



PLANNING COMMISSION REGULAR MEETING

Tuesday, November 22, 2022 at 7:00 PM

MINUTES

CALL TO ORDER AND ESTABLISHMENT OF A QUORUM.

Ms. Susan Helander called the meeting to order at 7:01 P.M.

ADOPTION OF MINUTES.

HEARING OF PUBLIC HEARING ITEMS.

- 1. SUP 2022-03 Amazon Data Center** - This is a continuance of the November 15, 2022 and November 22, 2022 Planning Commission Public Hearings. The Applicant is requesting a Special Use Permit for a 220,200 square foot data center on Industrial zoned property designated in the New Town Character District on the Future Land Use Map located off Blackwell Road and Lee Highway. Previously there were two work sessions held by the Planning Commission. GPIN 6984-69-2419-000.

Ms. Helander introduces SUP2022-03 - Amazon Data Center continuance of the November 15, 2022, Planning Commission Public Hearing.

Mr. James Lawrence motions this meeting be postponed indefinitely.

Seconded by Mr. Ryan Stewart.

Mr. Lawrence motions to explain Robert's rules.

Mr. Lawrence asks for a second for purposes of discussion.

Seconded by Mr. Ryan Stewart.

Mr. Lawrence states I first want to talk about the reasoning to come to this public hearing. The 100-day rule. And I think I have a few points to make here. I think it's clear that it's reasonable to suggest that when the applicant twice delayed meeting with us during that period of time, you could assume that paused the clock. The Virginia Code that was cited as a reasoning for going to this public hearing references rezoning, not special use permits which one can reasonably assume have a higher standard for review. The justification states the board shall fix a reasonable time within 90 days of the filing of the application or appeal. So, our latest application is dated October 28th, so it's reasonable to assume we have until January 28. The timing of the decision by Virginia Code 15.2-2312. This time period is directory rather than mandatory, and the entity does not lose its jurisdiction to act on a variance after the time period has passed. And I think for my fellow Commissioners, I think what that means is it's nice to do things in a timely manner, but we still have a job to do.

Mr. Lawrence states the concern for not acting in a reasonable time is to avoid harm to the applicant. And in this case, I think the only harm would be to the town of Warrenton by rushing this decision.

Mr. Lawrence states the second reason to postpone this discussion is in regard to the incompleteness of the application before us. In the October 28 cover letter from the applicant, the first two items referenced to the land development application and the land use application are listed as not executed, ergo incomplete.

Mr. Lawrence states the noise study submitted is either incomplete or invalid or both, and therefore not ready for review. From the staff report, the applicant provided a noise study. However, in the October 28th, 2022, submission, it was stated the report is a preliminary draft. The applicant submitted a zoning determination to be able to interpret the zoning ordinance correctly for the noise analysis. This determination per state code must be completed by January 16, 2023.

Mr. Lawrence states the potential for overhead power lines and/or substations serving this site are up in the air and both the applicant and Dominion power state. The decision ultimately rests with others from the application. The applicant proposes a condition that there be no electric substation permitted on the site. It also proposes to request and pay for the undergrounding, although it acknowledges final decision on this rests with others. And as we all probably know, Dominion power recently spoke before the Fauquier County board of supervisors, and they also state the decision is not final and rests with others.

Mr. Lawrence states regarding the visual impact on the town gateway, the applicant agreed to condition the October 2020 eighth, 2022 illustrative elevations. However, the submittal does not include a visual from Lee highway, the town's gateway. Additional information will need to be provided at the time of site development survey report provided by the applicant indicates a large number of trees to be removed along Blackwell Road. This report has not been updated with the October 28, 2022, submission.

Mr. Lawrence states please note I'm not passing judgment on the merits of the application. I am passing judgment on the incompleteness of the application. It would be a tragic rush to act on this matter. With so much missing information, we as a Planning Commission have a job to do, and that job is not done. The applicant has stated they're confident they will resolve some of these large issues before us. There is no harm, then to get these things done. And completed. I think we need to adopt the United States policy towards Russia during nuclear disarmament treaties that is trust but verify.

Mr. Lawrence states I reserve the right to speak again after my colleagues have spoken.

Mr. Ryan Stewart states if asked to vote on this application tonight, I would have to say no.

Mr. Ali Zarabi states I concur with my colleagues and recommend sending this application back to the applicant for completion and resubmission.

Mr. Steve Ainsworth states I would have to say there's nothing to dispute. And Commissioner Lawrence's statements and I would agree with it as well.

Ms. Helander asks Mr. Martin Crim, Town Attorney do we vote on this.

Mr. Martin Crim states yes your motion is properly before you. Discussion is over, which it sounds like it is.

Mr. Stewart states I would like to propose an Amendment to that motion. Given that I'm assuming that we would keep the public hearing open. We would continue to have public hearing tonight and hear from the residents. Are superseding this delay with not keeping the public hearing open as my question.

Mr. Martin Crim asks Madam chairman, I understood the original motion to be that the public hearing would not be held. But Commissioner Stewart's amendment, if seconded and voted approvingly, would keep the public hearing open, even though you've alerted people that you're going to be continuing it indefinitely.

Mr. Stewart states my question is I'm requesting clarification on whether or not it would be closed.

Mr. Martin Crim states that is up to the Commission.

Mr. Ainsworth states I would suggest that if there's another application, there probably should be another public hearing for people to review that new application and provide their comments for that.

Mr. Lawrence states the point of this is we want to meet and discuss when we have a final application to review. And I think the public would like to speak on a final application. Therefore, despite the massive inconvenience to all of you have showed up today, I don't know if there's much point in asking them to speak on the complete application.

Mr. Lawrence asks Ms. Helander if she has any comments.

Ms. Helander states I will call the vote.

Motion to adjourn Mr. Zarabi, Mr. Ainsworth Seconds.

Mr. Zarabi motions this meeting be postponed indefinitely.

Seconded by Mr. Ainsworth. All were in favor, no discussion.

Ayes: Ms. Susan Helander, Chair; Mr. James Lawrence, Vice Chair;

Mr. Ali Zarabi; Mr. Ryan Stewart; Mr. Steven Ainsworth.

Nays: None

Absent During Vote: None

Abstention: None

With no further business this meeting was adjourned at **7:10 P.M.**

COMMENTS FROM THE COMMISSION.

COMMENTS FROM THE STAFF.

ADJOURN.