

MEMORANDUM

DATE: June 9, 2020

TO: The Board of Supervisors

FROM: Adam R. Kinsman, County Attorney

SUBJECT: Request for Special Use Permit Extension

On behalf of the developers of Colonial Heritage, Mr. Greg Davis has requested that the Board grant an extension to its Special Use Permit No. SUP-0003-2015 (the "SUP") to October 1, 2023. The SUP was approved by the Board of Supervisors (the "Board") on November 10, 2015, and permitted development of Deer Lake Estates, situated adjacent to the Colonial Heritage age-restricted community.

Condition Number 5(a) of the SUP requires that construction of public utilities commence within 36 months of the date of approval of the SUP (November 10, 2018) or the SUP becomes void. Though public utilities were not extended by that date, Section 15.2-2209.1 of the Code of Virginia, 1950, as amended (the "Virginia Code") automatically extended the expiration date until July 1, 2020. The extension statute has been in place since 2009 and was intended to address developer's need to extend projects due to the housing crisis. The statute was extended in 2011, 2012, and 2017; however, the General Assembly did not further extend it during its 2020 session.

Because the statute was not extended, the SUP will automatically expire on July 1, 2020 unless 1) the developer satisfies Condition Number 5(a) by extending public utilities, or 2) the Board grants an extension as permitted by the Virginia Code. Section 15.2-2209.1 of the Virginia Code grants the Board the authority to extend the deadline "for a longer period as agreed to by the locality." Such an extension may be granted by resolution of the Board.

Mr. Davis has outlined the reasons for the extension request in the attached letter, including ongoing reviews by the Corps of Engineers and Virginia Department of Environmental Quality as well as a pending rezoning request. Should the Board desire to grant an extension to the SUP, I recommend that it adopt the attached resolution.

ARK/md
SUPext-ColonialHer-mem

Attachment