

**PLANNING COMMISSION MEETING
TOWN CENTER, 22 WASHINGTON AVE, COLONIAL BEACH, VA
January 07, 2010**

Present: David H. Coombes, Chairman
Margaret McMullen
Maureen Holt
Cynthia Misicka
Kent Rodeheaver
Desiree Urquhart

Also Present: Andrea Erard, Town Attorney
Val Foulds, Town Manager
Gary Mitchell, Director of Planning and Community Development

Absent: Ed Grant

CALL THE MEETING TO ORDER

Mr. Coombes called the January 07, 2010 Planning Commission meeting to order. Mr. Grant was absent from the meeting. Ms. Misicka and Ms. Urquhart were tardy for the meeting. All other members were present.

APPROVAL OF MINUTES FROM THE NOVEMBER 05, 2009 AND DECEMBER 03, 2009 MEETINGS

Mr. Coombes asked for approval of the minutes of November 05, 2009. Mr. Coombes stated that the Commission members had an updated version of these minutes in front of them. He explained that he had found an error on the top of the second page where a portion of the paragraph had been cut off. He stated that Staff had fixed the error. Ms. McMullen stated that she felt that language was incorrect on page 5 on the 5th paragraph from the bottom. She suggested the following revised language.

*Ms. McMullen remarked about the Town's loss for the Economic Development Zone ~~pursuit~~ and she hoped that the Town would propose to work closely with James Monroe Foundation as a team to increase the economic development ability of this Town. She said that these issues went directly to a committee and not to Town Council. **She stated that our decisions are recommendations to the Council. We do not assign work to the committees of the Town Council.** ~~this group.~~ She stated that it had been sitting with this committee for months **when it should have gone directly to Council.***

Ms. McMullen ~~continued to ask why she had not seen the agendas.~~ **stated that, perhaps, the Chairman viewed the situation differently since he is also a member of Council.**

The Town Attorney suggested this section be typed verbatim but Staff explained that they could not do this due to the fact that it is inaudible on the tape. The Chairman asked that Ms. McMullen meet with Staff and come back at the next meeting with a revision. The Commission agreed to defer these minutes until the February meeting. Ms. Holt moved to defer and Ms. McMullen seconded it.

Mr. Coombes asked for approval of the minutes of December 03, 2009. Ms. Urquhart suggested adding the words “**when first introduced**” on page 2 after the sentence “Ms. Urquhart requested that all acronyms are spelled out.” The Commission agreed to this change. Ms. Holt moved to approve and Ms. Urquhart seconded the motion.

Mr. Coombes reminded The Commissioners to please see Staff with any changes or updates to the minutes prior to the meeting.

CONTINUATION OF THE PUBLIC HEARING FOR ARTICLE 30, DEVELOPMENT STANDARDS

Mr. Coombes stated that Mr. Mitchell was absent from the last meeting and he said that he hoped they all had a chance to read his responses to their questions from that meeting.

Mr. Coombes asked Mr. Mitchell to review his comments.

Mr. Mitchell reads the following;

- 1.) -Ms. Holt had a question regarding **number 5**. “Accessory structures shall be located no closer than 10 feet from principal.” She asked what purpose it served?
 - *This standard is in relation to the Building/Fire Code and is designed to provide for fire protection.*
- 2.) -Ms. Holt questioned **number 15**. What is a spite strip?
 - *A spite strip is a piece of property that a person may own and prevents roads or driveways from crossing over and connecting.*
- 3.) -Ms. Urquhart requested that all acronyms be spelled out for easier understanding by both the Planning Commission and the citizens. (In example, HVAC, BMP, PUD)
 - *I agree, will do so in a revised document.*
- 4.) -Ms. Urquhart suggested that **number 12**. Read as follows. “Stormwater management structures in accordance with Best Management Practices (BMPS), such as infiltration trenches....”

- *Agreed – will do.*
- 5.) -Ms. Urquhart asked that in **number 18**, the statement that reads “cover the cost of installing the improvements as specified above..” Is this talking about number 17 or anything above number 18?
- *It refers to the improvements in item number 17, I will re-word and be more specific.*
- 6.) -Ms. McMullen stated she did not understand why you could not exceed 25% of the gross floor area on **number 3** and would like an explanation on that.
- *In R-1 & R-2 the limit is 30% and no larger than 600 feet. The rational is to prevent someone from building an accessory building (garage) that is larger than their principal building (home). If it makes the Commission happy we can up the limit to 30%, but as a planner I would recommend against it to prevent really large detached garages with small houses.*
- 7.) -Ms. McMullen stated that on both **number 7 and 8** she found the numbers to be too confining.
- *7 - This is based on the building and fire codes.*
 - *8- This too is based on the fire prevention codes and to prevent overcrowding. Additionally, with a town height limit of 35 feet it is not probable and that more than ~~12~~ **16** units could be within a multi-family structure. Typically a multi-family unit has four units per floor. The 35-foot height limit limits the building to a max of 4 floors. Therefore, the max number of units available is ~~12~~ **16**.*
 - *We could add a provision that an applicant could file for a conditional use permit to exceed the height limit and the max of ~~12~~ **16** units if the Commission agrees.*

Ms. Holt pointed out that the number 12 units was incorrect that 4 X 4 equals 16. Mr. Mitchell agreed that he had made an error.

- 8.) -Ms. McMullen stated in **number 9**, she knows there is a definition for Multi-family structures somewhere but would assume that this would be described there.
- *Yes, this is already defined in the ordinance.*
- 9.) -Ms. McMullen stated that in **number 14** it states that it is approved by the Director of Planning should this not be approved by an engineer or somebody qualified at VDOT?
- *This is our current practice. VDOT will not review drainage plans.*

Mr. Mitchell explained that he and the Director of Public Works review these currently. Mr. Coombes asked if he felt that he and the Director of Public Works could deal with this. Mr. Mitchell responded yes.

Ms. McMullen stated that she was happy with the answer. She said that if there could be situations where they needed outside expertise the thought that they don't have the money is

an (inaudible). She stated that they could find that money if needed. She stated that there is an unknown there but she stated that she hoped that the builder would be responsible.

Mr. Coombes explained that if it was necessary then the Town Manager would get an outside contractor to do this sort of thing. Mr. Coombes stated that the Town Manager uses consultants on different things.

Ms. Holt asked if it was possible to put in there that it is approved by the Director of Planning or his designee or to his satisfaction. She asked if it could state something where the builder could be responsible. She asked if it could be left open and vague.

Ms. Erard stated it was her recommendation to not put "or his designee" in there. She stated that they were small enough that even if Gary does not do the work he can sign off on it. She stated that they would not want a developer to try and say that Lori said everything was fine or something like that.

Ms. Holt explained that designee was really not the word she was looking for but she wanted something where they could make the builder responsible.

Mr. Mitchell stated that he and Ms. Erard would work on the wording that would talk about the builder being responsible.

10.) -Ms. McMullen stated that **number 16.A** does not mention phones and **number 16.B** is 5 feet wide for sidewalks the right width for Colonial Beach?

- *16 A refers to ALL Utilities – phones are part of the utilities. I can specify if the commission would like.*
- *16 B – this is a requirement of the Americans with Disabilities Act (ADA) and VDOT. All roads are owned and maintained by VDOT, so if the road is built and dedicated to VDOT with sidewalks less than 5- feet VDOT will not accept the dedication.*

11.) -Ms. McMullen stated that at the last meeting there was a question about street lamps and does not state the correct thing.

- *Yes, the street light language has been adjusted to require shielding to prevent light pollution as requested by Cynthia. The attached version has the changes highlighted.*

12.) -Ms. McMullen stated that on **number 16. E** it gives the approval to Director of Planning, she wanted to know if this is the correct person to do this, maybe an engineer.

- *This is our current practice. The Town does not have the financial resources to hire an engineer.*

Mr. Mitchell suggested referencing the language they would be putting in number 9.

13.) -Ms. McMullen said that she disagreed with **number 18** where it states "At a minimum these improvements shall be installed when 50% of the dwellings units have been occupied and/or have been substantially completed." She stated this should be done prior to any construction due to the town's history of these things not getting completed such as roads.

- *I agree generally. This can be adjusted if the rest of the Commission is agreeable.*

Ms. Holt asked if it stated somewhere else in the text about submitting some sort of a payment schedule and plan. Mr. Mitchell suggested requiring a letter of credit or bond. Ms. Holt stated she was fine with that. Ms. Holt stated that she felt it should be left as is.

Mr. Rodeheaver inquired about 50% of what. Mr. Mitchell stated it was 50% of the dwelling units.

Mr. Rodeheaver asked about one unit because there are not a lot of developments. Mr. Mitchell stated that in that case it would be when the Certificate of Occupancy is issued.

Mr. Rodeheaver stated that most of the units are going to be singly built and that was his problem with this whole thing.

Mr. Coombes stated that yes maybe in Riverside Meadows but when they get back over in the Potomac Crossing's property...

14.) -Ms. McMullen stated that they were to get a copy of something that shows what is "new" language and what is "current" language.

- *This has been done – see underlined sections*

15.) -Ms. McMullen stated that in the statement of intent where it reads that this is to promote public health safety and welfare as well as environmental protection of our water, air and land. She feels that numbers 3, 4, 5 and 6 having nothing to do with this.

- *Yes, these items do promote the prevention of overcrowding of structures on lots and promoting air circulation as well as fire prevention. Additionally, these items address the aesthetics of the Town and its associated environment. It is typical language used in zoning ordinances across the Commonwealth.*

16.) -Mr. Coombes has asked for a total clarification on the situation regarding somebody building a single home that is surrounded by vacant platted lots do those property owners with the vacant lots have to also pay for improvements like having the fifty feet of road built. He stated that Mr. Mitchell had said something about it being a state statute that these people are responsible to do this. **CLARIFICATION NEEDED ON THIS ISSUE.**

- *Currently the Town requires anyone who builds on a lot where there is no public water or sewer to extend the lines to their lot. These requirements continue this policy but can be adjusted so that the property owner only has to build the improvements to their property frontage. Additionally, there is a provision in the State Code that has a pro-rata-share and if the Town Council wanted to adopt that into the Town Code then the individual property owner can recoup some of their costs. However, that is another issue. It was impressed to me during my interviews and after coming here one of the major goals was to treat everyone the same – developer of one lot or a developer of multiple lots. Constitutionally, I do not believe we can*

impose different requirements one people just because they may only be building only 1 home vs. several homes.

Mr. Coombes asked if somebody (a homeowner) in Riverside Meadows wanted to build a house on a road that is not paved and without water sewer to the lots, do they have to connect to it?

Mr. Mitchell says yes they have to connect to the water sewer.

Mr. Coombes asked what does a homeowner do when they are building a house and there are no other homes around it and it is located on a dirt road. What are the homeowner's obligations as far as mitigating flooding, paving the road etc?

Mr. Mitchell stated that this was a development that has currently already started developing improperly. He stated that this subdivision is somewhat grandfathered in as far as what is going on there. He stated that these regulations pertain to anything new. He stated there is really nothing he can do about this.

Mr. Coombes stated that this was a reality and somebody is going to come along and build another home down there. Mr. Coombes stated that a year after they build this house they will have water problems again. He asked how do they handle this as far as a planning and zoning stand point.

Mr. Mitchell stated that what they have instituted as of November 1st, 2009 was that they require an erosion and sediment bond and once the yard is established which means 80% of the grass is up they do an inspection and release the bond.

Mr. Coombes asked how were they going to stop the water from flowing into the new yards and houses? Mr. Coombes asked what does the bond do?

Mr. Mitchell responded that if the drainage plan on their site plan does not work then they can use this bond money and hire a contractor to fix this drainage problem.

Mr. Coombes asked how do they get this problem fixed on the front end.

Ms. Erard stated that they are really trying to fix this from the back end. Ms. Erard stated that the law in Virginia stated that the locality has the most control over how something is developed at the zoning stage. She stated that if they look at certain developments where they have a lot of uniformity for example in Richmond where there is a development on the south side. It is a commercial and residential development surrounding an old plantation. There is a lot of architectural details and everything looks like they fit together. She stated that the reason for this is that at the zoning stage somebody thought this through and got all these proffers. She stated that if you do not get proffers and you get rezoned for example from agricultural to residential somebody can come on a 1 acre lot and build a house and they can build a really ugly house and there is nothing you can do about it. She stated that the next place where somebody has control is at the subdivision level. She stated that the State Law says you must have certain things in your Subdivision Ordinance. She stated that it talks about things like development standards, roads and lighting. She stated that if

things are not in the ordinances then we cannot make them do it. She stated that it is very important at the rezoning level to look at the big picture and then have a good subdivision ordinance. She expressed to the Commission that once somebody has subdivided something and are already developing it then they are swimming up- stream to try and enforce something like in terms of drainage.

Mr. Coombes stated that Mr. Mitchell was right it was done incorrectly.

Mr. Coombes asked how do they fix the drainage problems down there. He asked “what are the obligations of a homeowner regarding roads and drainage”.

Ms. Erard stated that she felt that could regulate as far as the general health safety and welfare for of the citizens as far as some general drainage requirements. But in terms of paving the road if someone buys a house they cannot make harry homeowner pave the road they do not own.

Mr. Coombes stated that it sounded like they can’t solve these existing problems.

Ms. Erard stated they may have some limited ability to resolve some drainage issues.

Mr. Mitchell goes through the updates that will be made in the Developmental Standards ordinance. He recaps the changes as listed below.

ARTICLE 30

DEVELOPMENT STANDARDS

Statement of Intent

The purpose of this section is to set basic development standards and guidelines within each zoning district which are not otherwise classified in this ordinance. These standards are designed to promote public health, safety, and welfare as well as environmental protection of our water, air and land. These guidelines provide for pedestrian safety and access within the Town. Additionally, these standards are designed to ensure proper handling of drainage and stormwater management. Finally, these guidelines provide for managed and orderly growth of the Town.

30-1 Development Standards for All Residential and PUD Districts

These standards shall apply to all residential and Planned Unit Development (PUD) districts unless such standards are modified by the Town Council as part of a rezoning application.

1. Permeable surface area on any lot shall be no less than 64%, without of any mitigation measures as described Article 22 of this ordinance.
2. Impermeable surface(s) may cover up to 36% of the total lot area, in cases where the impermeable surface exceeds 36%, mitigation measures shall have to be implemented in accordance with Article 22 of this ordinance.
3. Accessory structure(s) shall not exceed 25% of the gross floor area of the principal structure.
4. Accessory structures shall not exceed the height of the principal structure or 35-feet, whichever is less.
5. Accessory structure(s) shall be located no closer than 10-feet from the principal structure.
6. All Heating, Ventilation, Air Conditioning (HVAC) equipment shall be screened from view and located in the side or rear yard of residential lots.
7. Not more than eight (8) dwelling units shall be located in one (1) row of continuous townhouse or in one continuous group of cluster homes.
8. Not more than twelve (12) dwelling units shall be contained in a multi-family dwelling unit.
9. There shall be no more than twelve (12) dwelling units on any cul-de-sac street.
10. The end units in a multi-family structure shall have minimum side yards of five (5) feet.
11. An overall drainage plan for the entire development shall be submitted and approved or a drainage plan for the specific lot(s) shall be submitted with each building permit application.
12. Stormwater management structures, such as Best Management Practices (BMP), infiltration trenches and similar facilities shall be located within common areas or within an easement of the development and dedicated to the homeowner's association and/or the Town upon approval by the Director of Public Works.
13. An acceptable access easement to the BMPs shall be provided on the drainage plan and included in the common area or easement.
14. No permit shall be released until the drainage plan has been approved by the Director of Planning.
15. Any residential street intended to provide an inter-parcel connection(s) shall be constructed to the property line prior to final release of any road surety. There shall be no spite strips.
16. Any platted residential lot in the Town of Colonial Beach shall be served by a Virginia Department of Transportation (VDOT) standard subdivision road unless the development is a Townhouse development, in which VDOT does not accept such streets. However, these private streets in townhouse developments shall be constructed to VDOT standards.

17. In addition to VDOT requirements, the Town shall require all roads to have the following:
 - a. All utilities (water, sewer, cable TV, telephone and electric) shall be placed underground;
 - b. Curb, gutter and sidewalks. Sidewalks shall be a minimum of 5-feet wide;
 - c. Black colonial street lamps with a maximum height of 15-feet;
 - d. Street lamps shall be placed on the backside of the sidewalk;
 - e. Street lamps shall be placed at intersections and mid-block points acceptable to the Director of Planning.
 - f. Street lamps shall be shielded so to reflect all light downward to the ground.
18. The streets and other improvements listed above shall be installed prior to Certificate of Occupancy (CO) being issued.
19. However, a surety may be posted, acceptable to the Town Attorney, to cover the cost of installing the improvements as specified above, provided a phasing plan is submitted to the Director of Planning, for review and approval of all such improvements. At a minimum these improvements shall be installed when 50% of the dwelling units have been occupied and/or have been substantially completed. Substantially completed refers to the proposed building being under roof and all rough-in inspections have been performed.
20. Any residential street(s) which will have 1,000 or more vehicles trips per day shall be of a boulevard design containing a landscaped, raised median.
 - a. Boulevard(s) and/or spine roads serving a development may use roadside ditches provided that a sidewalk/paved pedestrian path at least five (5) feet in width is located outside of the ditch.

Mr. Mitchell reviews the samples of other localities *Development Standards* with the Commission which were attached to their packets.

Mr. Mitchell explained that these proposed standards are in compliance with the new Comprehensive Plan which this Commission has recommended for adoption.

Mr. Mitchell reviews the language in the Comprehensive Plan which supports the Development Standards.

Mr. Mitchell encouraged the Planning Commission to move forward and send the Development Standards up to the Town Council with a favorable recommendation.

Mr. Coombes asked the Commission Members if it was their wish to have Mr. Mitchell come back to the February Meeting with the added recommendations to

the Development Standards. He stated that then they would have a clean document to review.

Ms. Erard stated that procedurally they have a continuation of a public hearing and she stated that they needed to open that public hearing and the vote to continue it.

Mr. Coombes asked if anybody from the public would like to come forward and address the Commission on this matter? There was no public comment.

Mr. Coombes asked to continue the public hearing until the February meeting. There was general agreement from the Commission without objection to continue the hearing until February.

Ms. McMullen stated that she thought they had discussed this before but if the Town has an agreement with Dominion Power wouldn't they install and maintain the street lamps. Mr. Mitchell stated that he got this information from his own neighborhood association. He stated that if they signed a contract for Dominion Power then they will do the maintenance and bill you for the power.

Ms. McMullen said that she would like to see the language in 17C. state "shall be procured from Dominion Power."

Mr. Mitchell stated that he would rather not list a provider in there.

Ms. Erard suggested saying "preferably"

They all agreed to that.

Mr. Rodeheaver reiterated that some of this is covered by current ordinances. He asked if they could put together something that says here is what this will give you.

Mr. Rodeheaver stated he would like to see something that shows what are they getting by doing this.

Mr. Coombes asked Mr. Mitchell to provide them with something for the next meeting.

Mr. Coombes stated that they would continue this until the next meeting.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

-Maritime Commercial Ad-hoc Committee. Mr. Coombes asked for an update. Mr. Mitchell stated that this would be coming back to the Commission at the February meeting. He stated that he gave both Mr. Grant and Ms. Misicka an outline of what he thinks needs to be done. He stated that they had not had a chance to get together since then because of the Holidays. He stated that he hoped that over the next week they could get together and make adjustments. Mr. Coombes stated yes they do need to do this soon. Mr. Rodeheaver asked that once they reach this agreement could he put copies of it in all the Commissioner's boxes. Mr. Mitchell agreed to do this.

-Comprehensive Plan. Mr. Coombes stated that at next week's Council meeting the Town Council would be considering the adoption of the new Comprehensive Plan. He stated that at the 11th hour at the last meeting they received a letter from Kyle Schick with some recommended changes to the Comprehensive Plan. He stated that he had asked the Commissioners to review that and if there are any concerns with it they could discuss it. There was no discussion from the Commissioners. He stated that this letter was forwarded to the Council also.

Mr. Rodeheaver stated that he thought they had generally covered everything in the letter and saw no increased benefit from the result of this letter. The Commissioners all agreed with this.

Mr. Coombes stated that if this comes up as an issue he will relate the Commission's position on this.

NEW BUSINESS

-Public Comment Protocol. Ms. McMullen suggested to the Commission that they take the Public Hearing procedures and add this information to the bottom of the Public Hearing Protocol. The Commission agreed to this update. Staff stated that they could do this.

ADJOURNMENT

Mr. Coombes asked for a motion to adjourn at 6:35P.M. Mr. Rodeheaver moved to adjourn and Ms. Urquhart seconded the motion. Meeting was adjourned.

David H. Coombes, Chairman