Lots 11 and 12 of Block F of the Colonial Heights Subdivision, from Residential – Single Family to Transitional Office.

Mr. Fisher took a moment to remind commissioners that there are two different resolutions associated with this property. This first Resolution and Ordinance is for a change in the land use listed in the Comprehensive Plan. The second Resolution and Ordinance will be addressing the rezoning of the property and a change in the zoning map.

Ms. Hall provided location information and a brief description of the property. 217 Battery Place is located directly across from the courthouse parking lot. She also provided the definition of Low-Density Single Family and Transitional Office. In 2016, a public meeting was held about potential land use changes and rezoning the region surrounding the courthouse to transitional office. The result was that the community preferred to remain RL—Residential Low Density.

Staff recommends approval based on the precedent set by the approval of 205 Chesterfield Avenue.

Mrs. Schiff asked how long the property had been vacant. Ms. Hall stated that it was her understanding the property was consistently rented, but to ask the applicant after her presentation.

Ms. Cynthia Peroe, owner of the property at 217 Battery Place, was available via conference call to speak to the Planning Commission.

Ms. Peroe explained that the property was a very old historic home from 1915. It had previously belonged to her great-grandmother. It is a large property with eight bedrooms. She stated that her family began renting rooms to Fort Lee tenants in the 1940's at the request of the City. As time went on, she stated that it has been more difficult to find responsible tenants to rent out the rooms as Fort Lee has built their own housing. Her present goal of changing the land use classification is to renovate the property, and rent the rooms out as law offices. She believed with its proximity to the City Courthouse it would be an ideal location for lawyers.

Mr. Wade asked about the present condition of the property. Ms. Peroe stated that the six upstairs rooms were being rented out at that time. She stated that it was habitable, but that it was no longer as lovely as it had been.

Mr. Hartson asked if there was adequate parking for an office use. Ms. Hall stated that parking requirements, including handicap spaces, must be met in accordance with the zoning code if the property were to be rezoned. She also stated that there was ample room in the rear of the property to meet these requirements.

Mr. Kwiek asked if the property had historical significance and Ms. Peroe replied that the only history is that it was built in the early 1900's.

Mrs. Hamilton stated that the property is located in the oldest subdivision in the City. She asked if the property was considered a boarding house and if that use was legal. Ms. Peroe stated that rooms are rented out individually, but as food is not provided to residents, she wouldn't define it as a boarding house. Mr. Fisher stated that it was legal. Ms. Peroe stated that it was her understanding that the use is legal because in the 1940's, Colonial Heights requested to assist Fort Lee in ramping up their housing efforts which led to the property being rented by room.

Mr. Hartson asked if the Planning Commission approved the change of land use, the property would be renovated and restored to better conditions for future tenants. Ms. Peroe stated yes, it would be renovated.

Mr. Kohan asked if there was a guarantee that the property would become a law office, and if she had prospective tenants interested in the property. Ms. Peroe stated that they had not spoken with prospective tenants at that time. Mr. Kohan restated that there were no guarantees the property would become law offices. Mr. Hartson stated that as Transitional Office included other uses, Mr. Kohan was correct in his statement that Ms. Peroe could not guarantee the property would be limited to tenants who were attorneys.

Ms. Hall clarified that in terms of the rezoning to RO-Residential Office, to be discussed in the next agenda item, the property could adhere to any of the listed allowed uses in the zoning code. It could continue as a single-family residence, or it could be used as a general office, medical office, financial institution, or laboratory.

Mrs. Schiff expressed concerns if the property were to be torn down, another office type could be built in its place as long as it adhered to the code. Mr. Hartson agreed that it was a concern if an office building could be erected in place of the house.

Ms. Peroe stated that she would agree to a condition which limited tenants to exclusively lawyers if the City deemed it necessary. Mr. Hartson stated that conditions are overly restrictive to the applicant. Mr. Fisher stated that those types of conditions would require a proffer, which would take time.

Mrs. Hamilton expressed concerns that the property is located in the middle of the street, so it is surrounded by single-family residential homes.

Ms. Hall read out an email from Mr. and Mrs. Crowder of 212 Marvin Ave. Their property backs up to the property in question at 217 Battery Place. The Crowders were strongly opposed to the change as it hurts their property value. They stated that Mrs. Peroe is an absent owner of three properties on the same block, expressing concern that she would also attempt to rezone the other properties she

owns.

Donna Pritchett of 210 Winston Ave came to the podium to speak. She stated that the neighborhood doesn't need offices in the middle of the block. She stated that she did not believe there was sufficient parking in front of the property for an office use. Ms. Pritchett stated that commissioners should tour the two properties that Ms. Peroe owns as they are in a state of disrepair and she did not have faith that Ms. Peroe would renovate the properties sufficiently as she had not yet. She stated that a number of years ago a previous tenant had shown her husband a tree growing through the floor of the property at 217 Battery Place. Ms. Pritchett stated that her primary concern was that she owns two houses on the street and doesn't want offices there as families live there.

Mr. Wade asked Ms. Peroe if there was in fact a tree growing in the floor of the property. Ms. Peroe stated that she had been at the property in January and had not seen a tree growing into the property.

Mrs. Schiff asked that if the property was in a state of disrepair would the building inspections department respond to code violations. Ms. Hall explained that inspections are routinely done from the street, but as inspectors may not trespass it is difficult to determine some violations.

Mr. Wade asked if there were any code violations at the property. Ms. Hall stated that she did not have that information prepared.

Mrs. Schiff made a motion to disapprove PC Resolution No. 21-4 and Ordinance No. 21-6, and Mr. Wade seconded the motion.

Vote: 7-0

YES:

Mr. Hartson
Mrs. Schiff
Mrs. Hamilton
Mr. Kohan
Mr. Kwiek
Mrs. Levenson- Melvin
Mr. Wade

NO: none

Motion: Unanimous Disapproval

C. PC RESOLUTION NO. 21-5 AND AN ORDINANCE NO. 21-7

To change the zoning classification of a 0.65 acre property owned by Cynthia Evelyn Peroe, Trustee of the Urma J. Spaight Estate Trust, and which is known as 217 Battery Place, parcel identification number 3000010F012, Lots 11 and 12 of Block F of the Colonial Heights Subdivision, from RL – Residential Low-Density District to RO – Residential Office District,

and to amend the Zoning Map accordingly.

Ms. Hall stated that staff recommended approval.

Ms. Peroe, owner of the property, spoke to the Planning Commission in regards to her intent with the property as well as responded to public comments. She stated that she views this action as a betterment of the community rather than continuing to rent out rooms.

Aaron Joiner of 211 Cambridge Place stated that if the applicant wanted people to trust her intentions of renovation, it should have been done previously.

Mrs. Schiff asked if the property could be subdivided and Ms. Hall replied that the property would need to meet the zoning requirements for road frontage. It is enough space to accommodate required parking on site.

Mrs. Schiff made a motion to disapprove PC Resolution No. 21-5 and Ordinance No. 21-7, and Mrs. Levenson-Melvin seconded the motion.

Vote: 7-0

YES:

Mr. Hartson
Mrs. Schiff
Mrs. Hamilton
Mr. Kohan
Mr. Kwiek
Mrs. Levenson- Melvin
Mr. Wade

NO: none

Motion: Unanimous Disapproval

D. PC RESOLUTION NO. 21-6 AND AN ORDINANCE NO. 21-10

To adopt a new Comprehensive Plan for the City through 2044.

Ms. Hall stated that she completed all edits as requested at the previous work session, and received state approval. At this time, it is now brought forward for public hearing. Additionally, FOLAR requested minor language use amendments which Ms. Hall addressed. Commissioners agreed with the amendments.

William Dimirack, property owner of 241 Archer Avenue came to the podium. He asked how the Comprehensive Plan concerns him, and why he received a notice. Commissioners explained that all property owners in the City received notice of the Comprehensive Plan as it is revised every five years and should reflect the citizens' vision for the future of the City. Citizens are welcome to read the document on the City website and discuss any changes that they may wish to see.

Victor and Brenda Coleman of 1125 Elmwood Drive came to the podium. They wanted to know if the Mount Pleasant concept plan was addressed in the Comprehensive Plan. Ms. Hall explained that their request for rezoning had been rejected, and no land use changes were being made to the Comprehensive Plan. Mrs. Coleman was concerned about a parking lot being developed behind her property. Commissioners reassured the Colemans that such a plan was not in the Comprehensive Plan.

William Mays of 406 Walnut Ave asked if a trail was being built on the property at Archer Avenue. Ms. Hall explained that the regional FOLAR Plan proposed access to connect the Appomattox River Trail through Archer Avenue. Mr. Dimirack was concerned about the trail coming through his property and increasing crime. Staff assured that if such a plan were to move forward there would be negotiations with him in regards to access through his property.

Mr. Wade made a motion to approve PC Resolution No. 21-6 and Ordinance No. 21-10, and Mrs. Levenson-Melvin seconded the motion.

VOTE: 7-0

YES:

Mr. Hartson

Mrs. Schiff

Mrs. Hamilton

Mr. Kohan

Mr. Kwiek

Mrs. Levenson- Melvin

Mr. Wade

Motion: Unanimous Pass

VIII. Old Business

IX. New Business/Reports

Reports

1. Chairman- no report

2. Director of Planning and Community Development – Ms. Hall

Ms. Hall stated that no applications have been received for a May planning commission, to date. Mr. Fisher stated that Mobile Food Units may appear on the May meeting.

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

Nothing to report.

4. Others, as necessary or appropriate

a. City Manager – Mr. Smith

Mr. Smith was not present, but Ms. Hall read his presentation. He stated that Surplus Freight would be leasing the former Rugged Wearhouse with a proposed opening of

May 1st, and Crumbl Cookie would be opening in the former Lastovica space.

b. City Attorney – Mr. Fisher

Nothing to report.

X. Adjournment

Mrs. Levenson-Melvin made a motion to adjourn and Mrs. Schiff seconded the motion with all commissioners in favor.

The meeting was adjourned at: 8:54pm.

X

Mitchell Hartson
Chairman

X

Kelly Hall
Secretary



PLANNING COMMISSION RESOLUTION NO. 21-7

To recommend that the City Council approve Ordinance No. 21-11, to amend § 286-410.62 of Chapter 286, Zoning, of the Colonial Heights City Code, to authorize the operation of mobile food units on a less restrictive basis.

Approved this 4th day of May 2021.

APPROVED:

Chairman

ATTEST:

Secretary

AN ORDINANCE NO. 21-11

To amend § 286-410.62 of Chapter 286, Zoning, of the Colonial Heights City Code to authorize the operation of mobile food units on a less restrictive basis.

THE CITY OF COLONIAL HEIGHTS HEREBY ORDAINS AS FOLLOWS:

1. Section 286-410.62 of Chapter 286, Zoning, of the Colonial Heights City Code is amended as follows:

§ 286-410.62. Mobile food units.

A. General standards:

- (1) All waste discharge shall be disposed of in a sewage system that the Environmental Health Division of the Virginia Department of Health has approved.
- (2) The mobile food unit operator shall provide trash receptacles and shall ensure that trash is properly removed from the site.
- (3) The operator shall comply with the provisions of Article IV ("Noise") of Chapter 218 of this Code and all other legal requirements.
- (4) All mobile food units shall be parked a minimum of 100 feet from any residence.
- ~~(5)~~ A mobile food unit may locate on the same parcel for up to three consecutive days, and may do so for a maximum of four times a year. Under no circumstances shall a unit operate on the same parcel for more than 12 days in a one-year period.
- ~~(6)~~(5) As part of the application for the permit discussed in Subsection A(7) below, a real property owner, or tenant, ~~or other authorized user~~ desiring to allow at least one mobile food unit on a parcel shall pay a fee of ~~\$50 for up to three consecutive days of operation~~ \$100 regardless of the number of mobile food units which will operate.

~~(7)~~(6) Whenever a real property owner, or tenant, ~~or other authorized user~~ desires to allow at least one mobile food unit on a parcel, the property owner, or tenant, ~~or other user~~ shall apply for and obtain a permit from the Department of Planning and Community Development. Application for a permit shall be made on a form the Department prepares, and the applicant shall provide all information the form requests. ~~As part of the permit process, the applicant shall submit a site plan showing the location where mobile food units shall be located.~~ The Director of the Department, or his designee, has total discretion to determine the number of mobile food units to be allowed on a parcel and whether to approve the permit; and there shall be no appeal from such a decision.

(7) The Director of the Department of Planning and Community Development, or his designee, shall specify, on an approved permit, the permit's duration, which shall not exceed three months. Once a permit expires, the real property owner, tenant, or other authorized user may apply for a new permit; and the Director of the Department shall have total discretion to determine the number of mobile food units to be allowed on a parcel and whether to approve the permit. There shall be no appeal from such a decision.

(8) If a mobile food unit operator fails to obey a requirement in a permit, the Director or his designee is authorized to revoke the permit or deny any future application for a permit made by a real property owner, or tenant, ~~or other authorized user~~ that includes the same mobile food unit operator.

(9) No mobile food unit shall operate between the hours of 10:00 p.m. and 6:00 a.m. of any day.

(10) Each mobile food unit shall be allowed to have signs that are attached to the unit and one detached temporary freestanding sign. The freestanding sign shall not

exceed ten square feet in area and may be on the site only when the mobile food unit is open for business.

(11) Each mobile food unit shall be on site only when the unit is open for business.

B. Where allowed:

(1) Subject to compliance with the provisions of this section, mobile food units shall be allowed ~~in the following locations:~~ for all use types specified in Article II of this Chapter, except for residential use types.

~~(a) The BB Boulevard Business District;~~

~~(b) The GB General Business District; and~~

~~(c) The real property of a religious assembly.~~

(2) Exception for homeowners. The owner of a home in a residential zoning district is authorized to have one or more mobile food units at his home for noncommercial uses. Such a homeowner shall be exempt from this section's requirements, except that he shall not violate any federal, state, or local law.

(3) City-owned property. The Director of the Department of Recreation and Parks is authorized to allow mobile food units on City-owned real property for specific events, and the Director shall impose those requirements on mobile food units that he deems reasonable and necessary.

2. This ordinance shall be in full force and effect upon its approval on second reading.

Approved:

Mayor

Attest:

City Clerk

I certify that the above ordinance was:

Adopted on its first reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Michael A. Cherry, Councilmember: _____

The Honorable, John E. Piotrowski, Councilmember: _____

The Honorable Dr. Laura F. Poe, Councilmember: _____

The Honorable Robert W. Wade, Councilmember: _____

The Honorable John T. Wood, Councilmember: _____

The Honorable Elizabeth G. Luck, Vice-Mayor: _____

The Honorable T. Gregory Kochuba, Mayor: _____

Adopted on its second reading on _____.

Ayes: _____. Nays: _____. Absent: _____. Abstain: _____.

The Honorable Michael A. Cherry, Councilmember: _____

The Honorable John E. Piotrowski, Councilmember: _____

The Honorable Dr. Laura F. Poe, Councilmember: _____

The Honorable Robert W. Wade, Councilmember: _____

The Honorable John T. Wood, Councilmember: _____

The Honorable Elizabeth G. Luck, Vice-Mayor: _____

The Honorable T. Gregory Kochuba, Mayor: _____

City Clerk

Approved as to form:

City Attorney