

**PLANNING COMMISSION
MINUTES
OCTOBER 7, 2008
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Tuesday, October 7, 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 Tiggie, A. 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:

- A portion of August 5, 2008 – Regular Planning Commission Meeting
- September 2, 2008 – Regular Planning Commission Meeting
- September 15, 2008 – Special Joint Meeting with Town Council

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 regarding the portion of the August 5 draft minutes. She stated that at the September meeting, Planning Commission Member Hall asked 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. The Deputy Clerk advised the Commission that she checked the tape as requested and Planning Commission Member Hall's exact comments 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," were

added to the paragraph in question. There being no further discussion regarding the August 5 minutes, Madame Chair Stockton entertained a motion:

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

Next, Madame Chair Stockton, requested that the Planning Commission consider the September 2 minutes. There being no discussion regarding these minutes, Madame Chair Stockton entertained a motion:

- Motion was made by Planning Commission Member Tiggle to approve the September 2 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.

Next, Madame Chair Stockton, requested that the Planning Commission consider the September 15 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 September 15 draft minutes as presented, 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.

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 again 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 invited Mr. Ephriam to the podium to speak in regards to his request. Mr. Ephriam first apologized for his absence at the September meeting stating that he was in the hospital and unable to attend. He further stated that the parcel of land and house located at 220 Claiborne have been for sale for

approximately five months, and that 80 to 90 percent of the calls regarding the property have questioned if the property is zoned R-3. Most people have stated they would like to have it zoned R-3 for use as a three-unit apartment building. Piedmont Community Services is proactively asking to have it rezoned to R-3 to make the property more marketable, and to hopefully generate some more taxes for the Town.

Madame Chair Stockton opened the floor to questions and comments by Planning Commission Members.

- Planning Commission Member Tiggler stated that according to the plat, it appears that part of the property goes onto the parking lot of the Methodist Church, and questioned if this is correct. Mr. Ephriam stated that in looking at the aerial map, it appears as such, but that is not the case. There is a driveway on the upper end which borders the church property, but belongs to the 220 Claiborne property. He also added that most of the properties on the street are already zoned R-3. The church had also showed interest and requested that the property be rezoned R-3 as well.
- Mr. Ephriam further commented that initially when the application was made, there was a contract in hand, but by the time the Board of Directors was assembled, six weeks had elapsed and the interested party had withdrawn the contract. He continues to get two or three calls a week about the property and most of them want it zoned R-3.
- Vice Chair Speidel stated that in order to be R-3, they will have to create some parking. Mr. Ephriam stated that he understands that six additional spaces would be required. The potential purchaser had intended to put four spaces in the back and two spaces in the front yard of the apartment building.
- Planning Commission Member Clements confirmed that the lower entrance that is paved belongs to the Methodist Church and the unpaved area on the other side of the hedge belongs with the property. Mr. Ephriam stated that an architect has confirmed that there is sufficient space for six additional parking spaces.
- Vice Chair Speidel expressed concern about the possibility of parking spaces in the back of the building intruding on the Mary Elizabeth Park area, stating that it looks as though it would jut into the narrow part of the Park.
- Planning Commission Member Hall stated that on a plat of the property dated December 1996, there were seven proposed spaces indicated on the plat. He questioned what happened to those spaces. Mr. Ephriam responded that they had originally intended to create the spaces but then the church graciously said that staff could use the church parking lot. Planning Commission Member Hall then questioned if there were any cost estimates on what the parking lot will cost. Mr. Ephriam stated that he has not gotten any estimates, as he believes it would be most appropriate that if

the R-3 is granted, it should be contingent upon the new owner adding the parking, as they are non-profit and do not have extra money for parking. There being no further comments from the public, Madame Chair Stockton reconvened the meeting back into regular session and called for a staff report.

The Assistant Town Manager stated that staff has discussed this request and it is a fairly unusual request, in that typically a property is sold and then a request is made for rezoning with a specific use in mind. There is a specific use in mind here, but there is no guarantee that the new owner of the property will want to use it as an R-3. For instance, if an insurance agency or other professional wanted to locate in that building then it may not be suitable for R-3 zoning. Staff will follow the Planning Commission's direction, but typically a rezoning is tied to a use that is specific from the new owner.

Madame Chair Stockton reminded the Planning Commission that the owners of the Claiborne House, Tony and Shelly Leete, had sent an e-mail in opposition to the rezoning request.

The Assistant Town Manager stated that if the property were to be rezoned, there are some additional concerns, including parking and screening which are requirements of the R-3 zoning. There is a possibility that the screening could be waived since the church is next door, but he would not recommend it. The entire property would have to be screened as specified by the ordinance. The PZA confirmed that the property lines next to the church and the park would have to be screened but the property line next to the neighboring house, which is already zoned R-3, would not have to be screened as it is a corresponding use.

Madame Chair Stockton asked for additional comments by the Planning Commission and entertained a motion.

Planning Commission Member Hall stated that since they are considering a rezoning without knowing what the use would be by the new owner, he would be more comfortable with the potential owner putting a contract on the property with a contingency for rezoning so that the Commission could see what the intentions are. Rezoning it now will preclude the Commission from putting proffers on the rezoning if need be. He is not comfortable with doing it this way.

- Motion was made by Planning Commission Member Hall to recommend denial of the rezoning request of Patrick Ephriam, representing Chapter 10, of approximately 0.37 acres for Franklin County Tax Map and Parcel Number 2070021200 from Residential District (R-2) to Residential District (R-3), with motion on the floor being seconded by Planning Commission Member Clements. Discussion continued. Planning Commission Member Tiggle questioned if Chapter 10 had a contract in hand, would they have to go through the process all over again, with the Town Attorney stating that it would be expected that the potential buyer would advance the application and

pursue the rezoning request, and then upon completing the process, either obtain the new zoning or cancel the contract if the rezoning is not granted. Typically the prospective purchaser advances the request for the rezoning with the anticipated use and any proffers for the anticipated use, and then the Planning Commission and Town Council will have the whole picture when making a recommendation or approving or denying the request. Every contract is different, but as a general rule, the prospective purchaser will bear the cost of obtaining the rezoning to suit the anticipated use with the cooperation and consent of the property owner. He further stated that the only problem he foresees is that if this request proceeds to a conclusion before Town Council and the request is denied, then the same or a similar request could not be reconsidered for a period of twelve months. Planning Commission Member Arrington stated he thinks the fact that most of the interested parties have wanted it rezoned should make a difference. There being no further discussion, a roll call vote was taken. Voting in favor of the motion on the floor were Planning Commission Members Hall, Clements, and Greer, Vice Chair Speidel, and Madame Chair Stockton. Voting in opposition to the motion on the floor were Planning Commission Members Tiggle and Arrington. Let the record show that the motion on the floor passed with a vote of five to two to recommend denial.

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

B) Article 10 – Floodplain Ordinance

After being duly advertised, the Planning Commission reviewed a proposed revision to Article 10 (Floodplain Ordinance) of the Town of Rocky Mount Zoning and Development Ordinance.

The Assistant Town Manager advised the Commission that this ordinance is a mandate of the federal government. Periodically, the Federal Emergency Management Agency (FEMA) reviews changes that have been made due to development, changes in climate, etc. They have revised the Town's maps. They met with staff in May and went over the changes. With this said, the changes really don't affect the Town of Rocky Mount, because there are zero flood insurance policies in the Town. Of three localities that met with FEMA at the Franklin Center, Rocky Mount had the fewest. Boones Mill had about two dozen properties and county-wide there were about 150. However, the Town does have to implement this ordinance as it is a federal requirement. Staff, including Nathan Wright who is the GIS Technician and Code Inspector, has worked on this project both on the mapping side and the ordinance side. The proposed ordinance has been submitted to the Town Attorney for his review and there will be some changes made between the meeting tonight and the Town Council meeting to reflect the current numbering of the ordinance. As it is written, it does not currently conform to the numbering. The ordinance has very few changes. There is a change in the way the Town will handle special exceptions for people who are

submitting plans that intrude upon the floodplain. Otherwise, there are very changes that will actually affect any construction activities in the Town of Rocky Mount. The deadline for finalizing the ordinance is in December.

No one from the public came forward to speak in regards to the floodplain ordinance.

The Assistant Town Manager advised the Commission that he is asking for a vote for approval with the understanding that the numbers will be changing to correspond with the correct numbering. He also added that his staff used the draft ordinance that the state recommended.

The Town Attorney added that he has no problem with the ordinance. However, at first he was unable to determine if it was a stand-alone ordinance or a revision of our current ordinance. He understands now that this is a revision and the numbering needs to be corrected and he will also make sure that the definition provisions are the same in the proposed ordinance as it is in the current ordinance. These will be purely procedural and cosmetic changes.

The Assistant Town Manager added that if the Commission wants to have the changes made first, staff is amenable to this. The ordinance can be brought back next month, as it just needs to be finalized before December.

Madame Chair Stockton advised that she would like to see the changes first, before voting. The Town Attorney confirmed with the Commission that the public hearing can be held tonight and the vote can be tabled until the changes are made.

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

- Motion was made by Vice Chair Speidel to table the discussion regarding revision of Article 10 of the Town of Rocky Mount Zoning and Development Ordinance– Floodplain Ordinance until the next regular meeting, with 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.

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

5. Article 26 – Central Business District (CBD) Parking Regulations

After being duly advertised the Planning Commission reviewed the proposed amendments to Article 26 of the Town of Rocky Mount Zoning and Development Ordinance regarding CBD parking regulations, allowing the minimum number of parking spaces to be determined by a special exception.

The Assistant Town Manager advised the Commission that the changes presented are those that came out of the recent discussions with Town Council. The changes are listed in the packet that was provided. The procedure is changing for off-street parking to allow appeals to be made to the Planning Commission so that the Commission can make a special exception and take into consideration nearby public parking.

It was pointed out that the Commission has been working on this since December of 2007.

No one from the public came forward to speak in regards to the proposed amendment.

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

- Motion was made by Vice Chair Speidel to recommend approval of the revised Article 26, Central Business District parking regulations, allowing the minimum number of parking spaces to be determined by special exception, with motion in the floor being seconded by Planning Commission Member Arrington. There being no further discussion, let the record show that the motion passed unanimously.

OLD/NEW BUSINESS

A) Old Business

1. Follow-Up on Strategic Planning Retreat and Joint Meeting

The Assistant Town Manager addressed the Planning Commission, stating that following the joint meeting with Town Council and the Strategic Planning Retreat, there were two consistent themes identified: the first was the need for improved communication on the actions of Town Council, and the second was the need for better communication on the origin of ideas. In the future, staff will take ideas to Town Council first, for direction on sending the ideas to Planning Commission for consideration.

Madame Chair Stockton added that she thought the recent joint meeting was the best joint meeting they have had and she is glad that it will be done on a regular basis.

The Assistant Town Manager confirmed with the Commission that quarterly meetings are still the consensus. He also added that staff will be working on communication back to the Planning Commission after Town Council

meetings are held, and he asked the Commission for feedback so that staff can make sure that Planning Commission's needs are met.

2. Wind Generators

The Assistant Town Manager reminded the Commission of last month's discussion that arose out of an interesting question regarding a wind generator at the Gereau Center that is incidental to the educational use of the facility. This question brought to staff's attention the fact that the Town really doesn't have regulations about where wind generators can be placed in Town.

The PZA advised the Commission that the current ordinance is vague because there are height regulations for wind generators in the ordinance in every district; however, there is no specific permitted use identified in each of the districts. He has concluded, therefore, that the only allowable use is incidental to the property. However, wind generators could still be installed on a residential property without any special conditions. In his research, he sent out e-mails to different localities to see how each locality handles wind generators. He found three different ways in which other localities handle wind generators: (1) no regulations at all; (2) allowed by special use in certain districts; or (3) a separate wind generator ordinance. He has provided Planning Commission with a sample ordinance from the City of Suffolk, and he would like some direction from Planning Commission as to how the Commission views wind generators being used in the Town and how they would like them regulated. Should wind generators be a use-by-right? Should they be approved by a special exception coming before Planning Commission and Town Council? Should the Town have a wind generator ordinance?

Planning Commission Member Clements questioned if the wind generator at the Gereau Center was granted by special exception. The PZA advised that right now his interpretation is that wind generators are permitted uses by right as long as the wind generator is incidental to the primary use of the property, which is what the wind generator at the Gereau Center is. Right now, any property in Town could put up a wind generator as long as it is incidental to the use of the property, and wind generators are currently exempted from height regulations.

Discussion ensued:

- Planning Commission Member Hall stated that he thinks that R-1 zoning should not allow wind generators because he doesn't think that Town residents would want this. He also likes the model ordinance because it considers the size of the system. He thinks the Town should allow alternatives, but wind generators should not be a use-by-right.

- For any use by special exception, the Planning Commission has the ability to recommend conditions and Town Council has the authority to impose conditions on granting the special exception.
- The Town probably will not receive many requests, but a special exception will give the opportunity to look at conditions.
- The wireless communication ordinance allows cell towers by special use in certain districts, and the Town also adopted a separate wireless communications ordinance that identified districts that contained cell towers and the particular heights that would be allowed.
- The Town could work on an ordinance, modeling the initial consideration upon the wireless communication facility ordinance for formatting, and then work off of the idea of the special exception for some or all of the zoning classifications, and then include any regulatory considerations that will meet the Town's needs.
- Wind generators could be limited based on the size of the parcel.
- A separate ordinance could provide the opportunity for application requirements, including installation, design, and how it would be removed if it were decommissioned or abandoned.
- The size of the tower could be limited to half the width of the lot, or something to that effect, in order to limit the height.
- Currently there are no height requirements. There could be a 1000 feet high tower.
- It would be good to allow an application for special exception and then include some application standards: things that would have to be included with the application.
- What should the minimum be? Is there any interest in allowing a wind generator on anything less than one acre? By requiring more than one acre, most of the Town would be eliminated.
- There are several industrial properties in Town that have more acreage.

The PZA noted that Planning Commission had given him sufficient direction to begin working on the issue.

B) New Business

1. Publication Consideration

Madame Chair Stockton pointed out that the Planning Commission has received a copy of a publication in their packets. The Assistant Town Manger advised the Commission that staff received this copy in the mail and it was added to the packet at the last minute. This is a quarterly publication and the Town will pay for the subscription for any Commission member interested in receiving it, and will include it with the monthly packet. Staff noted that all members of the Planning Commission are interested in receiving the publication.

2. Staff for November Meeting

The Assistant Town Manger advised the Planning Commission that he will be unable to attend the November meeting, which is November 5 and the day after Election Day. Normally, he tries to be in attendance for the meetings; however, he is getting married on November 2 and will be on vacation. The PZA will cover the meeting in his absence.

Madame Chair Stockton asked Planning Commission for any other comments.

Planning Commission Member Hall questioned if future ordinance revisions could be three-hole punched. Staff so noted.

ADJOURNMENT

There being no further business to discuss, motion was made by Planning Commission Member Clements to adjourn at 7:04 p.m., seconded by Planning Commission Member Tiggle, and carried unanimously.

Janet Stockton, Chair

ATTEST:

Stacey B. Sink, Deputy Clerk

/sbs