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**KILMARNOCK PLANNING COMMISSION
Tuesday, June 10, 2008
Kilmarnock Town Hall**

Regular Meeting Minutes

1. Call to Order

Chairman Booth called the regular meeting to order at 7:05 pm with the following members present:

Raymond Booth, Chair	Steve Bonner
Claudia Williamson, Vice-Chair	Dave Reedy
Jane Ludwig	William Smith

Members Absent:
Barbara Robertson

Staff Present
Lara N. Burleson, Town Manager
Chris Plummer, Assistant to Town Manager
Susan Cockrell, Community Development Strategist
Paul C. Stamm, Town Attorney
Joan N. Kent –Assistant Clerk, Transcriber

2. Recognition of Guests:

Chairman Booth welcomed Kilmarnock residents, business owners and guests.

3. Public Forum

Chairman Booth opened the public forum by inviting members of the audience to voice their concerns or ideas in regards to planning issues. He limited each speaker to 3 minutes.

There were no public comments.

4. Public Hearings

ACTION: Commission Member Smith made a motion to alter the agenda by having the public hearing in regards to a zoning change request by Morning Star Assoc., Inc held first, seconded by Commission Member Reedy, and carried unanimously.

A. Request by Morning Star Assoc., Inc. for a Zoning Change

1. Purpose

The purpose of the public hearing was to solicit public comments on a request by Stephen and Kimberly Buzzell, Morning Star, Assoc., Inc. for a zoning change to include "auto sales" within the Steptoe's Overlay District. Their property's location was at 81 N. Main St., Kilmarnock, VA and was currently zoned C-1

Chairman Booth and Commission Member Bonner recused themselves from participation in the public hearing because they were adjacent property owners to the subject property owned by the Buzzells.

2. Vice-Chair Williamson opened the public hearing and asked the applicant to speak.

3. Applicant's Presentation

Mrs. Kimberly Buzzell, owner of 81 North Main Street in Kilmarnock, VA stated that she and her husband had put in an application with the Town to have 'auto sales' returned to the Steptoe's Overlay District as a permitted use since historically that type of business on Main Street had been accepted in Kilmarnock for many years. Mrs. Buzzell stated that she and her husband had purchased the property in 2003 and had recently entered into a contract to sell it. Mrs. Buzzell advised that without their knowledge, the Steptoe's Overlay District directly affected the intended use for the property by not allowing auto sales businesses anymore. Mrs. Buzzell stated there would be no changes made to the existing building with the exception of a fresh coat of paint. Mrs. Buzzell continued by saying that the lot would be completely graveled to hold approximately 19 used imported cars such as Audi's, BMWs, and Volvos that would be positioned diagonally and in a tasteful manner. Mrs. Buzzell noted that there would be plenty of parking available for guests as well. Mrs. Buzzell stated that after reading the Comprehensive Plan, she felt that the small 'auto sales' business would be in compliance with the unique character of downtown area. Mrs. Buzzell advised that although they intended to sell the building, she and her husband would be leasing it back for their real estate business and would help to sell the cars. Mrs. Buzzell noted that she and her husband would remain on site to ensure that it was well maintained.

Attorney Rawleigh Simmons from Dunton, Simmons, & Dunton law firm was present on behalf of the Buzzells. Mr. Simmons reiterated that auto sales had been a classic, historical use on Main Street for many years and asked that the zoning change be allowed even if special conditions had to be set.

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Mr. Stephen Bezzell spoke on behalf of the buyer whom he stated was a very reputable person that had been in business for forty years in Fairfax, VA. Mr. Buzzell remarked that parents had been buying Volvos for their teenage children for many years because they were one of the safest cars around. Mr. Buzzell added that a Volvo could haul a lot of antiques as well. Mr. Buzzell advised that the business would only sell good, affordable cars and that there would be no service area, noise, etc.

Town Attorney Stamm asked the Buzzells if they and the new owner would be willing to proffer that there would be no more than 20 cars on the lot at any given time.

Mr. Buzzell replied that they would and added that they would also proffer that there would be no service area as well.

Town Attorney Stamm asked Attorney Rawleigh Simmons if he would put the proffers in writing prior to the Town Council meeting.

Mr. Simmons replied that he would.

Mr. Buzzell advised that in addition to the used cars, the owner would have several motor scooters on display, which would get approximately 100 miles to a gallon of gas.

4. Public Comments

Mrs. Mary Lucille York of 429 Irvington Road, Kilmarnock VA stated that she had doubts about allowing a used car lot within the Steptoe's Overlay District. Ms. York noted that several auto garages were still in existence within the overlay due to their pre-existence of Steptoe's and were grand fathered. Mrs. York advised that even they were in need of cosmetic attention. Mrs. York said that so much time and money had been spent in the development of village quality for the Steptoe's Overlay, and she did not feel that a used car lot would be a fitting substitute for the types of businesses that could occupy that space. Mrs. York advised that a far better location would be North of School Street where auto dealers and parts stores already existed. Mrs. York asked if this was even a good market to be in at this time with the price of petroleum products. Mrs. York said that she personally, had never seen a tasteful used car lot and was concerned by the addition of motorcycles. Mrs. York finalized by saying that her husband Thomas York concurred with her views.

Mr. Charles Chase of 94 North Main Street stated that he could appreciate the applicants desire to consummate a sale but he had been fortunate to serve on the Downtown Revitalization Committee where a significant amount of time and money was spent on the Town's behalf and taxpayer's behalf

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to beautify Main Street. Mr. Chase said that it was his opinion that a used car lot would not be fitting in keeping with the goals and objectives that were and continued to date. Mr. Chase advised that he appreciated Mr. Simmons' comments about car dealerships being a historical part of downtown Kilmarnock but stated that was also the case in downtown Richmond until the dealerships migrated out to the suburbs. Mr. Chase noted that there was ample commercial property for sale in Town that was currently zoned for new or used car sales and hoped that the applicants would reconsider and use their location for office purposes. Mr. Chase stated that even with the proffer limiting the amount of cars to twenty on the lot, he felt uncomfortable because what would happen if the imports didn't sell and they got a good deal on SUV's. Mr. Chase said that he had not heard what the days or hours of operation would be and did not feel that enough information had been submitted to the Planning Commission in order for them to reach a reasonable decision at this time. In closing, Mr. Chase reiterated that he could appreciate the applicants desire to have a contract come to closure, but he professionally felt that the use was not in keeping with the Steptoe's Overlay.

Mrs. Kimberly Buzzell responded by saying that she loved what had been done with the Steptoe's Overlay District in regards to the restaurants, shops, etc., and noted that she and her husband had been builders for 30 years and had been operating a building supply business which unknowingly to her did not conform with the current zoning ordinance either. Mrs. Buzzell stated that since it was the public's feeling to keep cars at the other end of Town then why wouldn't potential customers just shop at the other end of Town. Ms. Buzzell said that it was her feeling to execute this plan in a pleasant way that would lure customers from the Antique Gallery, restaurants, etc. Mrs. Buzzell stated that her husband always stopped to look at cars whenever they went out to eat and she liked the quaintness that their plan offered. Mrs. Buzzell said that they were trying to preserve history and not just people's opinions of what they thought Steptoe's should be. Ms. Buzzell advised that neither she nor her husband got to give their opinion of what should or should not be allowed in the Steptoe's Overlay District when it was being created and they were property owners. Mrs. Buzzell reiterated that the plan for the auto sales business was done in good taste and noted that the hours of operation would be standard and they would be open seven days a week. Mrs. Buzzell advised that she did have a heart for other people and their opinions but at the same time she had one herself. Mrs. Buzzell said that not only did she feel that this was a good idea, but she had a financial opinion as well and admitted that she would be hurt financially if their request was denied.

Mr. Buzzell stated that there was no mention of motorcycles being placed on the lot, only motor scooters. Mr. Buzzell advised that other parcels of property for sale in Town had been considered but were too costly.

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5. Vice-Chair Williamson closed the public hearing and asked for staff comments.

6. Staff Comments

There were no staff comments.

7. Planning Commission Review and/or Action

Commission Member Ludwig asked Mrs. Buzzell if her plans were drawn to scale.

Mrs. Buzzell replied that they were.

Mrs. Ludwig asked Mrs. Buzzell what would stop them from bringing in wrecked Chevy's and placing them on the lot should their request be approved by the Planning Commission. Mrs. Ludwig stated that her concern was that if the business was sold, how could the Planning Commission control what went there.

Mrs. Buzzell stated that if the business was not being run efficiently or the property was not being taken care of, then there would be no sales and they would be out of business.

Mrs. Ludwig asked if the Buzzells had considered a variance or conditional use permit instead of their request to have auto sales added to the Steptoe's District Overlay zoning so that their contract could go through but Steptoe's would still be protected.

Mrs. Buzzell replied that what if the owner later decided to purchase a larger parcel of property to conduct his business on, shouldn't the person who purchased the used car lot from him be allowed to run the same type of business on it.

Mrs. Ludwig said that it would no longer be the same, quaint little business.

Mrs. Buzzell said that any changes made to the building by a new owner would have to come before the Planning Commission.

Mrs. Ludwig said that she was not referring to the building and stated that the Buzzell's realtor had called her to discuss this plan and she asked him then if a variance or special use permit had been considered.

Town Attorney Stamm reminded Planning Commission Members that their duty was to either recommend or not recommend to Town

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Council, the adding of 'auto sales' as a permissible use in Steptoe's District zoning with the proffers suggested.

Mr. Charles Chase stated that he thought everyone should get over the specifics in the request for this particular property and just look at the overall picture for Steptoe's and said again that having served on the committee, the intent was to change the character of downtown with the times. Mr. Chase noted that businesses came and businesses went but the objective to beautify stayed the same so that more restaurants, arts and crafts, and antique malls would come together. Mr. Chase advised that this was fairly achieved to encapsulate that area to be pedestrian friendly. Mr. Chase reiterated that he felt that adding a used car lot would be a non-sensible use in an area that had been worked on and struggled with. Mr. Chase cautioned the Planning Commission not to open a Pandora's box by instituting a permitted use in an area that really was not in keeping with what the Town was trying to achieve and could possibly come back to bite everyone should "rent a wreck" arrive.

ACTION: Commission Member Smith made a motion to recommend to Town Council that 'auto sales' be included as a permitted use in the Steptoe's Overlay District with a conditional use permit, seconded by Commission Member Reedy; and carried with a 3-1 vote in favor of. (Commission Member Ludwig was opposed)

Chairman Booth and Commission Member Bonner returned to the meeting.

B. Conditional use permit application by Advance America

1. Purpose

The purpose of the public hearing was to solicit public comment on the application by Advance America, Cash Advance Centers of Virginia, Inc. for the conditional use of a 'small loan business' within C-1 zoning.

2. Chairman Booth opened the public hearing and asked the applicant to give his presentation.

3. Applicant's Presentation

Mr. Randy Phelps, District Manager for Advance America and Warsaw, VA resident, was present to request that his business be allowed to

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open a branch in the Wal-Mart shopping center. Mr. Phelps stated that there had been a misconception that Advance America only loaned money to the working poor which was not true. Mr. Phelps advised that the average customer had a household income of approximately \$43,000 per year. Mr. Phelps said that hard working Virginians had a need for this type of financing. Mr. Phelps advised that the General Assembly had passed a landmark reform bill this year that had changed the payday lending industry in every way, shape and form. Mr. Phelps said that it would offer nuances such as the term of a loan would double, the loan structure would change, and a data base would be implemented that would only allow one loan per customer at a time. Mr. Phelps advised that the new branch would bring 2-4 full time jobs with benefits to the area. Mr. Phelps said that the people associated with Advance America were good corporate citizens who have donated thousands of dollars to local organizations and would continue to do so. Mr. Phelps stated that Advance America had already established clientele in the Kilmarnock and Lancaster area and they were the ones who had asked them to open a branch here so that they would not have to travel to Warsaw, Tappahannock or Gloucester to have their needs met. Mr. Phelps finalized by saying that Advance America was simply asking that the Planning Commission approve their request so they could better serve their customers.

4. Chairman Booth asked for public comments.

Mrs. Lucy York of 429 Irvington Road, Kilmarnock VA stated that she was somewhat anxious about a payday lending company coming into the Town of Kilmarnock. Mrs. York said that she felt that the local banks should go the extra mile to accommodate the financial difficulties that patrons of payday lending institutions would have. Mrs. York stated that she spent many years as a navy wife whereas these types of businesses were located near the base in garish buildings and they often attracted similar types of businesses such as pawnshops. Mrs. York advised that she realized that there was a need in today's world for people to have some type of outside financing. Mrs. York stated that she also realized that there were similar lending institutions located within a forty-mile radius of Kilmarnock. Mrs. York also thought that an income of \$43,000 was not a successful income for a family. Mrs. York finalized by saying that if fine, upstanding citizens with college educations needed help than there should be some other source for their financial assistance.

Reverend Tom Coye of 28 Venable Drive, Kilmarnock VA asked the Planning Commission to carefully consider the request being made by Advance America for a conditional use permit. Mr. Coye stated that even though payday lenders were legal in the Commonwealth and as Mr. Phelps had mentioned there had been some changes made, the Planning Commission needed to consider the implications of allowing payday lenders to enter the community. Mr. Coye said that cheerful scenarios about folks who needed and used this business with success were presented but he was there to speak on behalf of those who did not have success. Mr. Coye feared that payday loans

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would bring only additional financial stress. As a pastor, Mr. Coye said that he worked with approximately thirty families per year who suffered some type of financial trouble such as lack of funds to pay their rent or their power bills. Mr. Coye advised that if these individuals turn to payday lenders for help and could not pay the loan back on time, then interest and late fees would accrue which would only increase their indebtedness and therefore would only increase the demand back on the churches and charitable organizations. Mr. Coye finalized by asking the Planning Commission to please think about this as they considered the request before them.

Mr. Randy Phelps clarified that Advance America no longer serviced military personnel. Mr. Phelps said there had been mention of late fees and advised that no late fees were ever attached. Mr. Phelps stated that there was only a one time fixed fee for the loan and a \$2.25 bounced check fee.

Commission Member Smith asked if he was correct in understanding that a customer could only have one outstanding loan at a time.

Mr. Phelps replied that was correct. Mr. Phelps advised that a database driven by social security numbers had been erected and prevented anyone within the Commonwealth from having more than one outstanding loan at a time. Mr. Phelps added that one individual could only obtain a total of five loans within a 180-day period.

5. Chairman Booth closed the public hearing and asked for Staff comments.

6. Staff Comments

There were no staff comments.

7. Chairman Booth asked for Planning Commission review and/or action.

Mr. Smith commented that he worked for a local bank and that the local banks did not have the ability to service anyone who needed a loan for under \$1000. Mr. Smith stated that the people he talked with who had gotten themselves in trouble with payday lenders were trying to balance up to five loans at one time. Mr. Smith said that with the legislature only allowing one loan per person at a time, things seemed to be moving in the right direction. Mr. Smith said that the Town needed to do a better job of educating people on the other alternatives available for their financial needs as well.

Commission Member Bonner stated that he did not feel that the Planning Commission would be doing it's citizens justice by not allowing the service especially with the price of gas and current patrons having to drive to

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Warsaw or Gloucester anyway. Mr. Bonner said that he was in tune with Reverend Coye as well and was familiar with what the churches did and thought that education was a key factor that should be explored.

ACTION: Commission Member Bonner made a motion to recommend to Town Council that the conditional use permit requested by Advance America be approved to allow small loan businesses within C-1 zoning, seconded by Commission Member Smith; and carried with a 5-1 vote in favor of. (Vice-Chair Williamson opposed)

C. Recommendation by Staff for a text amendment to C-1, C-2 and Steptoe's

1. Purpose

The purpose of the public hearing was to solicit public comment on a recommendation by Staff to include as a use-by-right the following uses in C-1, C-2, and Steptoe's District Overlay: schools, playgrounds, day care centers, professional services, and internet and computer services/consultants.

2. Chairman Booth opened the public hearing.

3. Chairman Booth asked for Staff presentation.

Town Manager Burleson referred Planning Commission Members to page 9 of their packets. Ms. Burleson advised that schools, playgrounds, day care centers, professional services, and internet and computer services/ consultants for some reason had not been included in Sec. 54-603 under Article VII – Steptoe's Overlay District and if approved Staff would like to make a text amendment to do so.

4. Chairman Booth called for public comments.

There were no public comments.

5. Chairman Booth closed the public hearing.

6. Chairman Booth asked for Planning Commission review and/or action.

ACTION: Vice-Chair Williamson made a motion to recommend to Town Council to include as a use-by-right in C-1, C-2, and the

Steptoe's Overlay District the following: schools, playgrounds, day care centers, professional services, and internet and computer services/consultants, seconded by Commission Member Ludwig; and carried unanimously.

5. Minutes: Approve, Correct or Amend the Minutes for the May 13, 2008 Planning Commission Meeting.

ACTION: Commission Member Ludwig made a motion to approve the minutes for the May 13, 2008 Planning Commission Meeting as presented, seconded by Vice-Chair Williamson; and carried unanimously.

6. Commissioner Comments

Commission Member Smith stated that he would be attending the Planning Commission School in September 2008.

7. Old Business/ Unfinished Business

a. Concerns regarding the Steptoe's Overlay District

Town Manager Burleson advised that Mrs. Kimberly Buzzell would be addressing Town Council at their July 2008 meeting with her concerns regarding the Steptoe's Overlay District.

b. Corrective Action – Waverly Avenue

Town Manager Burleson advised that corrective action had been taken in regards to the defective sidewalk on Waverly Avenue, which was brought to the Planning Commission's attention at the May meeting.

8. New Business

Town Manger Burleson advised Planning Commission Members that beginning July 8, 2008 their meetings would be held at the Library on School Street. Ms. Burleson advised that the Planning Commission meeting for November 2008 would be held on Thursday, November 13th.

9. Adjourn

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ACTION: Commission Member Reedy made a motion to adjourn, seconded by Commission Member Ludwig; and carried unanimously.

Meeting adjourned at 8: 20 pm

Prepared by:

Joan N. Kent

Mr. Raymond Booth, Chairman