

July 8, 2008

**KILMARNOCK PLANNING COMMISSION  
Tuesday, July 8, 2008  
Kilmarnock Town Hall**

**Regular Meeting Minutes**

**1. Call to Order**

Chairman Booth called the regular meeting to order at 7:20 pm with the following members present:

Raymond Booth, Chair  
Dave Reedy  
Jane Ludwig  
William Smith

Members Absent:

Claudia Williamson, Vice-Chair  
Steve Bonner

Staff Present:

Lara N. Burluson, Town Manager  
Chris Plummer, Assistant to Town Manager  
Marshall Sebra, Town Planner  
Paul C. Stamm, Town Attorney  
Joan N. Kent –Assistant Clerk, Transcriber

**2. Recognition of Guests:**

Chairman Booth welcomed Kilmarnock residents, business owners and guests. Chairman Booth recognized Mayor Smith who was seated in the audience. Chairman Booth apologized for the twenty-minute delay in starting the meeting, but explained that he had to wait until there was a quorum present.

**3. Acceptance of the Agenda**

**ACTION: Commission Member Reedy made a motion to accept the July 8, 2008 Planning Commission Agenda as presented, seconded by Commission Member Ludwig; and carried unanimously.**

**4. Public Forum**

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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.

Mr. Bill Warren of 4690 Black Stump Road, Kilmarnock VA, founder of Partners for Lancaster County Schools Foundation explained the foundation's intent to build and provide affordable rental housing for young teachers. Mr. Warren stated that Lancaster County public and private schools were having difficulty hiring and retaining teachers because the annual salary was 16% less than other counties in the State. Mr. Warren continued by saying that there was also a lack of affordable rental housing in the county, which made it difficult for teachers to find a place to live. Mr. Warren advised that the Foundation had planned to construct two buildings and that each building would contain 8 units for a total of 16 units. Mr. Warren stated that each unit would be 1000 square feet and have two bedrooms and two bathrooms. Mr. Warren said that they hoped to keep the rent at \$560 per month. Mr. Warren stated that the Foundation had several building site prospects, but had hoped to find a parcel of land within Town. Mr. Warren finalized by saying that the Foundation wanted to get the project underway by 2010.

## **5. Public Hearings**

### **A. Request by Sara Brown for zoning change from R-1 to C-1**

#### **1. Purpose**

The purpose of the hearing was to solicit public comments on a request made by Ms. Sara Brown to rezone her property located at 320 South Main Street, Kilmarnock, VA from R-1 to C-1. The request pertained to Tax Map and parcel number 23A 31 22.

2. Chairman Booth opened the public hearing and asked the applicant to speak.

#### **3. Applicant's Presentation**

Ms. Sara Brown stated that she owned and operated "Sara Brown Salon" on Main Street and lived there as well. Ms. Brown said that she had received opposition from the neighbors because of the sign that she had in front of her business. Ms. Brown stated that her whole reasoning behind the rezoning request was because she did not want to lose that sign. Therefore, Ms. Brown was requesting that her property to be rezoned from R-1 to C-1 so the sign would be in regulation and she could keep it.

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#### 4. Public Comments

Dr. Edward Blake, Jr. of 300 South Main Street, Kilmarnock, VA stated that he lived two houses away from Ms. Brown and welcomed her to the neighborhood by saying that he hoped her business would be a success. Mr. Blake noted that he had concerns over the Brown property being rezoned from R-1 to C-1 because he wanted the whole block to remain residential. Mr. Blake advised that he had lived at his address for over 18 years and enjoyed having good neighbors, including Ms. Brown but was there to ask that the Planning Commission not rezone the property to commercial but keep it residential.

Mr. Stan Dawson of 326 South Main Street, Kilmarnock, VA stated that he owned property adjacent to Sara Brown. Mr. Dawson said that his parents had lived there for over sixty years before leaving it to him. Mr. Dawson advised that he was opposed to the rezoning request because he felt that it would have a negative effect on the community. Mr. Dawson said that he had no opposition to Ms. Brown operating a home occupation on her property as long as it was done in accordance with the zoning ordinances. Mr. Dawson advised that he had served on the Lancaster County Planning Commission for 12 years and had a concept of what zoning was all about. Mr. Dawson said that no property should ever be rezoned to further enhance one individual. Mr. Dawson stated that he wanted the property to remain R-1 and the sign to comply with the zoning ordinance, because "it obviously did not". Mr. Dawson advised that R-1 zoning stipulated that the sign could be no more than two square feet in diameter and required a 30-foot setback. Mr. Dawson stated that the intent of the ordinance was to keep a home occupation discreet when operating in R-1 district. Mr. Dawson said that a sign sitting in the yard that was five feet wide and four feet high with lights on it was definitely not in compliance. Mr. Dawson advised that when the sign first went up, he brought it to the attention of the Town Manager, Town Administrator, the Mayor and anyone else who would listen and stated that to this day no one had ever explained why that sign was able to remain there. Mr. Dawson said that just as Ms. Brown had previously stated, the only reason she wanted the property rezoned was to make the sign legal and for the Planning Commission to do so on that basis would be wrong. Mr. Dawson stated that he was one of three people that comprised 75 percent of the owners of the 300 block on Main Street and was asking that the request for rezoning be denied.

Mr. Joe Curry of Kilmarnock, VA questioned what would happen if Ms. Brown's request to rezone were denied. Mr. Curry stated that it was a beautiful piece of property that was kept so neat, but noted that there were rules and regulations that needed to be followed. Mr. Curry said that he was trying to figure out, exactly what would change if the rezoning request were denied.

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Town Attorney Stamm replied that the sign would no longer exist and there would be no way to identify Ms. Brown's business. Mr. Stamm explained that he did not think that there was thirty feet between the curb and Ms. Brown's residence and Mr. Dawson was correct in saying that a sign in R-1 did require a 30-foot setback. Mr. Stamm advised that the Town Council and planners many years earlier had voted into existence a Comprehensive Plan that designated Main Street in that direction as becoming commercial. Mr. Stamm said that since that had been done, it had become hard to deny any request for rezoning to C-1. Mr. Stamm said that there were several homes in that area that had already been rezoned to C-1.

Mr. Curry stated that he served on the Lancaster County Planning Commission for two years and it boggled his mind how "you people" were killing the reason why people wanted to move to this area and advised the Planning Commission to be very careful in what they were doing. Mr. Curry said that Ms. Brown's house was a beautiful little house and the sign was nice, and sometimes everyone had to just step outside of the bubble, maybe with a variance, to do the right thing.

Town Attorney Stamm said that Ms. Brown could go before the Board of Zoning Appeals and the only variance they could currently give was to have the sign hanging off of Ms. Brown's house with lights that would probably prove to be more ostentatious. Mr. Stamm said that when a code was in place, than it had to be followed. Mr. Stamm advised that several members of the Town staff signed the permit and noted that in the R-1 district, the sign was too big and too close to the road. Mr. Stamm stated that the point now was not the sign, the point was that the Planning Commission for the past twenty years had designated that the commercial district would grow in that direction. Mr. Stamm said that the Town Council would have been "spot zoning" if it had not been put into place. Mr. Stamm advised that the residents couldn't be protected from that sign but were protected from encroachment and parking due to Steptoe's Ordinance. Mr. Stamm finalized by saying that the sign did comply with the Steptoe's ordinance.

Mr. Dawson stated from the audience that Ms. Brown's property was R-1 and the sign was not in compliance and had been in violation for the past six months. Mr. Dawson accused Mr. Stamm of prompting Ms. Brown to rezone her property in order to save her sign.

Mr. Stamm advised Mr. Dawson that he would not engage in defending himself against such accusations at that meeting or any other.

Mr. Dawson replied that was because he knew what he said was the truth.

Chairman Booth restored order.

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5. Chairman Booth closed the public hearing.

6. Staff Comments

There were no staff comments.

7. Planning Commission Review and/or Action

Commission Member Smith stated that his main concern was with consistency and found it hard not to approve this request for rezoning when the Planning Commission had approved other requests in that area as recent as two months ago.

Commission Member Reedy said that he agreed with Commission Member Smith.

Chairman Booth said that the request was consistent with the Comprehensive Plan and noted that he was sympathetic with the neighbors because most people in a traditionally residential neighborhood did not want to see a property become commercial. Chairman Booth said that he was in favor of the request.

**ACTION: Commission Member Ludwig made a motion to recommend to Town Council that the request to rezone 320 South Main Street from R-1 to C-1 be granted, seconded by Commission Member Smith; and carried unanimously.**

B. Request by the Moubray's to have their property rezoned from C-2 to C-1.

1. Purpose

The purpose of the hearing was to solicit public comment on a request made by Roxanne and Randy Moubray to have their property located at 31 Tartan Village Drive, Kilmarnock, VA rezoned from C-2 to C-1. The request pertained to Tax Map and parcel number 23A-11-15.

2. Chairman Booth opened the public hearing and asked the applicants to give their presentation.

3. Applicant's Presentation

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Mr. Randy Moubray stated that he requested the change due to a misunderstanding on his part when he originally had the property zoned as C-2. Mr. Moubray said that in addition to the business currently on the property now, and the home that they would like to build, he eventually wanted to have a marine component business there as well.

4. Chairman Booth asked for public comments.

Mrs. Ruth Ball of 15985 Mary Ball Road, Kilmarnock, VA said that her only concern was as to why Mr. Moubray was requesting the change from C-2 to C-1, which he had already explained. Mrs. Ball said that she was a little concerned about having a marine business at that location and any influx in traffic that it would bring.

Mr. Joe Curry of Kilmarnock, VA asked if there would be continuity from that location all the way down to Harris Road.

Town Attorney Stamm said that the reality was that the commercial zone ended at Mr. Curry's place of business depending on what Dr. Norris wanted to do. Mr. Stamm admitted that change was also difficult. Mr. Stamm noted that C-2 zoning was fine for the Moubray's lettering business and there home but was not fine for his marine business.

Mrs. Ball asked if her property was C-1.

Mr. Stamm replied that she was R-1 until she decided to request otherwise. Mr. Stamm said that the zoning of a person's property would never change unless that person requested it.

Mr. Moubray assured Mrs. Ball that he and his wife planned to build a home and live on the property so anything that they did would be done in good taste.

Mr. Curry stated to Mr. Moubray that everything he had done within the Community had been done in good taste and that he had no doubts about him or the request.

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

6. Staff Comments

Town Attorney Stamm stated that the Comprehensive Plan had envisioned that area as C-1. Mr. Stamm noted that the property was already designated as C-2.

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

**ACTION:** Commission Member Reedy made a motion to recommend to Town Council that the request by the Moubrays to have their property rezoned from C-2 to C-1 be granted, seconded by Commission Member Ludwig; and carried unanimously.

**5. Minutes: Approve, Correct or Amend the Minutes for the June 10, 2008 Planning Commission Meeting.**

**ACTION:** Commission Member Reedy made a motion to approve the minutes for the June 10, 2008 Planning Commission Meeting as presented, seconded by Commission Member Smith; and carried unanimously.

**6. Commissioner Comments**

Commission Member Ludwig referred Staff to page 21, Section C of the June 10, 2008 Planning Commission Minutes and requested that Staff give the Planning Commission more information in the future on what was being put into place in regards to "use by right".

Town Manager Burleson replied that was a fair request, which would be complied with in the future.

**7. Old Business/ Unfinished Business**

There was no discussion.

**8. New Business**

Town Manager Burleson introduced the new Town Planner, Mr. Marshall Sebra and stated that she was overjoyed that he had taken the position.

**9. Adjourn**

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

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Meeting adjourned at 8: 15 pm

Prepared by:

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Joan N. Kent

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Mr. Raymond Booth, Chairman