

January 9, 2012

**KILMARNOCK PLANNING COMMISSION
Monday January 9, 2012
Town Hall
Kilmarnock, VA**

Regular Meeting Minutes

1. Call to Order

Vice-Chair Reedy called the regular meeting to order at 6:00 pm with the following members present:

Dave Reedy, Vice-Chair	Lindsay Gardner
Steve Bonner	Joan Gravatt
Denis Bouslough, Council Liaison	

Members Absent:

Jane Ludwig, Chair
Travis Abbott

Staff Present:

Marshall Sebra, Zoning Administrator/Planning Director
Paul C. Stamm, Jr., Town Attorney
Joan N. Kent, Transcriber

Seated in the Audience:

Town Manager Saunders
Councilmember Nunn
Councilmember Umphlett

2. Recognition of Guests:

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

3. Acceptance of the Agenda

ACTION: Commission Member Bonner made a motion to accept the January 9, 2012 Planning Commission meeting agenda as presented, seconded by Commission Member Gravatt; and

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carried unanimously.

4. Public Forum:

Vice-Chair Reedy 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 December 12, 2011 Planning Commission Meeting.

ACTION: Commission Member Gravatt made a motion to approve the minutes for the December 12, 2011 Planning Commission meeting as presented, seconded by Council Liaison Bouslough; and carried unanimously.

6. Commissioner Comments

There were no Commissioner Comments.

7. Old/Unfinished Business

There was no discussion under Old/Unfinished Business.

8. Public Hearing:

The purpose of the public hearing was to gain input on a request made by the Town of Kilmarnock to rezone property from R-1 (low density residential) to M-1 (industrial). The subject parcels are located east and adjacent to the existing Technology Zone, and immediately north of Grace Hill Development off of Harris Road. The parcels are listed as tax map numbers 28-155A, 28-138, and 28-138A.

A. Description of the Proposed Rezoning

Zoning Administrator/Planning Director Sebra noted that following a discussion held by the Planning Commission last month, a recommendation was made to move forward with a public hearing regarding the rezoning request. Mr. Sebra advised that he had included maps of the subject property in each

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Planning Commission Member's packet. Mr. Sebra directed their attention to a large map on the wall using a pointer to show the location of the Town's property in relation to adjacent properties and existing zoning. Mr. Sebra stated that he had also included in the packets a list of land uses as allowed in M-1. Mr. Sebra advised that he had provided each of them with a copy of a letter that he had received from Attorney John Martin on behalf of Mr. Bob Sowder who owned Grace Hill Subdivision and of a fax he had received from another property owner expressing their concerns. Mr. Sebra noted that the adjacent property owners' main concern seemed to be what effect M-1 would have on the surrounding residential properties regarding resale purposes, residential value, visual obstructions, and access to the industrial property if rezoned. Mr. Sebra finalized by saying that the public hearing had been duly advertised as required by law.

Commission Member Gravatt advised that it was her understanding that one of the letters expressed concern over the location of the access road to the industrial property. Mrs. Gravatt asked if the ravine between the two properties wouldn't prevent the access road from going in that location anyway.

Mr. Sebra replied that there was no ravine at the cul-de-sac and used the pointer to show a road on the wall map explaining that the property owners did not want it to be used as an access road to the industrial property. Mr. Sebra also showed where there was a large ravine on one side of the Town property that was very steep so there could be no access made from that side either. Mr. Sebra stated that if the Town did develop the property then the most obvious access would be to extend Technology Park Drive. Mr. Sebra noted that there wasn't a plan of development that even extended that far at this point.

Commission Member Bonner wanted to know if they could remove propane from M-1 use so the issue would never have to be addressed again.

Mr. Sebra advised that the ordinance could be modified as far as use by rights.

Mr. Bonner said that if there hadn't been an all-out fight last time, the request to put a propane storage facility on Harris Road would have been passed and added that he didn't think anything like that was needed near the hospital or homes. Mr. Bonner reiterated that he thought propane should be removed from M-1 uses.

Town Attorney Stamm intervened by saying that legally the Town couldn't prohibit anything because they had to allow a place for everything. Mr. Stamm added that a conditional use permit could be requested for uses such as propane storage. Mr. Stamm advised that by having the use removed altogether, it could lead to a court decision to put it anywhere since a location was not specified. Mr. Stamm said that it was best to attach a conditional use permit then it would have to be passed by both boards and public hearings.

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Mr. Bonner wanted to know what lead way they had to turn it down then.

Mr. Stamm replied the same way it was done last time.

Mr. Bonner replied that the Planning Commission was the board that turned it down last time, adding that Council didn't. Mr. Bonner said that the rezoning request was retracted at Council level but had required petitions, etc. to get it done.

Mr. Stamm replied that there was good reason to turn it down last time with the hospital, industrial park, and residential area being so close by.

B. Vice-Chair Reedy opened the public hearing.

C. Vice-Chair Reedy called for public comments.

1) Mr. Bob Sowder of 8000 Spring Hope Drive in Catlett, VA stated that he was the owner of Grace Hill Subdivision and had been in the real estate and land development business for over fifty years. Mr. Sowder said that he had spent the later part of his years rescuing troubled projects and turning them around. Mr. Sowder stated that he liked to think that he was very persistent and creative in a certain way. Mr. Sowder advised that he did not want to interfere with the Town increasing its tax base for the community and noted what a fine community it was. Mr. Sowder said that he liked the fact that the community college was coming to Kilmarnock and added that the young lady who was the President of Rappahannock Community College was once the Vice-President of Fairfax Community College in Middletown VA when they decided that they wanted to branch out to Warrenton but none of the wealthy people out there would give them any land or a building. Mr. Sowder advised that one day he was loading hay out of his barn and started measuring his box stalls when he figured out that they could get six class rooms and a lounge in there. Mr. Sowder said to make a long story short that was exactly what they did. Mr. Sowder stated that later on Governor Allen gave them \$8 million to build the main facility but only if they promised to leave the barn in place. Mr. Sowder said that they ended up going over budget but have a nice facility there now with an excellent nursing program. Mr. Sowder stated that getting back to Grace Hill, he thought there was supposed to have been another phase to the development and due to the economy the developer was unable to complete it so he turned the land back over to the family and the Town purchased it from them. Mr. Sowder noted that now Grace Hill was adjacent to the Technology Park. Mr. Sowder advised that he had run into similar situations on two occasions. Mr. Sowder recalled that one time he was contacted by the Federal Agencies that took over the S&L's and asked to take on a project which he did. Mr. Sowder said there was a problem

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with his project and a pre-existing development over access roads so he created a brick roadway with grass growing between the bricks which would only be used in emergency situations such as a fire. Mr. Sowder advised that another project of his didn't go over as well as the first. Mr. Sowder said that the other project involved some residential property located next to an industrial park. Mr. Sowder advised there was an equipment rental place in the industrial park that used an outside speaker to summon staff when needed. Mr. Sowder said that the noise didn't go over very well with the folks in the residential development especially early in the morning. Mr. Sowder asked the Town to have a wooded buffer between their industrial park and Grace Hill Development and to only use the development for emergency access. Mr. Sowder was also concerned about the children in the residential area with the amount of traffic that industry would bring. Mr. Sowder finalized by saying that he wanted to be a good neighbor and added that he would like to get one or two more houses up in Grace Hill so VDOT would take over the streets.

Vice-Chair Reedy advised Mr. Sowder that his speaking time was up.

2) Attorney John Martin briefly stated that he represented Mr. Sowder and had sent a letter to the Town with two suggested proffers that would allow the properties to co-exist in harmony. Mr. Martin asked that the proffers be considered.

3) Ms. Louetta Carter of 405 Beach Drive, Newport News VA stated that she had attended the meeting to obtain information because she owned rental property adjacent to the Town's property. Ms. Carter advised that her concern was over the type of industrial businesses being considered by the Town and if any of them involved chemicals. Ms. Carter said that she would not want to live next to a chemical laboratory or even a saw mill for that matter. Ms. Carter stated that she had concerns over traffic and wanted to know how close the industrial park would come to her property line.

Mr. Sebra told everyone for clarification that Ms. Carter's property was the last house in a string of houses located on Mary Ball Road. Mr. Sebra told Ms. Carter that her property was located within the Resource Protection Area. Mr. Sebra also noted that there was a fairly large stream behind her property and it was located close to the Grace Hill pump station. Mr. Sebra showed her on the wall map that the Town's property began on the other side of the pump station. Mr. Sebra estimated that there was 400 feet between the Town's property and her property line.

Ms. Carter wanted to know what the long term goal was for the Town's property.

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Mr. Sebra replied that he would give her a copy of the potential land uses for the property if it was rezoned to M-1. Mr. Sebra advised her that all of the information was available on the Town's website as well. Mr. Sebra said that the ordinance provided for twenty eight different uses and gave the examples of automobile assembly, manufacturing baked goods, manufacturing cosmetics, etc. Mr. Sebra finalized by saying that that most of the uses had to do with manufacturing.

Ms. Carter stated that her concern was with noise, traffic, and the effect that it would have on the people renting from her.

Mr. Sebra advised that any business that was noisy, bright, or dusty usually required a conditional use permit which allowed the Planning Commission and Town Council to put limitations on things such as hours of operation, buffers, etc.

Ms. Carter wanted to know how close a business would be able to come to her property line.

Mr. Sebra said that as an example if there were a lot available at the very end of the property and a company wanted to develop it which he did not see as being feasible because it was so steep there and would cost a lot of money to do so but for all intense purposes if someone did put a structure there, it would have to have a setback of 100 feet.

Ms. Carter said that the Grace Hill pump house was directly behind her property.

Mr. Sebra stated that it would be 100 feet or more beyond the pump station.

Ms. Carter asked Mr. Sebra if he would show her on the wall map where each parcel was located according to their tax map numbers.

Mr. Sebra complied with her request.

C. Vice-Chair Reedy closed the public hearing.

D. Vice-Chair Reedy asked for Staff Comments.

Zoning Administrator/Town Planner Sebra read the fax sent by Harvey L. Williams, III. (See Attached)

E. Vice-Chair Reedy asked for Planning Commission Members comment and/or action.

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Commission Member Bonner felt that a 30 yard wood buffer should enclose the entire buildable part of the property to protect everyone else's property.

Town Attorney Stamm advised that there was already a 100 foot buffer requirement in M-1 zoning.

Commission Member Bonner replied that the buffer didn't have to be woods though.

Town Attorney Stamm said that was correct. Mr. Stamm said that the adjacent subdivision already had documented green space between the two parcels of literally hundreds of feet.

Attorney Martin replied that it was on Grace Hill property though.

Commission Member Bonner stated that the Town needed to do something.

Town Attorney Stamm said that he understood but was just saying for anyone who wanted to know that there was already green space there.

Commission Member Gardner wanted to know how the Planning Commission could handle that.

Town Attorney Stamm advised to just put it as a proffer from the Town in the recommendation.

Mr. Sebra stated that the property was for expanding the technology zone but until more engineering and field work was done they had no idea how it was going to look or proceed. Mr. Sebra said that one of the maps in the packet showed the topography lines which would dictate a lot when it came to infrastructure. Mr. Sebra noted that on one side of the property the hills were very steep causing the land to be very expensive to develop and added there was also a Resource Protection Area therefore common sense would tell everyone that most likely those areas won't even be touched. Mr. Sebra said that he completely understood the access concern but noted that the Town never had any intention of carrying any industrial traffic through Grace Hill Development. Mr. Sebra added that it was a nice thought brought up by Mr. Sowder though, that it could be used as an emergency escape route. Mr. Sebra said that the Town already had an easement that went through there for their force main and water lines which could possibly serve that purpose. Mr. Sebra reiterated that there were no concrete plans but there was a preliminary objective to rezone the property to expand the Tech Park. Mr. Sebra said that at this point it was undetermined where the road, lots and building pads were going to be. Mr. Sebra finalized by saying that they had a long way to go.

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Mr. Bonner said that he was thinking more about the visual part and to ensure that any eye sores would be obscured. Mr. Bonner said that he didn't know how high the vegetation was on the ravine and therefore something may have to be added.

Commission Member Gravatt asked where Mr. Williams' property was located.

Mr. Sebra showed Mrs. Gravatt Mr. Williams' property on the wall map.

ACTION: Commission Member Bonner made a motion to recommend to Town Council that the Town parcels listed as tax map numbers 28-155A, 28-138, and 28-138A be rezoned from R-1 to M-1 with consideration of concerns of the adjacent property owners, consideration of a visual buffer, and potential proffers for the protection of surrounding property owners, seconded by Commission Member Gardner; and carried unanimously.

9. New Business:

Zoning Log Report

A copy of the zoning log report was included in each Commission Member's packet.

10. Adjournment

ACTION: Commission Member Gravatt made the motion to adjourn, seconded by Commission Member Gardner; and carried unanimously.

Meeting adjourned at 6:42 PM

Prepared by:

Joan N. Kent

Dave Reedy, Vice- Chair

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