

December 8, 2009

**KILMARNOCK PLANNING COMMISSION
Tuesday December 8, 2009
Town Hall
Kilmarnock, VA**

Regular Meeting Minutes

1. Call to Order

Vice-Chair Williamson called the regular meeting to order at 7:02 pm with the following members present:

Claudia Williamson, Vice-Chair
Dave Reedy
William Smith

Steve Bonner
Rebecca Nunn, Council Liaison

Members Absent:
Raymond Booth, Chairman
Jane Ludwig

Staff Present:
Tom Saunders, Town Manager
Marshall Sebra, Assistant Town Manager/ Planning Director
Paul C. Stamm, Jr., Town Attorney
Joan N. Kent, Transcriber

Seated in the Audience
Dr. Curtis H. Smith, Mayor

2. Recognition of Guests:

Vice-Chair Williamson welcomed Kilmarnock residents, business owners and guests.

3. Acceptance of the Agenda

ACTION: Commission Member Smith made a motion to accept the December 8, 2009 Planning Commission meeting agenda as presented, seconded by Commission Member Reedy; and carried unanimously.

4. Public Forum

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Vice-Chair Williamson opened the public forum by inviting members of the audience to voice their concerns or ideas in regards to planning issues. Each speaker was limited to 3 minutes.

There were no participants in the public forum.

5. Minutes: Approve, Correct or Amend the Minutes for the October 13, 2009 Planning Commission Meeting.

ACTION: Commission Member Reedy made a motion to approve the minutes for the October 13, 2009 Planning Commission meeting as presented, seconded by Commission Member Smith; and carried unanimously.

6. Public Hearings

A. Request by Suzanne M. Bellows c/o Partners for Lancaster County Schools Foundation, to rezone approximately 5.8 acres of property located off East Church Street, North of Saint Andrews Presbyterian Church to R-2 (Medium Density Residential). The request pertains to Tax Map # 24-22H (in part) which is currently zoned A-1 (Agricultural)

1. Description of Rezoning and Developer Presentation

Mr. Bill Warren, President of Partners for Lancaster County Schools Foundation, gave a brief presentation on the foundation's desire to construct two apartment buildings on the 5.8 acre site in order to provide affordable housing for teachers, nurses, healthcare employees, law enforcement, municipal employees and county employees. Pictures of the proposed apartment buildings and detailed information were included in each Commission Member's packet. Mr. Warren advised that the total cost of the project was estimated at 1.9 million dollars of which the foundation had to raise \$690,000 to limit borrowing so that the rent could be kept as low as possible. Mr. Warren said that the foundation had accumulated \$640,000 in one year and was 75% of the way in reaching their goal. If successful with the rezoning, Mr. Warren said that he anticipated Bill Burton with Bay Design working with VDOT and the Town toward a site plan approval and having the contract out for bid in October or November 2010 with the project completed by July 2011.

Assistant Town Manager/ Town Planner Marshall Sebra read the advertisement, noting that the public hearing was duly advertised and that the adjacent property owners were notified. Mr. Sebra referred Commission Members to the information and maps provided for them in their packets. Mr.

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Sebra advised that the rezoning was in compliance with the Comprehensive Plan.

2. Vice-Chair Williamson opened the public hearing.

3. Vice-Chair Williamson asked for public comments.

Reverend Tom Coye of Venable Drive in Kilmarnock, VA and pastor of St. Andrews Presbyterian Church stated that he and his wife had sent a letter to the Town in support of the project. Mr. Coye said that he thought it would be a nice addition to the neighborhood.

4. Vice-Chair Williamson closed the public hearing.

5. Vice-Chair Williamson asked for Commissioner's comments and/or action.

Commission Member/ Council Liaison Nunn stated that she thought the project would be a wonderful addition to the community as well and made the following motion:

ACTION: Commission Member/ Council Liaison Nunn made a motion to recommend to Town Council that the 5.8 acres of property listed as Tax Map # 24-22H (in part) located off East Church Street, North of Saint Andrews Presbyterian Church be rezoned from A-1 to R-2, seconded by Commission Member Smith; and carried unanimously.

B. Request by White Stone Land partners, LLC to rezone 10 acres of property North of Harris Road and South of Technology Park Drive to M-1 (Industrial). The request pertains to Tax Map # 28-143. The property is currently zoned as C-2 (Limited Commercial)

1. Description of rezoning and developer presentation.

Assistant Town Manager/ Town Planner Marshall Sebra advised that the public hearing had been duly advertised and that the adjacent property owners were notified. Mr. Sebra stated that a staff report was included in each Commission Member's packet regarding the request.

Mr. David Jones, owner and operator of Connemara General Contractors in White Stone, and member of White Stone Land Partners, LLC, addressed the Planning Commission. Mr. Jones stated he and his partners owned 23 acres located beside the industrial park and another 1300 feet along

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Harris Road heading toward Route 3. Mr. Jones said that the property was brought into the Town limits as part of the boundary line adjustment and at that time was rezoned commercial from agricultural. Mr. Jones stated that White Stone Land Partners LLC was asking that 10 of the 23 acres be rezoned from C-2 to M-1 so that a state of the art fuel distribution center could be built on it. Mr. Jones advised that Kilmarnock already had three of these centers in close proximity to the Town limits, which was Noblett's located at the top of Norris's Hill, and two others at the end of Waverly Avenue. Mr. Jones stated that it was their opinion that the Industrial Park was the perfect place for such a project and by design, was set up for such. Mr. Jones advised that the site was the only area within the county or Town that it would be allowed. Mr. Jones noted that some petroleum products were already being stored in small quantities in the industrial park and other products such as fertilizer, acid, and chlorine were being stored there as well. Mr. Jones said that the safety record for fuel storage in the area was really good. In closing, Mr. Jones said that White Stone Land Partners, LLC had plans to develop the entire 23 acres sooner rather than later and by granting the rezoning, it would allow them to get it done just a little bit faster.

Following Mr. Jones' presentation, Assistant Town Manager/ Town Planner Sebra displayed a map showing the 23 acres owned by White Stone Land Partners, LLC. Mr. Sebra advised Planning Commission Members that the next scheduled public hearing on the agenda was for the conditional use permit that would enable White Stone Land Partners, LLC to establish a petroleum storage site on 10 acres of that property as allowed in M-1. Mr. Sebra advised that the site plan provided by Quarles that each Commission Member had in their packet was very generic and that additional site plan work would have to be done.

Vice-Chair Williamson asked what regulations were in place to prevent leakage.

Town Attorney Stamm replied that permits would have to be obtained from the State, EPA and a dozen other agencies that would regulate the distribution center.

Commission Member/ Council Liaison Nunn advised that she spoke with the Department of Energy Director with the State of Virginia who assured her that there was more leakage from a personal vehicle parked in a driveway than from a storage facility.

2. Vice-Chair Williamson opened the public hearing.
3. Vice-Chair Williamson asked for public comments.

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a. Mr. Bill Cronheim of Weems VA stated that he owned a business in Technology Park and wanted to know where the entrance to the distribution center would be located.

Mr. David Jones replied that the entrance would be off of Harris Road.

Mr. Cronheim asked what type of fuel did they intend to store.

Mr. Jones replied propane, gasoline and diesel fuel.

Mr. Cronheim asked if the distribution center would emit an odor.

Mr. Jones replied that the odor would be no more than when someone filled their car with fuel at a gas station. Mr. Jones said the vents were 10 feet above the ground so that the evaporation would rise above the smelling zone.

Mr. Cronheim asked Mr. Jones if putting a fuel distribution center in that area would have any effect on the surrounding property values.

Mr. Jones replied that he did not see where it would affect property value because it would be in an industrial park.

b. Mr. Bob Daniel Morning stated that he lived adjacent to the property owned by White Stone Land Partners, LLC. Mr. Morning said that he could not see how the statement made earlier by Mrs. Nunn was possible. Mr. Morning advised that he had lived in his home for over 30 years and somehow the Town managed to put in a septic system down the road from him without his knowledge. Mr. Morning said that it should have been a reservoir instead of a pump. In regards to the gas and fuel situation, Mr. Morning said that had witnessed first hand what a diesel spill could do to land. Mr. Morning stated that it was his understanding that this project would consist of somewhere in the neighborhood of 500 tanks in and on the ground. Mr. Morning said that if there was a spill than all of the surrounding properties would no longer be any good for anything. Mr. Morning stated that he worked in Louisiana and had knowledge of fuel especially oil because he had been to school for it. Mr. Morning said that he didn't understand why anyone would want to bring any of it up into the middle of Town. Mr. Morning finalized by saying that he was against having a fuel distribution center in Town.

c. Mr. Greg Williams, owner of M-tech in Technology Park, stated that he wrote a letter to the Town in 2006 when he was in the process of purchasing property in Technology Park and relocating his business from

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Northumberland County. Mr. Williams said that in the letter he wrote that he would build a 12000 square foot facility, spend money on infrastructure and equipment, and with the right type of growth would employ an additional ten people a year over a three year period. Mr. Williams stated that it was now 2009 and he had done just that with the help and support of the Town. Mr. Williams said that one thing he did when he moved into his new facility was to completely buy into the Town's vision of what the technology park was going to be and felt his company was a good representative of that vision. Mr. Williams said that a key item that he put into his letter was that he hosted a lot of tours at his facility and wanted to maintain an upscale technology park appearance. Mr. Williams asked Planning Commission Members that when considering the request by White Stone Land Partners, LLC that they consider the Tech Park's overall appearance. Mr. Williams said that he had already prepared another pad for expansion of his company and hoped that Commission Members would take some time when reaching their decision to avoid allowing any eyesores. Mr. Williams said that others had already spoken on the possible safety issues, which he was sure that the Town would address.

d. Mr. Austin Taylor stated that he and other family member's lived on Harris Road and he too was concerned about what effect a fuel distribution center would have on surrounding residential property values. Mr. Taylor said that Harris Road had several curves with blind spots, which made him concerned about where the entrance would be as well as concerns about the increase of traffic, especially large trucks on such a narrow road. Mr. Taylor finalized by saying that he would rather not have the fuel distribution center in his neighborhood and didn't see how it would even benefit the Town.

Mr. David Jones responded by saying that White Stone Land Partners, LLC was also concerned with the appearance of the project and advised that only four of the ten acres would be used for the fuel distribution center and the rest would be used for something else. In regards, to the concern for traffic Mr. Jones said that the bypass road was created to relieve Main Street from enduring heavy traffic and would be used by the trucks. Mr. Jones said that size of the trucks would be no larger than those currently traveling that route now and supplying Sevarg Pools, Jackie Barrack's store, the hospital, etc. Mr. Jones advised that the access to the property would be determined by VDOT and any site plans submitted would be approved by the Town who would have the final say. Mr. Jones said that where they intended to place the fuel distribution center, it would not visible from Harris Road and stated that they fully intended to respect the buffer requirements for surrounding residential properties. Mr. Jones stated that Sevarg Pools was currently doing oil changes and lube jobs at their place of business in Technology Park now.

Assistant Town Manager/ Town Planner Sebra advised Planning Commission Members that although the property owned by White Stone Land Partners, LLC adjoined Technology Park, it was not actually a part of

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it and therefore didn't receive the benefits that the other parcels did. Mr. Sebra said that it could be zoned as M-1, however, because of its location.

4. Vice-Chair Williamson closed the public hearing.

5. Vice-Chair Williamson asked for Commission Member's discussion and/or action.

Commission Member Bonner stated that it was important to note that two separate public hearings were scheduled, one granting the rezoning of the property and the other granting a conditional use permit allowing a fuel distribution facility to be put on the property. Mr. Bonner said that the only decision to be made at this time was whether or not to grant the rezoning of the property from C-2 to M-1. Mr. Bonner said that he didn't see how they could not grant the rezoning because it was natural progression and the Town couldn't spot zone. Mr. Bonner said that the rezoning did not seem to be what was concerning the general public or the Town.

ACTION: Commission Member/Council Liaison Nunn made a motion to recommend to Council to grant the request made by White Stone Land Partners, LLC to rezone 10 acres pertaining to Tax Map # 28-143 from C-2 to M-1, seconded by Commission Member Smith; and carried unanimously.

C. Request for a Conditional Use Permit by White Stone Land Partners, LLC to establish a petroleum storage site on their 10-acre parcel of land located North of Harris Road and South of Technology Park Drive. The request pertains to Tax Map # 28-143.

1. Description of request and developer presentation.

Assistant Town Manager/ Town Planner Sebra gave a brief description of the request and stated that it would be a good time to hear any other comments regarding the details for use such as the fuel distribution facility.

Mr. David Jones advised that the only comment that he wanted to add was in regards to traffic. Mr. Jones said that the fuel distribution trucks would generate far less traffic volume on Harris Road than if White Stone Land Partners, LLC put a shopping center or office buildings on the property.

Commission Member/ Council Liaison Nunn stated that she was not for or against a fuel distribution facility; however, she said that she always had tried to do her homework and that was why she had spoke to the Director of Energy for the State of Virginia. Mrs. Nunn felt that many of the

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concerns that arose during public hearings were emotional and done out of ignorance because no one, including herself, really understood petroleum storage other than perhaps the gentleman in the audience who had studied oil. In regards to traffic, Mrs. Nunn said that the impact would be less than one percent and from what she could see it was going to be a small operation. Mrs. Nunn said that according to the Department of Energy, every gas station in Town had approximately 20,000 gallons of gas that was stored underground. Mrs. Nunn commented that there were many propane tanks, and fuel storage tanks outside of homes and businesses and that what would be stored at the fuel distribution facility would not nearly be as much as what was already in Town. Mrs. Nunn said that to her knowledge not one of them had ever blown up. Mrs. Nunn advised that the pollution factor was not significant because there would be no stacks and again stated that a personal vehicle would produce more leakage. Mrs. Nunn said that during the Main Street project, many storage tanks were found under the street. Mrs. Nunn advised that the storage facility would be heavily regulated by Homeland Security and would have to have fences, alarms, cameras and tamper proof valves but noted that someone could lob a handheld, propelled rocket into a storage tank and cause it to blow up and burn. On the other hand, Mrs. Nunn said that someone could lob a handheld, propelled rocket into the chemical treatment shed at the WWTP and it would not only blow up and burn but everyone would be killed by chlorine gas. Mrs. Nunn stated that a petroleum storage facility was a good, clean use of industrial properties as it did not pollute and the evaporate emissions were insignificant. Mrs. Nunn finished by saying that petroleum was a necessary product that had to be stored somewhere and if people didn't want to have gasoline or heating oil anymore than they shouldn't have a storage facility. Mrs. Nunn suggested that the public hearing be tabled until the Planning Commission could see detailed plans that would help them in making an informed recommendation to Council. Mrs. Nunn said that her other suggestion, which she doubted that Mr. Jones would like, was to see if Quarles would be interested in using the decommissioned storage facility at the end of Waverly Avenue because a facility in that condition was volatile and could blow up.

Commission Member Bonner commented that nuclear energy was a necessity but that didn't mean that someone wanted a nuclear plant built beside him. Mr. Bonner said that what it boiled down to was what the Town wanted within its borders. Mr. Bonner stated that Technology Park was very successful as it was and wondered if it would be wise to put such a facility so close to the hospital. Mr. Bonner commented that even though these types of facilities were needed, that he personally could not see one being put within the Town limits, however he said that was only his opinion and that the final decision would be up to the Town Council.

Mrs. Nunn said that she was cognizant of the concerns of the established businesses.

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Mr. Bonner said that he had served on the Planning Commission for over twenty years and stated that a lot of thought and effort had gone into making Technology Park as valuable as it was now and that he was reluctant to change the scope. Mr. Bonner commented that accidents did happen because he had a grill top to fly about 40 feet in the air one time due to propane. Mr. Bonner said that something like that would probably not happen at this type of facility with all of the regulations in place, but noted that he just didn't think that a fuel distribution facility would be a good fit in that area.

Commission Member Reedy said that there were very strict regulations enforced by the state that had to be followed whenever tanks were being put underground to avoid leakage and that these regulations would have to be followed if this was approved.

Mrs. Nunn said that she thought it should be tabled until the Planning Commission could view more detailed plans.

Commission Member Bonner stated that if the issue was tabled instead of voted on now, it would slow White Stone Land Partners, LLC down because it would prolong their request reaching Council for a decision.

Mr. David Jones spoke from the audience and said that he would be happy to supply the Planning Commission with a more complete set of plans and anything else they needed in making a decision.

Town Attorney Stamm advised that if the Planning Commission was not satisfied that they had everything they needed to make an informed decision than they could table the matter until the next meeting and it would not have to be advertised again. Mr. Stamm said that if White Stone Land Partners, LLC could get everything together by the next meeting than the Planning Commission could go forward with the public hearing and if not, than they would have to reapply at another time.

ACTION: Commission Member/ Council Liaison Nunn made a motion to table the public hearing regarding a Conditional Use Permit request by White Stone Land Partners, LLC until the January 2010 Planning Commission Meeting, seconded by Commission Member Reedy; and carried unanimously.

7. Commissioner Comments

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Commission Member Smith stated that with the recent assaults that had taken place in Town, he wanted to applaud the Town police in their efforts for increased patrol.

Commission Member Bonner said that he was very proud of the police department.

8. Old Business/ Unfinished Business

A. Surveillance Cameras in Town

Commission Member Bonner reported that Town Manager Saunders had been working on obtaining prices for the surveillance cameras and had scheduled a meeting with one company in the upcoming week.

B. Comprehensive Plan Review

Assistant Town Manager/ Town Planner Sebra stated that he had spoken to the previous consultant who would be submitting a proposal.

9. New Business

A. Utility Plan Review

Assistant Town Manager/ Town Planner Sebra advised that Council adopted a policy dealing with utility plan review at their October 26, 2009 meeting. A copy of the policy was included in each Commission Member's packet.

B. Recent Property Purchase by Town

Assistant Town Manager/ Town Planner Sebra stated that he wanted to make the Planning Commission aware of the Town's recent property purchase, which he had shown to them on the map earlier in the meeting.

Commission Member Bonner asked what the Town had paid for the property.

Assistant Town Manager Sebra replied that the Town paid \$400,000.

C. Zoning Log Report

Included in each Commission Member's packet.

10. Adjourn

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

Meeting adjourned at 8:05 PM

Prepared by:

Joan N. Kent

Claudia Williamson, Vice-Chair