

**PLANNING COMMISSION
MINUTES
SEPTEMBER 2, 2008
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Tuesday, September 2, 2008, at 6:00 p.m. with Madame Chair Janet Stockton presiding.

The following members were present: Madame Chair Janet Stockton and Vice Chair John Speidel; Planning Commission Members Derwin Hall, John Tiggle, A. Milton Arrington, and Ina Clements. 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. Let the record show that Planning Commission Member Jerry W. Greer, Sr. was not present.

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 by those present.

APPROVAL OF MINUTES

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

- August 5, 2008 – Regular Planning Commission Meeting
- August 14, 2008 – Planning Commission Strategic Planning Retreat

Madame Chair Stockton requested that the Planning Commission consider each set of minutes separately and then opened the floor to discussion by the Planning Commission members, asking for any corrections or additions, regarding the August 5 draft minutes.

Planning Commission Member Hall stated that he would like to make a correction to page 1013, second to the last paragraph. He requested that the Deputy Clerk check the tape regarding his statements about the return-on-investment (ROI) calculation, as he believes that he said the ROI should not be considered because it does not include all the expenses for running the line. The Deputy Clerk noted Planning Commission Member Hall's request.

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

- Motion was made by Planning Commission Member Tiggie to approve the August 5 draft minutes with the noted correction, with the motion on the floor being seconded by Vice Chair Speidel. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

(Let the record show that following the meeting, the Deputy Clerk checked the recorded tape, as requested. Planning Commission Member Hall's exact comments regarding his reasoning for not using the ROI were as follows: "It doesn't include the expenses. I agree with Jerry that we need to bring it to the property line, but in my opinion, we don't need to use this calculation as a reason for doing that." Therefore, the words "because the ROI doesn't include expenses," have been added to the paragraph in question. These draft minutes will be presented to Planning Commission again, for approval at the regular October meeting.)

Next, Madame Chair Stockton, requested that the Planning Commission consider the August 14 minutes. There being no discussion regarding these minutes, Madame Chair Stockton entertained a motion.

- Motion was made by Planning Commission Member Arrington to approve the August 14 draft minutes as presented, with the motion on the floor being seconded by Planning Commission Member Clements. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

PUBLIC HEARING

Madame Chair Stockton recessed the regular meeting to hold a public hearing:

- A) Request of Patrick Ephriam, Representative of the Chapter 10 Mental Retardation Group Home for a Rezoning

After being duly advertised, the Planning Commission reviewed Patrick Ephriam's (representative of the Chapter 10 Mental Retardation Group Home), request for a rezoning of the property located at 220 Claiborne Avenue, Franklin County Tax Map and Parcel Number 2070021200, from Residential District R-2 to Residential District R-3.

Madame Chair Stockton noted that Mr. Ephriam was not present for the meeting, and opened the floor to anyone else who wished to speak in regards to the request. Let the record show that no one came forward to speak.

Madame Chair Stockton also noted that Planning Commission received an e-mail from the owners of the Claiborne House who are not in agreement with the rezoning request. This e-mail has been added to the record. (See copy attached.)

The Assistant Town Manager offered a staff summary to the Commission. He stated that the property in question is owned by a wing of Piedmont Community Services, which operated this facility as a sheltered home for the mentally retarded until it was replaced by a new facility on Maynor Street this past spring. Piedmont Community Services would like to sell the property, and in order to accommodate the sale, they are requesting that the property be rezoned from R-2 to R-3 to accommodate higher density uses. Some of the potential purchasers have indicated that they are interested in this building as a quadriplex, holding four apartments. The building is located on Claiborne Avenue and is adjacent to the Methodist Church Parking Lot, to Mary Elizabeth Park, and to another R-3 property at the side. There are two R-3 properties located down Claiborne Avenue from this property. He further added that staff could make a recommendation to Planning Commission if desired.

Madame Chair Stockton questioned if Mr. Ephriam was made aware that he needed to be in attendance for this meeting. The PZA confirmed that applicants are always notified regarding the meetings. The Deputy Clerk advised the Planning Commission that she sent Mr. Ephriam a letter on August 19, 2008. Madame Chair Stockton added that she is always concerned when an applicant does not attend. She then stated that she has been inside the house in question and her main concern is about parking, and wonders if it is better than it used to be. The Assistant Town Manager advised the Commission that there is tight parking on Claiborne. If this property is rezoned to R-3, the applicant would either need to apply for a waiver or have on-site parking. The current parking regulations would call for six parking spots for a four-unit apartment building. In his opinion, there is not sufficient on-street parking to accommodate this. Parking is already tight on the upper end of Claiborne and there could potentially be an impact on the Methodist Church parking lot and Mary Elizabeth by accommodating this use.

Planning Commission Member Tiggle stated that the request actually proposes a three-unit apartment building, rather than four, and questioned which is correct. The Assistant Town Manager advised that there have been several inquiries regarding the property and some of them have wanted the building cut up into four units. The building is three floors, so at the very least, there can be three separate units. Planning Commission Member Tiggle then questioned whose request Planning Commission should act on: Patrick Ephriam's or the potential buyer's. The Assistant Town Manager clarified that the request is being made by Patrick Ephriam for Piedmont Community Services, so the consideration should be based on the application, but ultimately, Piedmont Community Services will not decide the use. It will be the purchaser.

The Deputy Clerk advised the Planning Commission that in reviewing the letter she sent to Mr. Ephriam on August 19, she noticed that the letter was addressed to Clay Street in Rocky Mount, Virginia and should have been sent to Martinsville, Virginia. Therefore, it is possible that Mr. Ephriam is not aware of the meeting. She also advised that she had not received the letter back from the post office, and so it is possible that she addressed the envelope correctly.

Discussion continued regarding the concern for parking and other matters:

- The driveway entering to the apartment complex would need to be twelve or fifteen feet in width.
- There is enough room for a one lane driveway. The area is not adequate for two lanes.
- A multi-unit apartment would require a commercial entrance.
- R-3 zoning would also require screening.
- If the side addition were removed, the area would be wide enough for a two-lane entrance.
- There is enough room to add a parking lot in back.
- A parking lot in back would be close to the Mary Elizabeth Park line.
- Storm water management requirements would have to be met.
- There are potential buyers whose purchase is contingent upon the rezoning.
- The concrete wall at the back of the house could be taken out, to give more room for parking.
- The property line is at the bottom of the hill, close to the storm water drain.
- The drawing on the application that shows the parking was done by the applicant.

The Town Attorney advised that typically when there is a property for sale, and a buyer is found, a contract is written, and as a condition of the purchaser closing on the contract, there is a contingency for a rezoning to suit the intended use. Then, the contract buyer is the applicant and comes before the Commission and the Council to speak on the rezoning with an intended use already in mind. The applicant can then make representations as to what is intended for the property and can address concerns and consider if conditions should be proffered with the change in zoning. If the rezoning is permitted then the contract closes and if the rezoning is not permitted, then the contract doesn't close. This is what normally happens on the sale of a commercial piece of property that is not zoned for the new intended use. It is unusual for the seller to request a rezoning to make a property marketable.

Vice Chair Speidel questioned the PZA about the original rezoning on the property, and whether or not there were any conditions on the post-use for the property, stating that he remembers when the group home was created. He doesn't remember the details, but remembers that the property was rezoned to create a

female group home as a companion to the male group down the street. He wonders if there were any proffers made at that time.

The PZA advised that there was a special use permitted and the special use said that if the group home was not a success it would revert back to the previous use.

There was general discussion regarding when the special use was granted, who previously owned the house, and the subjectivity of the term "success," and whether or not the property is zoned with conditions.

The Assistant Town Manager advised the Planning Commission that since there is some concern as to whether or not the applicant was properly notified, the discussion could be continued and more information could be gathered and brought back to the Commission for review.

General discussion continued:

- In R-2, a group home is a use-by-right.
- Mapping shows a conditional use and the one condition is that if the group home was not a success then it would revert back to its previous use.
- If the property is rezoned then the previous conditions will no longer apply.
- The one condition may not apply if the group home is viewed as a success.
- It could be argued that the group home is not a success because it is closing.
- The request has already been advertised for Town Council but this could be withdrawn.
- Mr. Ephriam lives in Martinsville, and the address on the application is the Piedmont Community Services address.
- If the public hearing is continued, Mr. Ephriam will not have to pay an additional fee.
- Staff is not sure of the time frame between the seller and the potential buyers.
- It was the general consensus that Planning Commission would like more information before making a recommendation, and to hear from the potential buyers as well.
- Staff noted the request.

There being no further discussion, Madame Chair Stockton reconvened the meeting back into regular session and entertained a motion:

- Motion was made by Planning Commission Member Arrington to continue the public hearing until the next month's meeting, pending the receipt of more information from the seller, as well as more information regarding the current

zoning status, with motion on the floor being seconded by Planning Commission Member Clements. Discussion continued. Planning Commission Member Tiggle asked staff to determine if the property line runs into the parking lot of the church, as indicated by the aerial map of property. Staff so noted. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

OLD/NEW BUSINESS

A) Old Business

1. Central Business District (CBD) Parking

The Assistant Town Manager opened the floor to discussion, stating that the CBD parking was discussed at the strategic planning retreat. He also stated that he wished to thank the Planning Commission for participating in the retreat, as staff was able to get to know the Planning Commission members a little better, and some good ideas were developed. One of the things that came out of the planning retreat was an updated plan of action for CBD parking by expanding the current designation, which is that parking within 500 feet of a business can be considered, to 750 feet, which would allow the Town to do more to bring downtown businesses the parking needed to accommodate clientele. The packet contains a map showing the different radii for parking (labeled N), which are centered on the Farmers' Market, Claiborne Avenue, and Train Depot lots. The center area is the existing 500 feet buffer, the next layer (in blue) is the 750 feet buffer and the outside layer (in yellow) is the 1000 feet buffer. At 1000 feet pretty much every thing is covered. At 750 feet there is still a definition between Uptown and Downtown.

Vice Chair Speidel questioned how the areas where this buffer occurs will be identified. The CBD covers other areas, and he has been concerned all along about how this will affect the rest of what the CBD is including. How will the areas that apply to the 750 feet buffer and the areas that apply to Chapter 11 be determined?

The Assistant Town Manger advised that the map is a little misleading. The map shows the existing parking and how close it is to the rest of the businesses. However, when making a determination about how much parking a business has available, the PZA will draw a radius around the business and try to touch one, two, or three of the public parking areas. This map just illustrates that by making the change, most of the businesses in the Uptown and Downtown could be accommodated, with the exception of the businesses on the very lower end of South Main Street. The highest demand for parking is in the Uptown and Downtown areas.

The PZA questioned if Vice Chair Speidel is concerned about other uses in the CBD, such as residential, single-family homes, multi-family homes, etc. Vice Chair Speidel confirmed that the way the change is worded would apply to everything in the CBD, when some of the CBD really isn't the "downtown building on the street."

The PZA confirmed that if the radius is changed then it will apply to all zoning districts, because of the way it is written in the zoning ordinance, unless it is written to be specific to the CBD. The Assistant Town Manager confirmed that it is the Town's intent to keep the change in radius specific to the CBD. The PZA, as the parking administrator, would have the authority to include public parking within the 750 feet radius and apply it toward the adequacy of the parking for a specific use. Again, he reiterated that it is the intent to apply it only to the CBD.

Planning Commission Member Hall questioned which of the "CBD Parking Regulation Options" given to them in their packets, listed as items A-E, this change would be advocating. The PZA explained that currently, in the ordinance, there is a buffer for 500 feet in any zoning district (Article 11-2-2). General discussion ensued about which article of the ordinance would need amending to accomplish the goal. The Town Attorney advised the Commission that staff would work to develop the language and best location of the amendment if Commission will advise what is wanted. He also advised the Commission that the "Article 11: Offstreet Parking Regulations" presented in their packets was the proposed regulations that Commission previously turned down, which gave the authority to determine the CBD parking requirements to the PZA.

Planning Commission Member Hall stated that in previous discussions, Planning Commission had advocated item E of the "CBD Parking Regulations Options," which states:

(E) 26-3. Parking Regulations

26-3-1. Off-street parking shall conform to article 11 of this ordinance, except the minimum number of parking spaces can be determined either by article 11 or by granting of a special exception by town council after recommendation by planning commission as provided for in article 15-5 of this ordinance taking into account existing on-site parking, available public parking, and the proposed use and operation of the building.

26-3-2. An applicant for a special exception shall furnish the documentation necessary for the planning commission and town council to evaluate the objective criteria above.

He further stated that staff didn't like the idea, with the Assistant Town Manager confirming that this option would lengthen the process for the applicant.

Madame Chair Stockton added that Planning Commission's main concern has been that they don't one person to make this decision, and questioned how this could be fixed so that it can be a quick process and one person is not making all the decisions. The Assistant Town Manger advised that the direction staff was given at the strategic planning retreat was to look at 750 and 1000 feet radii to determine how they would affect the CBD parking. The maps provided for Planning Commission show the proximity of the parking lots for most of the district. The Town Attorney added that in changing the radius, the offstreet parking regulations in Article 11 would remain the same and would still be determined by the type of business. However, there would be more territory to count parking spaces. The PZA would be able to go out to a 750 feet parameter to include and count public parking as available parking.

An example was given for a 1200 square feet coffee shop. This business would require 12 parking spaces. Assuming there are 2 parking spaces behind the coffee shop and two in front of the coffee shop, the business would require an additional 8 spaces. By changing the radius to 750 feet, the PZA would be able include any public parking lot within the 750 feet in order to justify the additional eight spaces for adequate parking, whereas now the public lot must be within 500 feet of the business.

Vice Chair Speidel again stated that his main concern is that the CBD is more than just the uptown/downtown area. There are other areas in the CBD where more restrictions may be necessary. The PZA advised that it could be limited to industrial and commercial uses only. General discussion continued regarding the following:

- The County's public parking lot located at the courthouse.
- Staff's current efforts to identify all public parking lots within the CBD with proper signage so that people are aware that parking exists.
- Is this a short-term solution, or is this a solution that will work for the Town for some time?
- There is a potential small restaurant that wishes to locate in the CBD, and there have been some other inquiries about mixed uses in the CBD, and staff thinks this idea will help with those requests.
- The idea to improve the way public parking is counted toward business uses was proposed by Town Council, in order to give the Town a clearer payoff in the investments that were made for parking by the Town.
- The same spaces can be counted by multiple businesses, and so there is a possibility that the Town could run out of parking.
- The Claiborne Avenue lot is not used as much as the Town had hoped. The signs should help.
- If Commission is interested in the change to 750 feet, staff will develop a draft ordinance and will present it to Planning Commission for discussion or public hearing.

(Let the record show that Planning Commission Member Clements excused herself from the meeting at 6:50 p.m.)

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

- Motion was made by Planning Commission Member Hall to recommend the amendment of Article 26-3 as stated under option E (listed above). The Town Attorney confirmed that currently, Article 26-3 states that off-street parking must conform to Article 11, and Article 11 only allows public parking to be counted within 500 feet of the property. The motion was seconded by Planning Commission Member Arrington. Discussion continued. The Town Attorney added that if the Commission chooses to do what Planning Commission Member Hall has in mind, then the regulations are changed and the 500 feet is left as it is, but if there are not enough parking spaces available, then the property owner can ask for a special exception that would come before Planning Commission and Town Council. The Assistant Town Manager added that the applicant would be urged early in the process to evaluate parking. Vice Chair Speidel added that the radius could still be changed to 750 feet, with the Town Attorney commenting that Planning Commission Member Hall is not suggesting that the radius be changed to 750. He is suggesting that if there is not enough available parking according to Article 11, the recommended option would provide relief. Currently if there is not enough parking, the applicant is turned down cold and can apply for a variance through the Board of Zoning Appeals, which has a higher level of expectation in that it must be a hardship. Vice Chair Speidel commented that he likes this motion. Planning Commission Member Hall stated that this option will give the people surrounding the issue the opportunity to discuss the matter. Madame Chair Stockton added that she doesn't think it matters that it may take a little longer, with the Assistant Town Manager stating that it will probably add an extra month, which shouldn't be an issue. It will be up to staff at the initial contact with the proposed business to notify the business owner early in the process if there is not enough parking. There being no further discussion, let the record show that the motion passed unanimously by those present.

Following the motion, the Town Attorney added that the proposed amendment will be put into draft form and will be brought back for a public hearing at the regular October meeting.

B) New Business

1. Wind Generators

The Assistant Town Manager stated that the discussion regarding generators has come about following an application received by the PZA regarding wind generators at the Center for Applied Technology and Career Exploration (CATCE). A wind generator was installed at the CATCE last fall. The PZA identified that the current code does not give a specific allowance for or against wind generators in residential neighborhoods.

The PZA advised the Planning Commission that it is has come to his attention that the Town's Zoning and Development Ordinance is vague on the regulations for wind generators. Wind generators are mentioned in practically every zoning district under the height regulations as being exempt from height requirements. However, they are not listed as permitted uses in any district. Does this mean they *are* an allowed use or *are not* an allowed use?

The Town Attorney questioned if the current ordinance has a "catch-all" phrase that says if the use is not provided for in the ordinance then there must be a special exception. The PZA confirmed that wind generators are listed under the height regulations and that they are exempted from the current height requirements. It is his current determination that the ordinance anticipated wind generators as a purely incidental use to the primary uses in the zoning, and all wind generators must not generate more electricity than is consumed by the primary use on the property, making it a secondary use. If Planning Commission would like greater oversight in the regulation and placement of wind generators, especially in residential neighborhoods, the Commission may elect to permit this use as a special exception, which will require that it come before Planning Commission for recommendation to Council and would be subject to conditions prior to being issued a permit.

The Town Attorney questioned if this issue has come up in any other Virginia localities, with the Assistant Town Manager commenting that typically, this issue comes up in counties, particularly where wind farms are contemplated. The PZA added that this is coming up now because the ordinance appears to be conflicting in that it mentions wind generators in the height regulations but it doesn't mention wind generators as a use-by-right. The Town Attorney added that he interprets the height regulations to mean that the wind generator must be installed on top of a building.

The Assistant Town Manager advised the Planning Commission that there is a strong likelihood that this could be contemplated, as there is a gentleman in Town who just bought an electric truck and who mentioned, during the news coverage regarding the truck, that he would be interested, in the future, in installing a wind turbine on his property. If he wishes to do this on a tower adjacent to his property then the Planning Commission may be called upon to make a decision. Staff is asking the Commission to provide some guidance on this early, rather than waiting for the issue to come up.

The PZA added that typically items such as wind generators or radio towers are listed as a use by special exception in a particular zoning district and then it must be brought before Planning Commission for potential conditions.

The Town Attorney confirmed with the Assistant Town Manager that wind generators are only mentioned in the current regulations in regards to height regulations, and stated that this makes it clear to him that wind generators are intended to go on top of a main structure. The PZA pointed out that the same regulation mentions flagpoles as well, and flagpoles are not intended to go on top of main structures.

The Assistant Town Manager confirmed to the Commission that the wind generator at the CATCE has already been put up on a flagpole-style tower behind the building.

The PZA stated that in the case of the CATCE wind generator, he determined that the use is incidental to the primary use and therefore cannot be used for commercial purposes, and must not be used to generate more electricity that is consumed by the primary use of the property. He added that this is purely his interpretation of the ordinance and the ordinance is still vague. The Assistant Town Manager added that education about electricity is incidental to the primary use for the CATCE.

The Assistant Town Manager offered for staff to do more research regarding the issue. The PZA will investigate other localities and the issue will be brought back to Planning Commission at the regular October meeting.

2. Joint Meeting for Town Council and Planning Commission

The Assistant Town Manager advised the Commission that a special joint meeting between the Planning Commission and Town Council has been requested by the Mayor and other members of Council. The purpose will be to discuss some important issues that face the community. Staff is in the process of finalizing an agenda. The meeting will be on September 15, 2008, at 6:00 p.m., at the Community and Hospitality Center (Depot). Some of agenda items will be from the strategic planning retreat and some of the items will be suggestions of Council. Two bodies will be called to order. The Mayor will run Council's portion of the meeting and Madame Chair Stockton will run Planning Commission's portion of the meeting.

As a side note, the Assistant Town Manager added that staff is currently working on some of the ideas that were presented by the Commission at the strategic retreat. He hopes that Planning Commission will notice some changes over the next two or three months as staff improves office processes in working as the Planning Commission's support staff.

ADJOURNMENT

There being no further business to discuss, motion was made by Planning Commission Member Tiggie to adjourn at 7:05 p.m., seconded by Planning Commission Member Arrington, and carried unanimously by those present.

Janet Stockton, Chair

ATTEST:

Stacey B. Sink, Deputy Clerk

/sbs