PLANNING COMMISSION
MINUTES
FEBRUARY 5, 2008
6:00 P.M.

The Planning Commission of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Tuesday, February 5, 2008 at 6:00 p.m. with Madame Chair Janet Stockton presiding.

The following members were present: Madame Chair Janet Stockton, Vice Chairman John Speidel; Planning Commission Members Derwin Hall, John Tiggle, Milton Arrington, Ina Clements, and Jerry W. Greer, Sr. Staff members present included: Assistant Town Manager Matthew C. Hankins, Town Attorney John Boitnott, Planning and Zoning Administrator (PZA) Paul D. Stockwell, and Deputy Clerk Stacey B. Sink

APPROVAL OF AGENDA

- Motion was made by Planning Commission Member Clements to approve the agenda as presented, with motion on the floor being seconded by Planning Commission Member Arrington. There being no discussion, let the record show that the motion on the floor passed unanimously.

APPROVAL OF MINUTES

Prior to the meeting, the Planning Commission members received the following draft minutes for review and consideration of approval:

- January 2, 2008

- Motion was made by Planning Commission Member Arrington to approve the draft minutes as presented, with the motion on the floor being seconded by Planning Commission Member Tiggle. There being no discussion, let the record show that the motion on the floor passed unanimously.

PUBLIC HEARING

Madame Chair Stockton recessed the meeting to hold the following public hearing:

A) PSWW Properties, LLC Subdivision Waiver Request

After being duly advertised, PSWW Properties, LLC requested a waiver from the Town of Rocky Mount Subdivision Ordinance Section 8-8(F) street requirements

that require a street to be built to Virginia Department of Transportation (VDOT) standards. The property is identified as Franklin County Tax Map and Parcel Number 203.-90 and is located on School Board Road.

Madame Chair Stockton opened the floor to anyone from the public wishing to speak for or against the request.

Clyde Perdue, a local attorney representing the applicant, came forth advising that PSWW Properties, LLC is made up of Paul Shively and William Walker, and he gave a brief overview of Mr. Shively's work experience in the area. He also advised of Mr. Shively's presence in the audience, and identified audience member Dean Stone of Stone Engineering, stating that Mr. Stone was available tonight to answer any technical questions. The purpose of the applicant's request is to obtain a waiver on the construction size of the culvert. He further explained that section 8-8 concerns several different things like inlets and other types of areas but the only waiver they are seeking is a waiver of culvert size. The required culvert size is eighty-four (84) inches. The present size on the property is a forty-eight (48) inch culvert. The plan is to put in two forty-eight (48) inch culvert pipes as shown in Mr. Stone's concept plan. Mr. Stone met with Cecil Mason, the town engineer, on the property to discuss the options and together they came up with the idea of two forty-eight (48) inch pipes, which would more than adequately handle the water flow going downstream. The property is approximately 6.6 acres and is planned for development into four to six commercial tracts. Mr. Perdue gave a brief history of the property, beginning with its ownership by Mod-U-Kraf Homes, LLC, the development of Sheetz, a car wash, BB & T bank, the Mod-U-Kraf model home site, and Fidelity Bank, which he identified as tier one of the development. Tier two is the parcel in question which is across the railroad tracks. The development of this property, now owned by PSWW, will provide for retail and service businesses and professional offices. Mr. Perdue provided the Planning Commission members with a packet of aerial maps and photographs which detail the property and existing culverts. The first picture shows the property in question and the second picture shows the proposed development site in relation to the bus garage building. The third picture shows the stream crossing under Lakeview Drive and eventually entering the development property, then passing by the swimming pool and under Route 40. Most of the culverts along the route of the stream are forty-eight (48) inches and they handle the water well. The picture with the vehicle on the road shows the first place where there is any problem with flooding, and per Cecil Mason, the flooding is usually due to restriction at the trestle and has nothing to do with the pipes. Only once could Mr. Mason relate any of the flooding to the pipes and that was because one of the pipes needed cleaning out. The flooding problem at the trestle occurs past the PSWW property. There are inferior pipes at the swimming pool, less than forty-eight (48) inches, and then the water travels through two seventy-eight (78) inch pipes under Route 40. In closing, Mr. Perdue's point is that the waiver will not present any danger to the public. If he must put an eighty-four (84) inch pipe in, the problem is that it must be put in so that the water will flow into it and that won't work.

Dean Stone, with Stone Engineering came forward and indicated that there are several different combinations of pipes that can be used, one or two larger ones, several different smaller ones, etc. A larger culvert will create a steep incline to get over the culvert when entering the property and water could spill out onto School Board Road before it made it through the pipe. If it had to be done to meet VDOT standards, it would be approximately five to six forty-eight (48) inch culverts all put side by side instead of one eighty-four (84) inch pipe. The idea for using two forty-eight (48) inch pipes was a recommendation of Cecil Mason because he feels that two pipes will handle the water. This will not prevent the problems that are happening downstream but it also will not negatively impact the current situation.

Discussion ensued between the Planning Commission members, Mr. Perdue, and Mr. Stone regarding where runoff from the property will go and whether or not there will be a retention pond:

- Section 8F covers inlets, pipes, culverts and storm drainage systems and all of that will remain the same. PSWW is only requesting a waiver pertaining to the culvert size. There will be a pond. The preliminary plan calls for one pond that will serve as much of the property as possible, but there could be multiple ponds. There will be storm water ponds to discharge the post development runoff at the predevelopment rate.

- If water is sent to the pond and held long enough then it will not add to the problems downstream. Ponds work if they are looked after.

- This waiver will not make the situation at the School Board office any worse. If any thing, it could be a little better, because there will now be two culverts instead of one. Upstream nothing should be affected. The culvert at the bus garage entrance is forty-eight (48) inches and it is the controlling culvert for downstream.

Linda Atkins, of 5775 Old Franklin Turnpike, Glade Hill, Virginia, came forward representing Brookside Swim Club. She expressed concern about the runoff and the problem that currently exists at the trestle and wonders how it will affect the pool property.

Mr. Stone reiterated that there should be no net increase in water that goes under the trestle to the pool. The only difference is that with the addition of another forty-eight (48) inch culvert the water will be going through two pipes instead of one. The only way that the amount of water would increase is if there are no ponds put in at the time of development. The storm ponds on the developed property should prevent any increase in water flow.

No one else from the audience came forward to speak for or against this request.

Let the record show that Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion.

- Motion was made by Vice Chair Speidel to recommend approval of the waiver of Section 8-8(F) of the Town's Subdivision Ordinance requested by PSWW Properties, LLC, concerning Franklin County Tax Map and Parcel Number 203-90 and located on School Board Road, to allow for two forty-eight (48) inch culverts instead of the required VDOT standard of eighty-four (84) inches, with the motion on the floor being seconded by Planning Commission Member Arrington. There being no discussion, a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Arrington, Tiggle, Clements, and Greer, Vice Chair Speidel, and Madame Chair Stockton. Planning Commission Member Hall abstained from voting. Let the record show that the motion passed six to zero with one abstention.

Madame Chair Stockton recessed the meeting to hold the next public hearing:

B) Amending Article 11: Central Business District Parking Regulations

After being duly advertised, the PZA presented staff's request to amend Article 11 of the Town's Zoning and Development Ordinance. He provided the Planning Commission with the following brief statement:

These changes have been proposed in response to a growing concern that businesses in the Central Business District (CBD) can not necessarily provide the on-site parking that is required by the Town's Zoning Ordinance. In many cases on street and public parking would be sufficient to satisfy the needs of existing and proposed businesses in the district. A business venture will take this into account when opening a business within the district. To provide flexibility in parking for the CBD it has been proposed to give the Zoning Administrator authority to determine adequate public parking within the district.

The CBD Parking proposed change is as follows:

> *11-2-9. The zoning administrator shall have the authority to determine adequate parking for new businesses within the Central Business District.*

Discussion ensued between the Planning Commission members, the PZA, and the Town Attorney regarding the proposed change:

- The PZA confirmed that this change would be an addition to what is already in the article.

- This would only apply to new businesses, not existing businesses. The current requirement for the CBD is that businesses must meet the same requirements as any other business in the other districts. For any existing business, the PZA would not be able to require more parking. This would only be if the building is renovated, or if there is a change in use, or if there is a site plan presented.

- The Town Attorney questioned if the PZA's decision would be based on objective or subjective criteria and how the PZA would determine adequate parking, with the PZA confirming that the reasoning employed would be whether or not there is adequate public parking in the area, the type of business, how much parking a particular type of business would require, and that it would be subjective.

- Is there a way to implement some objective criteria into the wording that the Zoning Administrator could use in making the determination?

- It is possible that adding objective criteria will hinder the flexibility as in the case of the N. Morris Building.

- There is no way to meet the parking requirement in the CBD with what is currently there, and it needs to be fixed so that people can do business in the CBD without having to come to meetings, which holds people up.

The Assistant Town Manager advised the Planning Commission that the general trend in municipalities is to go away from required onsite parking and to take into account existing municipal parking. An example is in downtown Roanoke, Virginia where there are parking garages, and this is what we are looking at in Town with the investment the Town has made in developing additional parking, such as the Claiborne lot.

The Town Attorney advised that zoning is a regulatory authority that is given to localities by the state for the overall public welfare, and that the only question he has is whether it is necessary to have some objective standard for the PZA to employ in determining adequate parking, as opposed to a subjective standard that is based on what the PZA thinks is right. His concern is that a subjective standard may create a code section that has no meaning and is unenforceable.

The PZA advised that the Town could do away with the requirement all together, however the Planning Commission felt that some oversight of parking was needed and that is why the authority was given to the PZA.

The Town Attorney questioned what would happen if a decision of inadequate parking was made by the PZA , then appealed to the Board of Zoning Appeals, and finally to the circuit court. The court would ask for the objective criteria used

by the PZA in making the decision. The PZA advised that the objective criteria could be recorded when the decision was made and would be based on the particular case, with the Assistant Town Manager adding that the PZA would maintain documentation on file as to how the calculations were made.

The Town Attorney further questioned if the maintenance of the objective standards should be included in the ordinance, which was followed by general comments regarding the lack of adequate parking, as compared to the ordinance requirements, for many of the businesses in the CBD. The Town Attorney agreed that the parking issue needs to be addressed because it is part of the uptown revitalization.

The Assistant Town Manager advised that the reason this was brought to the Planning Commission's attention was through the concerns of the new owners of the N. Morris Building. The building has parking spaces available but they don't belong to the new owners and it can't necessarily be considered on-site. The Town is looking to take into consideration all of the available parking in the CBD.

The Town Attorney requested that this issue be tabled until he could meet with Town staff to discuss the changes.

Madame Chair Stockton opened the floor to anyone from the public wishing to speak in regards to the proposed changes. Let the record show that no one from the public came forward to speak.

Let the record show that Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion.

- Motion was made by Planning Commission Member Greer to table the proposed Central Business District parking changes until the next meeting, with the motion on the floor being seconded by Planning Commission Member Tiggle. There being no discussion, let the record show that the motion on the floor passed unanimously.

Madame Chair Stockton recessed the meeting to hold the next public hearing:

C) <u>Amending Article 28: Central Business District (CBD) Sign Regulations</u>

After being duly advertised, Madame Chair Stockton opened the discussion regarding amending Article 28 of the Town's Zoning and Development Ordinance by reading the following proposed changes to the CBD Sign Regulations:

1. *Shopping Center Signs: From sixty (60) square feet to forty (40) square feet.*
2. *Freestanding Signs: From twenty (20) square feet to fifteen (15) square feet.*
3. *Historic Signs: From fifteen (15) square feet to twelve (12) square feet.*
4. *Freestanding Signs: Height changed from eight (8) to six (6) feet and signs with more than two sides changed from six (6) to four (4) feet in height.*
5. *Total Signage: Changed from sixty (60) to forty-five (45) square feet.*
6. *Lot Frontage Requirement: Changed from one hundred (100) to sixty-five (65) feet.*
7. *Minimum Separation: One hundred (100) feet for lots of same ownership.*

The proposed changes are intended to permit more lots in the CBD to have a freestanding sign for identification purposes while also retaining the historic character and visual quality of the district, by placing moderate limitations on total signage area.

Madame Chair Stockton opened the floor to anyone from the public who wished to speak regarding the proposed changes.

Janie Hopkins, Executive Director of the Franklin County Chamber of Commerce located at 380 Franklin Street and residing at Avalon Drive in Rocky Mount came forward to speak. She stated that probably one of the things that gets business owners more riled up than taxes is signage. She has had several calls from members of the Chamber wanting her to address the reduction of signage in the CBD. The Chamber is not opposing the reduction but is asking for a common sense approach. Most of the businesses in the CBD are small and they need all of the visibility they can get. The Chamber strongly encourages the reduction of the required lot frontage from one hundred (100) feet to sixty-five (65) feet, and that the Town allow the businesses on the smaller lots to have the same visibility as the other businesses in Town. It would be nice if the there was a way to have the smaller parcels have proportionate signage to the larger parcels. At this time of economic decline, she asks that the Planning Commission look at all sides of the issue before changing the regulations.

No other persons came forward to speak for or against the request.

Madame Chair Stockton questioned the PZA regarding a letter of complaint the Town received about a currently posted business sign in the CBD. The PZA informed the Planning Commission that the letter does not specifically concern the amount of signage allowed, as is the subject of the current public hearing, but does concern the use of illuminated signage, which the Planning Commission may wish

to consider. The letter was from Tony and Shellie Leete, owners of the Claiborne House Bed & Breakfast. For the record, the PZA read the letter aloud. (Please see letter attached.)

Planning Commission Member Greer questioned if the signs referred to in the letter, located on the Main Street Tax Service building, are legally permitted signs, with the PZA confirming that they are.

Discussion ensued between the Planning Commission members, Ms. Hopkins, and the PZA regarding the requested changes:

- Ms. Hopkins confirmed to the Planning Commission that most of the businesses owners just want a set sign ordinance and then for it to be left alone. It seems like there are sign changes every year. The Chamber is interested in the reduction of lot frontage to allow signage for some of the smaller business owners. Most of the business owners are happy with the size of signs as it is now.

- An example of a shopping center in the CBD would be the strip mall located on South Main, or the Franklin Finance area.

- The Town does not want a hodge-podge of signs, and neither does the Chamber. Constant changing of the sign regulations tends to create a hodge-podge.

- Planning Commission Member Greer questioned if there is any way that grant money can be secured to help with conforming signs in the CBD. There is grant money for changing facades, so maybe there is grant money to help with signage, and then the business owner would not be responsible for the complete expense. The Assistant Town Manager advised that he will check into grant availability for signage.

- Existing lots are grandfathered in with the current signage on the lot. The changes would only apply to new businesses, or if old signs are removed the changes would apply to the new signage. The current changes would not be based on the lot size.

- The proposed changes were a proportionate reduction from the current regulation.

- Another possibility would be to allow larger lots that currently meet the ordinance requirements to keep the larger sign sizes, but require that smaller lots have smaller signage.

- Basing the size or amount of signage allowed on lot size would add another layer of regulation to the ordinance, which could be difficult to enforce. It would also create equality concerns, as one business may want the same size sign that another business has without taking into consideration the size of the lot.

- Could the ordinance just be left like it is? Does it have to be changed?

- The issue was brought before the Planning Commission because there is a business that wishes to locate in the CBD that needs to have a sign for visibility; however, the current ordinance restricts a freestanding sign because the lot has less than the required one hundred (100) feet of frontage.

- The specific request could be taken before the Board of Zoning Appeals for consideration, rather than changing the ordinance.

- Planning Commission needs to consider what is best for the whole Town, not just one business.

- Planning Commission could also choose to consider the allowance of illuminated or electronic signs.

Let the record show that Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion.

- Motion was made by Planning Commission Member Tiggle to table the proposed Central Business District Sign changes for further discussion regarding lot frontage, sign size, proportion in relation to lot size, as well as neon, illuminated, and messaging signs, with the motion on the floor being seconded by Planning Commission Member Greer. Voting in favor of the motion were Planning Commission Members Tiggle, Clements, and Greer, Vice Chair Speidel, and Madame Chair Stockton. Voting in opposition of the motion were Planning Commission Members Hall and Arrington. Let the record show that the motion on the floor passed five to two.

Madame Chair Stockton recessed the meeting to hold the next public hearing:

D) <u>Amending Article 13: Nonconforming Uses</u>

After being duly advertised, Madame Chair Stockton opened the discussion regarding amending Article 13 of the Town's Zoning and Development Ordinance. The Planning and Zoning Administrator advised the Planning Commission that the proposed changes are an attempt to provide greater flexibility and reduce a burden that currently exists in construction where nonconforming lots or structures come into play. First, the proposed regulations outline a process for determining the value of maintenance and repairs or replacement of a nonconforming structure that was previously ambiguous. Secondly, the changes permit reconstruction within substantial compliance of the existing neighborhood character, whereas previously structures would have to be rebuilt according to the current regulations of the

zoning district. Finally, the proposed changes allow an administrative determination of issuance of permits on nonconforming lots if they meet eighty (80) percent of the lot frontage and area requirements. Otherwise the applicant would be required to obtain a variance from the Board of Zoning Appeals. All these changes either reduce the burden of the property owner/applicant, or make an ambiguous process more clear.

Let the record show that prior to the meeting, the PZA provided the Planning Commission members with copies of the proposed changes as outlined below, with changes underlined and noted in italics:

ARTICLE 13.

NONCONFORMITIES

13-1. General provisions.

Within the districts established by this ordinance or amendments that may later be adopted there exist:

(a) Lots;

(b) Structures;

(c) Uses of land and/or structure,

which were lawful before this ordinance was passed or amended but which would not conform to regulations and restrictions under terms of this ordinance or future amendments thereto may continue. It is the intent of the ordinance to abide by the letter and spirit of the provisions of Code of Virginia, § 15.2-2307. It is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended, not be used as grounds for adding other structures or uses prohibited elsewhere in the same district *except as provided herein.*

13-2. Continuation.

13-2-1. If at the time of enactment of this ordinance, any legal activity which is being pursued, or any lot or structure legally utilized in a manner or for a purpose which does not conform to the provisions of this ordinance, such manner of use or property may be continued as herein provided.

13-2-2. If any change in title of possession, or renewal of a lease of any such lot or structure occurs, the use existing may be continued.

13-2-3. If any nonconforming use (structure or activity) is discontinued for a period exceeding two years, after the enactment of this ordinance, it shall be deemed abandoned and any subsequent use shall conform to the requirements of this ordinance.

13-2-4. Whenever a nonconforming structure, lot, or activity has been changed to a more limited nonconforming use, such existing use may only be changed to an even more limited use.

13-2-5. Temporary seasonal nonconforming uses that have been in operation for a period of two years or more prior to the effective date of this ordinance are excluded.

13-*3*. Repairs and maintenance.

On any building devoted in whole or in part to any nonconforming use, work may be done in any of 12 consecutive months on ordinary repairs or on repair or replacement of non-load bearing walls, fixtures, wiring or plumbing, to an extent not exceeding 50 percent of the current replacement value of the structure provided that the cubic content of the structure as existed at the time of passage or amendment of this ordinance shall not be increased. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official. *In determining the question of whether repairs will exceed 50 percent of the current replacement value of the structure, the following procedure shall be followed:*

A) The zoning administrator shall inspect the structure, if so permitted. The zoning administrator shall determine, if possible, with aide from the Building Inspector/Official whether or not the repairs will exceed 50 percent of the current replacement value of the structure.

B) If the zoning administrator is not able to make such determination without further information from the owner of the structure, the administrator will request from the owner a scope of work and estimated cost of repair, prepared by a general contractor, and a copy of any contract for the repairs between the owner and general contractor. The zoning administrator shall compare the cost of repair with the assessed value of the structure, to determine whether or not the repairs will exceed 50 percent of the current replacement value of the structure.

C) If the zoning administrator is unable to make the determination as to whether or not the repairs will exceed 50 percent of the current replacement value of the structure, the administrator shall use the best available information to make this determination.

D) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of repairs and maintenance.

If a nonconforming structure or portion thereof containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, rebuilt, or used except in conformity with the regulations of the district in which it is located, *except that the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.*

13-*4*. Changes in district boundaries.

Whenever the boundaries of a district are changed, any uses or buildings which become nonconforming as a result of such change shall become subject to the provisions of this article.

13-*5*. Expansion or enlargement.

13-*5*-1. *Any extension or enlargement of a nonconforming structure* shall conform with the provisions of this ordinance, *except that the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.*

13-*5*-2. A nonconforming activity may be extended throughout any structure which was arranged or designed for such activity at the time of enactment of this ordinance but no such use should be extended to occupy any land outside such structures.

13-*5*-3. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming uses of land. No additional uses of a nature which would be prohibited generally in the district involved shall be permitted.

13-*6*. Nonconforming lots.

Any lot of record at the time of the adoption of this ordinance or which is less in area, *frontage, or* width than the minimum required by this ordinance may be used *in accordance with the following provisions. These provisions shall be looked at by the zoning administrator progressively starting with A to determine the appropriate course of action.*

A) An accessory structure may be built or expanded provided all setbacks, side and rear yard requirements are met.

B) The lot of record may be used if it contains at least 80 percent of the required frontage, lot width, and area and the remaining setbacks, side and rear yards requirements can be met, except that the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.

C) If the lot of record can not meet A or B above, a lot shall be combined or re-subdivided with an adjoining lot of similar ownership to create a legally conforming lot.

D) A lot of record without road frontage shall contain at least 80 percent of the required lot width and area, the remaining setbacks, side and rear yard requirements shall be met, and there shall be a legally recorded access easement.

E) If the lot of record can not meet A, B, C, or D above, a lot may be combined or re- subdivided with an adjoining lot of different ownership to create a legally conforming lot given a reasonable offer.

F) If the lot of record can not meet A, B, C, D, or E above, a lot may be used when the requirements of the board of zoning appeals after a public hearing regarding setbacks, side and rear yards, and legal access are met, except that the front setback requirement shall be no greater than the average of the adjoining lots' street existing structure setbacks fronting on the same street.

13-7. Restoration or replacement.

13-7-1. If a nonconforming activity is destroyed or damaged to the extent that the cost of restoration of its condition before the occurrence shall exceed 50 percent of the cost of reconstructing the entire activity or structure, it shall be restored only if such use complies with the requirements of this ordinance, *except that the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.*

13-7-2. If a nonconforming structure is destroyed or damaged to the extent that the cost of restoration to its condition before the occurrence shall exceed 75 percent of the cost of reconstructing the entire structure, it shall be restored only if it complies with the requirements of this ordinance, *except that the front setback requirement shall be no greater than the average of the adjoining lots' existing structure setbacks fronting on the same street.*

13-7-3. Where a conforming structure devoted to a nonconforming use is damaged less than 50 percent of the cost of reconstructing the entire structure, or where a nonconforming structure is damaged less than 75 percent of the cost of reconstructing the entire structure, either may be repaired or restored, provided any such repair or restoration is started within 12 month and completed within 18 months from the date of damage. *In determining the question of whether a structure has been damaged to over 50 or 75 percent of the value of the structure, the following procedure shall be followed:*

A) The zoning administrator shall inspect the structure, if so permitted. The zoning administrator shall determine, if possible, with aide from the Building Inspector/Official whether or not the repairs will exceed 50 or 75 percent of the current replacement value of the structure.

B) If the zoning administrator is not able to make such determination without further information from the owner of the structure, the administrator will request from the owner a scope of work and estimated cost of repair, prepared by a general contractor, and a copy of any contract for the repairs between the owner and general contractor. The zoning administrator shall compare the cost of repair with the assessed value of the structure, to determine if the structure has been destroyed by more than 50 or 75 percent of the value of the structure.

C) If the zoning administrator is unable to make the determination as to whether a structure has been damaged to over 50 or 75 percent of its value, the administrator shall use the best available information to make this determination.

D) The cost of land or any factors other than the cost of the structure are excluded in the determination of cost of restoration for any structure or activity devoted to a nonconforming use.

13-8. Movement.

No nonconforming use and/or structure shall be moved in part to any portion of the land or parcel other than that occupied by such use and/or structure at the effective date of adoption or amendment of this ordinance unless said move results in decreasing the degree of non-conformity or results in conformity with the requirements for the district.

13-*9*. Changes in use.

13-*9*-1. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the board of zoning appeals *after a public hearing*, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use, in permitting such safeguards in accord with the provisions of this ordinance.

13-*9*-2. When any nonconforming use, or structure and use in combination, is superseded by a permitted use and/or structure, the use shall thereafter conform to the regulations for the district, and no nonconforming use and/or structure shall thereafter be resumed.

13-*9*-3. If any such nonconforming use of land and/or structure [is discontinued in use for] any reason for a period of more than two years (except when government action impedes access to the premises) any subsequent use of such land and/or structure shall conform to the regulations specified by this ordinance for the district in which such land is located.

13-1*0*. Special exception provisions not nonconforming uses.

Any use which is approved as a special exception under the terms of this ordinance (Article 15-5) shall not be deemed a nonconforming use in such district so long as that excepted use and occupancy is not changed, except as provided in section 13-*11* of this ordinance.

13-1*1*. Use regulations for junkyard and automobile graveyards.

Automobile graveyard(s) and junkyard(s) in existence at the time of adoption of this ordinance may not be enlarged and shall be screened from public view by means of visual screening as provided in Article 12-6 of this ordinance.

Madame Chair Stockton opened the floor to anyone from the public who wished to speak regarding the proposed changes. No one from the public came forward to speak.

Planning Commission Member Greer questioned if there are any nonconformities in Town, with the PZA confirming there are currently a lot of nonconforming lots, and these changes are meant to make the application and permit process easier for the applicants.

Vice Chair Speidel commented that these changes would reduce the amount of applicants that need to go before the Board of Zoning Appeals.

Planning Commission Member Hall stated that he feels like this is the purpose of the Board of Zoning Appeals and that it is almost as rare exceptions will be made the rule. He also questioned how many nonconforming requests come before the Town. The PZA addressed his question stating that in the past two months the Town has had two requests that went before the Board of Zoning Appeals regarding substandard lots that didn't have the required road frontage. The changes would still give the Board of Zoning Appeals the ability to grant variances on lots that meet less than eighty (80) percent of the requirements. These changes will only pertain to existing lots that are already on record. They will not pertain to new lots.

Let the record show that Madame Chair Stockton reconvened the meeting back into regular session.

There being no further discussion, Madame Chair Stockton entertained a motion.

- Motion was made by Planning Commission Member Greer to recommend approval of the proposed changes to Article 13 pertaining to nonconformities as proposed, with motion on the floor being seconded by Planning Commission Member Arrington. There being no discussion, a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Tiggle, Arrington, Clements, and Greer. Voting in opposition of the motion were Planning Commission Member Hall, Vice Chair Speidel, and Madame Chair Stockton. Let the record show that the motion passed four to three.

OLD/NEW BUSINESS

A) Old Business

Let the record show there was no old business to discuss at this time.

B) New Business

- Discussion of Public Hearing Ads

  The PZA advised the Planning Commission that it has come to staff's attention that the ads for the public hearings for Town Council run prior to the public hearing at Planning Commission. Planning Commission may take any number of actions on an issue including tabling it or asking for more information. As this is the case, Planning Commission may wish to have Town Council's public hearings a month after Planning Commission's as standard practice. In this

case, as the ads for Town Council will not run until after Planning Commission's public hearing, this will give the Planning Commission greater flexibility in making decisions and potentially requesting more information. It will also give staff more time to respond to any potential issues that arise from the public hearing and also prepare the minutes of Planning Commission's public hearing for Town Council's deliberation. Applicants, however, may find this more burdensome as it will add another month to the application process. This is presented now before Planning Commission for discussion.

Vice Chair Speidel questioned when the meeting times were changed to the way things currently are, stating that at one time there was a month between the Planning Commission and Town Council public hearings but that it was changed at the request of Town Council.

Madame Chair Stockton stated that it makes more sense for it to be a month later.

The PZA clarified to the Planning Commission that right now the Town Council ad for public hearing runs before the Planning Commission public hearing has been held, and when a public hearing is advertised then it must be held, so this presumes that Planning Commission will make a recommendation on an issue so that it can go before the Town Council the following week. He further clarified that generally for ordinance changes the public hearing is held the following month; however, for applicant requests the Town Council public hearing is typically advertised prior to the Planning Commission public hearing.

The Town Attorney and Planning Commission Member Greer commented that this will matter to the applicant. For example, if someone wants a building permit and then they are sent to the Town for a Zoning permit, and then they are told they will need to go before Planning Commission and then one month later will have to go before Town Council, it will matter. The Town Attorney stated that he hears from Clyde Perdue quite often about the length of time it takes to get things done because Clyde represents a lot of contractors and developers.

Vice Chair Speidel questioned how the County of Franklin does it, with the PZA confirming that the County has a month lag. Planning Commission Member Hall commented that he hears often about issues with the County process and he doesn't think the Town wants to be like that. He also questioned if there is a complex development would the Planning Commission have the possibility of delaying, with Planning Commission Member Greer commenting that the better developers and builders do their homework before they come before Planning Commission and Town Council.

Madame Chair Stockton questioned the PZA if this issue could be tabled until next month and also if there were any other items pending in addition to the

items already tabled until next month, with the PZA confirming that the public hearing ads issue could be discussed again next month, and there is another complex issue to come before Planning Commission in March.

Planning Commission Member Clements questioned if Town Council has a preference regarding the ads, and why was this issue brought up, with Planning Commission Member Greer stating that it has not been before Town Council and the PZA confirming that it is up to the Planning Commission.

There was a general consensus that the current process should be left alone and that there is no need to discuss the issue at the next meeting.

ADJOURNMENT

There being no further business to discuss, motion was made by Vice Chair Speidel at 7:43 p.m. to adjourn, seconded by Planning Commission Member Clements and carried unanimously.

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Janet Stockton, Chair

ATTEST:

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Stacey B. Sink, Deputy Clerk

/sbs