

## **Town of Colonial Beach Planning Commission Minutes**

Date: July 01, 2010 – Town Center, 22 Washington Avenue

Time: 5:30 P.M.

Present: Ed Grant - Chairman  
Maureen Holt  
Cynthia Misicka  
David H. Coombes  
Kent Rodeheaver – arrived at 5:45 P.M.  
Desiree Urquhart - arrived at 5:50 P.M.

Absent: Margaret McMullen

Also Present: Gary Mitchell, Director of Building and Zoning  
Andrea Erard, Town Attorney

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### **CALL THE MEETING TO ORDER**

Mr. Grant called the meeting to order at 5:30 P.M. Ms. McMullen was absent from the meeting.

### **APPROVAL OF MINUTES**

Mr. Grant asked for approval of the June 03, 2010 meeting minutes. Ms. Holt moved to approve the minutes and Ms. Misicka seconded the motion. Minutes were approved without objection.

### **PUBLIC HEARING FOR THE REQUEST TO VACATE A RIGHT OF WAY LOCATED AT VERNON STREET AND MONROE BAY AVENUE.**

Mr. Grant asked for Mr. Mitchell to present the staff report. Mr. Mitchell reads the following Staff report.

<b>PLANNING &amp; COMMUNITY DEVELOPMENT STAFF REPORT</b>	
<b>PROJECT NAME: Right of Way Vacation</b>	<b>Planning Commission Meeting Date: June 1, 2010</b>
<b>Case Number: ROWV-01-2010</b>	<b>Applicant: Chris Lovejoy</b>
<b>Project Status:</b>	<b>Owner: Town of Colonial Beach</b>
<input type="checkbox"/> Preliminary Sketch <input type="checkbox"/> Rezoning	<b>Location: Eastern end of Vernon Street</b>

Application  <input type="checkbox"/> Preliminary Plat <input type="checkbox"/> Conditional Use  <input type="checkbox"/> Preliminary Final Plat <input type="checkbox"/> Concept Plans  <input type="checkbox"/> Final Plat  <input checked="" type="checkbox"/> Vacation	<b>Voting District: NA</b>	
	<b>Parcel Number: 3A2-2-5-9-1A</b>	
	<b>Total Site Area: 6,000 sq. ft.</b>	
	<b>Site Area Developed: NA</b>	
<b>Existing Structures: None</b>	<b>CBPA: NA</b>	
<b>Flood Hazard: NA</b>	<b>Additional Site Data: Zoned R-2</b>	
<b>Current Zoning: None</b>		
<b>Action Request: Approval with conditions</b>		
	<b>Staff: G. Mitchell</b>	<b>Date: 6-14-10</b>

**Prior Actions / Case History**

<b>Rezoning: NA</b>
<b>Special Exceptions: NA</b>
<b>Variances: NA</b>
<b>Subdivisions: NA</b>
<b>Other Data: NA</b>

**DISCUSSION:**

Mr. Chris Lovejoy and Mr. Thomas Neitzey have agreed to request the Town to abandon this undeveloped portion of Vernon Street. This right-of-way leads to Monroe Bay but in this

location there is no beach area. In fact the land somewhat drops off to the water. There are no plans by VDOT to use this area for any future road extensions or bridges across Monroe Bay.

Based upon estimates from Public Works it costs the Town over \$2,000 a year to maintain this right-of-way. Additionally, in order to improve the situation of multiple piers the abandonment of this right of way would be beneficial to the overall development along the cove on the Monroe Bay waterfront. The Police Department supports the vacation of the right of way due to crime prevention and to prevent illegal dumping.

This section of right-of-way does provide some drainage for this section of Town. In order to address this Mr. Lovejoy has agreed to dedicate a drainage easement acceptable to Public Works in case they need access to the area to address drainage issues. The width of the easement would be 20-feet centered along the drainage pipe currently in the ground. As part of the process the applicant would also be responsible to make any necessary repairs/replacement to the existing drainage pipe as determined by Public Works. Also, the abandoned right-of-way would have to be combined with the applicants existing lot so as not to create an additional buildable lot.

**COMPREHENSIVE PLAN:**

Throughout the Plan it is recognized that the Town's tax base needs to be expanded. By approving this abandonment the Town saves the \$2,000/year in maintenance costs as well as putting this land back on the tax rolls. Although the land is incorporated into an existing lot, this will most certainly raise the assessment of the lot and therefore increase the tax base of the Town. Typically, a lot that is approximately 6,000 sq. ft., in this area of Town is assessed at \$156,000. When added to the existing property the property new assessment should increase by approximately 25%+/-.

**PROCESS:**

Approving this vacation would result in the Town selling the rights to the right-of-way exclusive of the drainage easement. The Town will have an appraisal of the property performed and the applicant will purchase the property from the Town based upon this appraisal and be responsible for the other closing costs.

**STAFF RECOMMENDATION:**

Staff recommends sending this proposal to the Town Council with a recommendation of approval of this ROWV application with the conditions as outlined below.

**RECOMMENDED CONDITIONS OF SALE:**

1. The applicant (Mr. Lovejoy) shall prepare and pay for a plat of the property which identifies the drainage easement to be dedicated to the Town, show the ingress/egress

easement for himself and Mr. Neitzey, and if approved by Town Council, pay for all closing costs including all deeds, plats and recording fees.

2. The applicant (Mr. Lovejoy) shall purchase the property from the Town Council within 45-days of approval, based upon the appraisal (which shall include the costs of such an appraisal).
3. The applicant shall have a lot consolidation survey prepared to show how the right-of-way will be consolidated into his existing property. Upon approval of the lot consolidation, it shall be recorded in the Circuit Court Clerk's Office of Westmoreland County.
4. The applicant (Mr. Lovejoy) shall replace/repair the existing drainage pipe located within the subject property if determined by Public Works that such work is needed.

### ***PUBLIC COMMENT***

Mr. Grant opens the public hearing and asks if anybody wishes to speak on this subject.

Mr. Chris Lovejoy (the applicant) of 325 Monroe Bay Avenue spoke in support of the request. He stated that the request would help with the alignment of the piers and it would be more harmonious use of the property. He further stated that the right of way is not used by anybody other than himself who parks his boat on the property.

Mr. Grant asked if anybody else wished to comment on this subject.

Mr. Steve Kennedy of 300 Thackary Street spoke in support of the vacation and stated that nobody uses the property.

Mr. Grant asked if anybody else wished to comment, hearing nobody Mr. Grant closed the public hearing.

### ***DISCUSSION FROM THE COMMISSIONERS***

Mr. Coombes expressed concern as to whether the Town had abandoned right of ways in the past. Ms. Erard the Town Attorney stated they had done this in the past.

Mr. Coombes stated, "Good, I want to make sure we are not setting a precedent."

Ms. Misicka asked if kayaks could be launched from this property. Staff referred to the attached photograph to the Staff report and pointed out that the right of way is essentially blocked with vegetation.

Mr. Grant asked if there was a motion regarding this request.

Ms. Holt moved to recommend the vacation and Ms. Misicka seconded the motion. There was general agreement to recommend this to the Town Council.

Whereas, the Colonial Beach Planning Commission finds that public necessity, convenience, general welfare and good zoning practice would be served by the recommending approval of the right-of-way abandoning as proposed in ROWV-O1-2010

Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a favorable recommendation in accordance with §15.2-2200 of the *Code of Virginia, 1950* as amended.

Ms. Holt: Aye  
Mr. Coombes: Aye  
Mr. Rodeheaver: Aye  
Ms. Misicka: Aye  
Mr. Grant: Aye

With Ms. McMullen and Ms. Urquhart absent from the vote.

**PUBLIC HEARING FOR THE REQUEST TO VACATE A RIGHT OF WAY LOCATED OFF OF LAFAYETTE STREET AND RUNNING PARALLEL TO MONROE BAY AVENUE.**

Mr. Grant stated that the next item on the agenda was a request for a street vacation.

Mr. Grant asked Mr. Mitchell for his Staff Report. Mr. Mitchell reads the following report.

<b>PLANNING &amp; COMMUNITY DEVELOPMENT STAFF REPORT</b>	
<b>PROJECT NAME: Right of Way Vacation</b>	<b>Planning Commission Meeting Date: June 1, 2010</b>
<b>Case Number: ROWV-02-2010</b>	<b>Applicant: John Lozinyak &amp; Clayton Sheppard</b>
<b>Project Status:</b>	<b>Owner: Town of Colonial Beach</b>
<input type="checkbox"/> Preliminary Sketch <input type="checkbox"/> Rezoning	<b>Location: Alley off Lafayette running parallel to Monroe Bay Avenue</b>
<input type="checkbox"/> Application	<b>Voting District: NA</b>

<input type="checkbox"/> Preliminary Plat <input type="checkbox"/> Conditional Use  <input type="checkbox"/> Preliminary Final Plat <input type="checkbox"/> Concept Plans  <input type="checkbox"/> Final Plat  <input checked="" type="checkbox"/> Vacation	<b>Parcel Number: 3A1-2-5-0-14, 3A1-2-4-9-A etc.</b>	
	<b>Total Site Area: 13,590 sq. ft.</b>	
	<b>Site Area Developed: NA</b>	
<b>Existing Structures: None</b>	<b>CBPA: NA</b>	
<b>Flood Hazard: NA</b>	<b>Additional Site Data: Zoned R-2</b>	
<b>Current Zoning: None</b>		
<b>Action Request: Approval with conditions</b>		
	<b>Staff: G. Mitchell</b>	<b>Date: 6-16-10</b>

**Prior Actions / Case History**

<b>Rezoning: NA</b>
<b>Special Exceptions: NA</b>
<b>Variances: NA</b>
<b>Subdivisions: NA</b>
<b>Other Data: NA</b>

**DISCUSSION:**

Mr. John Lozinyak and Clayton Sheppard have requested the Town to abandon this undeveloped alley. They along with other neighboring properties are willing to purchase the property. This right-of-way leads to Monroe Bay but in this location there is no beach area and where there is no feasible way to offer amenities to the Town residents as a whole. The land lies to the rear of several homes and in some locations it is partially blocked. In fact at the

southern end of the alley a private residence lies within the alley. Due to the house being located within the alley the house presents the possibility of some liability on the Town. Additionally, the current owner may have a cloud on the title due to this issue.

There are no plans by VDOT to use this area for any future road extensions or bridges across Monroe Bay. Police Department supports the vacation of the right of way due to crime prevention and to prevent illegal dumping. Based upon estimates from Public Works it would cost the Town over \$40,770 a year to maintain a right-of-way of this size. This is based upon a cost of \$300 per 100-square feet. There are no drainage easements or other Town owned facilities within this alley.

Additionally, the point where the alley touches Monroe Bay is blocked by existing piers from private property so that the possibility of a public access point to the bay at this location is not feasible (see aerial photo). Finally there is no room for parking even if the private piers were removed.

**COMPREHENSIVE PLAN:**

Throughout the Plan it is recognized that the Town's tax base needs to be expanded. By approving this abandonment the Town could save the approximate \$40,000/year in potential maintenance costs as well as putting this land back on the tax rolls. Although the land is incorporated into an existing lot, this will most certainly raise the assessment of the lot and therefore increase the tax base of the Town. Typically, a lot that is approximately 13,590 sq. ft., in this area of Town is assessed at \$300,000, based on Westmoreland County Commissioner's Office. While this parcel of land is not suitable to build a home due to its extreme narrowness and length, it does offer a significant addition to the yards of the adjoining property owners. When added to the existing properties the new assessments for the properties should increase by approximately 15%+/- based upon an estimate from an appraiser.

**PROCESS:**

Approving this vacation would result in the Town selling the rights to the right-of-way. The Town will have an appraisal of the property performed and the applicant(s) will purchase the property from the Town based upon this appraisal and be responsible for the other closing costs.

**STAFF RECOMMENDATION:**

Staff recommends sending this proposal to the Town Council with a recommendation of approval of this ROWV application with the conditions as outlined below.

**RECOMMENDED CONDITIONS OF SALE:**

1. The applicant(s) shall prepare and pay for a plat of the property and if approved by Town Council and pay for all closing costs including all deeds, plats and recording fees.

2. The applicant(s) shall purchase the property from the Town Council within 45-days of approval, based upon the appraisal (which shall include the costs of such an appraisal).
3. The applicant(s) shall have a lot consolidation survey prepared to show how the right-of-way will be consolidated into his existing property. Upon approval the lot consolidation, the applicant(s) shall record the plat in the Circuit Court Clerk's Office of Westmoreland County.
4. The applicant(s) shall also contribute the funds to create and install a historical marker in the vicinity related to the school and watermen of the area.

### ***PUBLIC COMMENT***

Mr. Grant asked if anybody wished to speak on this vacation request.

Mr. John Lozinyak at 501 Monroe Bay spoke on behalf of this request. He stated that he wished to expand his property. He stated that his neighbor Mr. Lee Sheppard has mowed portions of this easement for 20 + years. He stated that cars come down this easement at night and park down behind everyone's homes. He stated that he is here mainly on weekends and has never seen anyone use the alley.

Mr. Grant asked if anybody else wished to speak. Mr. Grant recognized Mr. Steve Kennedy.

Steve Kennedy from 300 Thackary Street stated that he sees no purpose for the Town to own this easement and it does not serve the general population of the Town. He said to his knowledge that it has never been used for kayaks and there are other areas where kayaks can be launched.

Mr. Grant recognized Catherine Payne of 520 Lafayette Street.

She stated that she would like to see a historical marker placed near the site. She said that a school and several watermen used this area. She stated that other than Mr. Sheppard and Mr. Studds nobody else used this easement.

Mr. Grant asked if anybody else wished to speak.

Mr. Clayton Sheppard of 506 Lafayette Street stated that he had lived here for 35 years and people have been coming down this alley and parking at the end to party and then leave their trash. He stated that he checked with police reports. He stated that Mr. Studds is his cousin and that a group of folks take their cars down there and party and carry on until all hours of the night.

Mr. Grant recognized a Mr. Steve Briske and he stated that he had seen cars going down there

late at night trying to hide their cars from their husbands. He stated that Mr. Sheppard tries to maintain the property.

Nobody else wished to speak so Mr. Grant closed the public hearing.

Mr. Coombes asked the Town Attorney if it was legal to abandon the right of way if everyone either does not agree or does not want to buy their share of the alley.

Ms. Erard responded that there is not a legal requirement that everyone has to agree but traditionally that has been the policy here in Colonial Beach as well as other Towns.

Ms. Misicka stated that what happens if there is a land locked piece of property because somebody does not want to purchase their section. Staff stated that the applicants have agreed to purchase any and all sections of the alley so there will not be any land locked pieces.

Mr. Rodeheaver stated that he believed that all the property owners had to agree.

Mr. Coombes stated that he thought there were nine property owners adjoining the alleyway.

Mr. Sheppard stated that he would buy all of the right of way where or if someone did not want to purchase their section. He asked to approach the Commission to show them his property. He showed the Commission that his property ran the full length of the alley.

Mr. Rodeheaver said if this is the case then he is satisfied.

Mr. Grant asked for a motion. Ms. Holt moved to recommend the vacation of the alleyway and Ms. Urquhart seconded the motion. The Commission Unanimously agreed to recommend the request.

Whereas, the Colonial Beach Planning Commission finds that public necessity, convenience, general welfare and good zoning practice would be served by the recommending approval of the right-of-way abandoning as proposed in ROWV-O2-2010.

Now therefore be it resolved that the Colonial Beach Planning Commission hereby forwards this petition to the Town Council of Colonial Beach with a favorable recommendation in accordance with §15.2-2200 of the *Code of Virginia*, 1950 as amended.

Ms. Holt:	Aye.
Ms. Misicka:	Aye.
Ms. Urquhart:	Aye.

Mr. Rodeheaver: Aye.  
Mr. Coombes: Aye.  
Mr. Grant: Aye.

Motion carries to recommend carries to Town Council.

#### **PUBLIC COMMENT ON PLANNING COMMISSION MATTERS**

Mr. Grant asked if anybody would like to comment on Planning Commission matters. Seeing nobody Mr. Grant closed the public comment section of the meeting.

#### **CAPITAL IMPROVEMENTS, LEVEL OF SERVICE AND PROFFER POLICY AND CALCULATION DISCUSSION**

Staff presented the revised documents to the Commission to review.

Ms. Misicka asked the Town Attorney if the funding sources had to be identified. Ms. Erard responded by saying that the sources had to be shown in accordance with the Code of Virginia.

Mr. Coombes asked if grants could be identified as funding sources, he stated that it seemed heavily weighted towards proffers. We know this is in the future but we should also seek out grants for many of these items.

There was no further discussion Mr. Grant asked for a motion to authorize Staff to advertise for a public hearing in August. Mr. Coombes moved to advertise for a public hearing and Ms. Holt seconded the motion. The public hearing will be on the recommendation of the Capital Improvements Plan and the Level of Service policy. The motion carried unanimously.

#### **OTHER MATTERS**

Mr. Mitchell stated that he had placed in their packets some paper work regarding a 1 day legal update seminar being held in Charlottesville and if anybody wished to attend this seminar to please contact the Planning and Zoning Office so we may make arrangements.

Mr. Mitchell stated that he had provided the Commission with the first sections of the revised subdivision ordinance in their packet. He stated that they should be prepared to discuss this at the next meeting.

#### **ADJOURNMENT**

Mr. Grant adjourned the meeting at 7:15 P.M.

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Mr. Ed Grant, Chairman