



## TOWN OF WARRENTON

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### MINUTES PLANNING COMMISSION CONTINUATION OF AUGUST 18, 2015 PUBLIC HEARING AUGUST 25, 2015 – 7:00 PM

The Town of Warrenton Planning Commission convened on Tuesday, August 25, 2015 at 7:00 PM in the Municipal Building.

The following members were present: Dr. John Harre, Mr. John Kip, Ms. Susan Helander, Mr. Ali Zarabi, Mr. Lowell Nevill, Mr. Brett Hamby and Ms. Brandie Schaeffer. Mr. Yakir Lubowsky, Town Council Ex-Officio member was absent, but provided a written statement. Ms. Sarah Sitterle, Director of Planning and Community Development represented staff.

Dr. Harre called the meeting to order and stated there was a quorum present and at the last meeting held on August 18, 2015 both the staff and applicant spoke and the public hearing was opened and is now closed. This evening the Commission will be discussing the application and voting on it. However, prior to the meeting starting, the Town Attorney, Mr. Whit Robinson made the following statement.

Mr. Robinson stated that just prior to the meeting it had been brought to his attention by the applicant's counsel, a concern about the meeting being held this evening. Virginia Code Section 15.2-2204 subsection B, which is talking about proposed amendment of the zoning ordinances, involving a change of classification for 25 or fewer parcels of land that notice is to be given to the adjoining properties which we all know was done for the last meeting; however, the applicant has brought it to his attention. The statement further includes wording that stated if the hearing is continued notice shall be remade which was not done. Mr. Robinson stated there is a discrepancy in their view of the word hearing. The difference of opinion between Mr. Robinson and the applicant's counsel, Mr. Fallon, is that Mr. Robinson interprets the word hearing is referring to the actual public hearing. He stated Subsection A specifically states that notice shall specify the time and place of a hearing at which persons affected will hear and present their views not less than 5 days and no more than 21 days after second advertisement appears in a newspaper. Mr. Robinson stated in his opinion, the public hearing is being referenced and that would need to be re-mailed. Mr Robinson stated Mr. Fallon's opinion is that the section is

referring to the whole meeting. Mr. Robinson stated there was a distinction between hearing and public hearing is the reason for advertising, which was done properly and that is the hearing that it is being referred to. Mr. Robinson stated that at this point in time the Planning Commission must move forward and there will not be a continuation of it past the 100 day deadline and he felt comfortable that the Planning Commission could move forward with their vote. Based upon the fact that notice was given to adjacent property owners and they did have the opportunity to come speak at the public hearing, which in his opinion was the intent of this particular statute and he felt the Commission could go forward and vote.

Mr. Merle Fallon, counsel representing the applicant in this matter stated he was taking the position on behalf of the applicant that this hearing had been improperly continued because notice was not given to adjoining property owners as required by the code. For purpose of the record, he conceded that the public portion of the hearing was closed at the last hearing but he believed hearing includes a vote and discussion thereafter and should have been properly noticed but it was not. Mr. Fallon also objected procedurally. He indicated Mr. Hamby was not present at the public hearing and he has been advised that Mr. Hamby attempted to listen to the tapes so he could vote. Mr. Fallon stated he objected to his vote because he did not participate in the last hearing, but frankly he hated objecting to his vote because there was a slim chance he may vote in favor of the project. Mr. Fallon stated he did not know if Mr. Hamby could certify that he listened to the public hearing tapes and could then vote on this matter. Mr. Fallon stated there were a number of procedural issues the Planning Commission had fallen down on and he objected with the Commission going forward. That being said, and knowing the Commission is going forward upon advice of counsel he stated he and his representatives would answer any questions the Commission had and would be participating in the hearing.

Mr. Robinson stated Mr. Hamby had reviewed the materials associated with the application, had been involved in e-mails exchanges and in discussions. Absent of an actual statutory showing or citation of a case he did not see any reason why Mr. Hamby could not vote.

Dr. Harre stated the Commission has had the material for three months and several work sessions had been held and he had no problem continuing on. He apologized to the attendees for all of the legality issues that had come up and delayed the start of the hearing. Dr. Harre stated the last hearing concluded after the Public Hearing had closed and the next step was for the Commission members to address any questions they may have for staff and to vote on the applications.

There were no questions.

## **Motions**

### **Comprehensive Plan Amendment (CPA 15-01)**

Mr. Al Zarabi made motion to recommend denial. After number of months of discussion that has been held relating to housing thinks the Commission feels committed to having to address the

issue of housing and there is no doubt something will come forward because of this project and he appreciated opportunity to review a community need that has not been adequately addressed. He does not think this project at this time at this site fits his vision and solution but a solution is needed as stated by my colleague, Ms. Schaeffer that by increasing the number of dwellings within the community and making accessory dwellings an administrative process to increase the inventory of infill space for housing. He stated that the Commission needs to take a hard look at this and do more than talking, but 288 units in one space at one site is not the solution. As matter of record, he indicated he did his due diligence and contacted many of the rental resident managers for apartment housing and in talking to them he has come away with the idea that a market of housing and apartments is something that could be used but did not feel there was any need for income limitations for price control because they feel the market can handle it. As result we need to take a hard look at that and move forward and rectify it.

Mr. Kip made a motion to recommend denial. He indicated the project had bothered him since its inception and the issue of affordable housing has been repeated over and over again, but at the same time, the size of the project is too big for Warrenton. Based on all the information that been provided the applicant may be able to fill perhaps four of the units at the most and it will continue to be built on an as needed basis. He indicated he could see a roadway out there and parking lot and no more buildings. The statement about the school impact he totally rejected because 288 apartments will have more than 42 children. His biggest concern was that the project was a departure from Town rules and ordinances and multiple changes that he could not get his arms around. He indicated he had received about 15 e-mail messages from residents that will be affected by this project and no one was in favor of it and that weighed very heavily on him. He stated he lived in the area and understand their concerns. The traffic study did not say much to him because bottom line still will have a two lane road there and there will be a lot of traffic coming in and out of the complex.

Dr. Harre stated he agreed with the applicant about more apartments in Warrenton. Comments he has received have expressed concern for crime because of this type of project but he stated he did not agree with that. He indicated a lot of people need to go into apartment living because of life situations, such as downsizing, divorce, loss of a spouse and it is not a negative element. He indicated he did not foresee crime being an issue because Orchard Ridge indicated they would do background checks on residents and he did not see problem with crime. However what he did see was that this is a very large project with 9 buildings, 4 stories tall with 32 apartments in each unit and it is totally out of scale for the Town of Warrenton. Falmouth Street is not designed for that kind of traffic and the traffic report indicated the Spine Road would need to be completed prior to an occupancy permit but there is still a portion of Falmouth Street that will be affected. In addition to the traffic, there is sewer and water and today he received a report and has heard a lot about water/sewer evaluation and the town definitely has a finite amount of water and sewer and we have to be careful as to how this is used. As a planning body we have to ensure that people who come along later, we need to make sure there is sufficient water and sewer. We have to be

careful with rezoning that increases the use of sewer and water that site requires. Location – there is 37 acres and 16 acres are put off in the back and the front is left for industrial or commercial but it means the smaller section is sandwiched in between industrial land and it is not known what will go there and then there is low density residential housing on Meetze Road and their solution is a 25 foot landscape buffer. Dr. Harre stated from his experience with the Ridges when it was built there was to be a 25 foot landscape buffer and some people abided by it and others did not and the Town did not enforce it. He indicated can put all you want in writing but in reality we do not know what will happen. He indicated a large apartment complex was not a good match at that location. He stated he supported the need for affordable housing and that perhaps if it had been just a couple of buildings next to Falmouth Street across from Kingsbridge Court it may be different, but people there do not want it because that is high density housing and would be a continuation of that district. To him that would make more sense than putting it next to low density housing. Perhaps that is something that will come forward in the future elsewhere in town but not a project of this size. We do not need 9 buildings and as result do not support the application.

Ms. Schaeffer noted that in all her years as a professional planner, she has not seen an affordable housing project supported by local residents and it is a tough decision for people who volunteer on the Planning Commission and elected officials sometimes to integrate but she believes there is a need for affordable housing. She stated she lived in an apartment for 5 years until she had her first child and contended that some of those in attendance at one time also lived in an apartment. Apartment prices here in Warrenton are geared toward professional people and there are a lot of people here that need rental housing. She noted the need to continue to strive for affordable housing because it is the Commission's duty to plan for a diverse mix of housing options. As the economy and life style changes such as retirement, and homes are sold, residents will need this type of housing. As stated earlier, this is not the right location, time, or scale and it has been designated as part of an IPUD which anticipates that in the future there will be some kind of residential component and some forms of amenities but she would like to see the whole site developed overall and have more certainty about how the site will develop. She cautioned the Planning Commission and Town Council that as we continue to say no and keep vacant land vacant, taxes will go up and utility rates are going up and the Town needs to start stating what it is we do want. As Dr. Harre stated perhaps this is not the right location but perhaps there are a couple of locations that are right. We need to be proactive and citizens are here tonight to demonstrate their support and she encouraged them to continue to care and support and help the Commission to plan what the residents see for the future. She stated apartments are needed but she expressed concerns about the project and nothing is going to meet every need but the Town needs to go forward and do better at keeping up with the ordinances and updating the Comprehensive Plan that is outdated. Requests the Commission receives for waivers such as parking and height come forward because of out of date ordinances and by not following current trends, waivers would not be required if ordinances were updated. Whether it should be affordable or not and whether it should be this scale or not the Planning Commission is not in a

position where it feels comfortable because there is no certainty about transportation and the Commission has heard from the residents and putting it to a vote this evening for Town Council reflects some of the difficult decisions Planning Commission is faced with. She thanked the residents for attending and to the applicant for bringing forward the project because if no one brings anything forward the Commission will not have anything to consider. She stated she thought this project had a lot of merit but because of the various issues her vote is to deny.

Mr. Lowell Nevill noted that as presented last week by Ms. Sitterle there are four things before the Commission, which are the Comprehensive Plan Amendment, Zoning Map Amendment, Zoning Text Amendment, and Special Use Permit. The Comprehensive Plan Amendment is governed by State Code and Zoning Amendments and Special Use Permits are regulated by local ordinance that provides certain criteria that are to be considered. If someone is asking us to change the Comprehensive Plan, it is a collective action as it is adopted by the Town that goes through public buy in and public input and the Town Council adopts it and it reflects the vision of what the Town will look like in the future. It is amended when needed as time and vision change and it is adapted to the times. For the past two years, the Commission has been in discussion about changing the plan and 2008 was a big change for real estate and the way things in our region were growing. There have been trends in our region that have guided people to move away from northern Virginia and live here. Some of the comments about this project from the residents have been keep this as a small town. But as stated by Ms. Schaeffer in preserving the uniqueness and smallness are we missing economic opportunities for vitality and these are not the types of things that go in to a comprehensive plan and that is why it is every 25 years before it is renewed but has 5 year updates. As with any large scale plan there is a lot of information to digest. The affordable housing was a key issue that the Commission has addressed for the past two years as something needed in the comprehensive plan. The last update before this application came before the Commission and a joint meeting was held with the County Planning Commission and that was one of the things that was identified that needed to be considered because it was our assessment that adequate progress had been made in the past. There is a lot of data and analysis the Commission does not have in order to do a comprehensive redo of the Comprehensive Plan and a fuller assessment of the Town's inventory and needs are needed. The Northern Piedmont region has some bedroom community aspects and people move out here because of the small town and rural living and they drive east for employment. He stated there are approximately 59% county residents that are commuters and there are other counties that are higher and it is not unusual and way of life. There are areas in Fairfax that a generation ago use to have small town identify such as Clifton and Burke but today is not the case and that is what has urged the need to preserve the quality of small town life and we have to ask how do we preserve what we love about Warrenton in a way that will also help us grow in the future and that goes back to the Comprehensive Plan. The sense is that the size of Orchard Ridge is too big for Warrenton but facts are needed about affordable housing. There are facts from a recent capacity study relating to sewer and water and it is known that the Town is bordering on thresholds. Thresholds and capacity is serious data that has to be taken into

consideration as planning factors. When you have known limits, it is not good to add to the problem and to what extent is that going to be addressed and be economically vital as well as meeting community needs. The Town does not have a plan for getting more capacity and as proposed the by-right use would exceed the by-right capacity. That begins to give the feeling that you are taking away a diminishing asset which is capacity from people who have by-right development capability or re-development. With the comprehensive plan amendment, there are things that the Commission agrees needs to be changed, but he wants to do it comprehensively and this is not necessarily where the Town wants to have multi-family affordable housing. The roadways are too small and if you look at Highland Commons as an example of one of the more recent multi-family housing developments, it is an example of where the Town could envision seeing it because of larger roadways, walk ability to shopping and employment. He indicated there were other places that have multi-family around Broadview Avenue and Lee Highway that the Town could envision perhaps having different uses. He noted that these are things to have a community discussion about for a review of the Comprehensive Plan. Looking at the criteria, the key is the rezoning and there are 14 points that have to be considered by ordinance.

Mr. Brett Hamby noted that this is a big project and the vacant lot on Falmouth Street has been vacant for a long time. Overall the backside being split into different parcels and without an entire plan for the site makes it difficult to support the whole thing. He noted with transportation concerns that with the existing conditions of Falmouth Street and trying to go across to Wal-Mart and trying to make a left or a right turn and adding a big project like this leads to public safety being a concern. Water and sewer capacity is a concern, and he does not think that 42 children is a realistic number for 288 apartment units. He added that there are pros and cons about the project, but he cannot support the current form.

Mr. Lubowsky, Town Council representative, was absent but provided a written statement that was read by Mr. Nevill. The statement is as follows - This is a complicated multi part application as we have seen and heard. As I stated at last week's meeting I do not see any virtue to this proposed development except potential opportunity to increase our stock of affordable housing in Town. Particularly units for workforce housing, but we lack a clear and comprehensive understanding of the existing inventory of the housing today in Warrenton including single family units and accessory housing and lack of an assessment of use of the current stock by our work force neighbors. This is base line information the Town must establish and more clearly assessing the demand. I will urge the Town Council to undertake a responsive study. Until we have clear data, increasing affordable housing in Town will remain a worthy goal and not one sufficient to overcome the multitude of challenges and variety of uniqueness in the Orchard Ridge proposal now before the Commission. For that reason, I urge you to vote to deny each part of the application.

Mr. Nevill made a motion to recommend denial of CPA15-01. Changing the Comprehensive Plan and the recent IPUD ordinance that was passed since the Comprehensive Plan was established envisions types of opportunities for that parcel and the current zoning and the future

land use plan both sufficiently address compliance and conformance with the Comprehensive Plan as it stands and will be adopted through community input. The Comprehensive Plan amendment is a deviation from the Comprehensive Plan as it stands and how it was envisioned for changes in the near future.

Mr. Kip seconded the motion.

6 Voted in favor of the motion. Ms. Helander abstained from voting

### **Zoning Map Amendment 15-01**

Dr. Harre stated all 14 criteria have to be considered.

Ms. Schaeffer stated that this application in its current form and the affordable housing component is in need but there are conditions that have changed that we have found where residential may be appropriate at different scales and location.

Ms. Schaeffer stated that there was a mixed of industrial and residential around it and a closer look needs to be made but at this point there is concern about the overall rezoning the parcel.

Mr. Lowell stated that Ms. Sitterle brought this issue out in her staff report relating to the degree of change and type of use to adjacent properties and the intent of some of the blending of zones throughout is that there is a graduating change. A lot of times a multi-family apartments and single family detached uses can seem very abrupt and this criteria (2) asks as to whether the transition is consistent with the character and nature not of just that particular area of Town but the Town in general.

Ms. Schaeffer stated she did not consider this inconsistent because she indicated there were apartments and single family homes where she lived in Town.

Mr. Nevill stated that some of the things present in an older Town are chaotic and to the extent that we can move forward if it is consistent with the way the Town is envisioned. He noted that it seemed to be drastic.

Dr Harre read criteria three (3) relating to utilities, sewer, water, transportation, recreation, storm water management and other facilities that exist. He stated the concerns over sewer, water and transportation have been expressed. Whether rezoning would be compatible with properties in the vicinity and not have an adverse impact. He noted traffic impact, and a reasonable economic market for this property. Mr. Nevill stated that the market for this property as zoned has not been active. This is zoned industrial and according to page 4 of the staff report light manufacturing, flex industrial, wholesale commercial, and a lot of things that are allowed under the current zoning besides industry. The word industry makes one think industrial and it sounds heavy but under this type of zoning a nursery is allowed. The Commission does need to consider if the current zoning has economic viability.

Dr. Harre stated criteria 11 related to encouraging economic development and employment.

Ms Schaeffer stated that was open to discussion and thinks the Commission will continue to struggle and debate whether this is a viable use or not and anything beyond vacant land is taxable. She would support some type of activity but does not want residential, but certainly does not want cement trucks and recycling trucks and things of that nature.

Dr. Harre stated there was agreement on criteria 1, 2, 5 and 8.

Ms. Schaeffer stated only one criteria was needed that the Commission feels is not met.

Mr. Robinson stated it did not hurt to vote on the others so it is on record.

Ms. Schaeffer asked if the rezoning is voted on, does the Commission vote on the SUP because they are no longer applicable.

Mr. Robinson stated she was correct but for public record and any future discussion he recommended it be voted on as well.

Mr. Kip made motion to recommend denial of Zoning Amendment 15-01 for not meeting criteria 1, 2, 5 and 8 and all other reasons stated.

Mr. Zarabi seconded the motion.

The vote was 5 in favor to recommend denial. Ms. Schaeffer opposed. Ms. Helander abstained

The motion passed.

### **Zoning Text Amendment (ZTA 15-01)**

Mr. Nevill stated the zoning text amendment would change Article 3-4.5.8 of the zoning ordinance, which means the entire ordinance would be changed for everything that applies to and having stated that, he does not want it at that location and we have it in our review of ordinances that is required by the State. He added that under any other circumstances and because this has not been thought of previously and asked for by other applications, it would be inappropriate to consider this independently.

Ms. Schaeffer stated she did not like to see applicants in a position that they have to request waiver amendments. She added that for things that are bigger and for items that will subsequently impact the entire jurisdiction, they should have opportunities for waivers for height and be approved by Council.

Mr. Zarabi made a motion to recommend denial. He stated that uniformity should be applied to all zoning districts and there was opposition to specific waivers for specific projects.

Mr. Kip seconded the motion.

6 voted in favor. Ms. Helander abstained. Motion for recommending denial passed.

### **Special Use Permit 15-03**

Ms. Schaeffer made motion to recommend denial as not being consistent with adjacent neighborhood density criteria number 6.

Mr. Nevill stated that use was only allowed through SUP and not allowed under industrial zoning.

Mr. Kip seconded the motion.

The vote was 6 in favor to recommend denial. Ms. Helander abstained.

The motion passed.

### Parking Waiver to reduce spaces from 549 to 523 on the property.

Ms. Schaeffer stated that anytime a waiver is brought up we need to look at current standards for other areas.

Mr. Nevill made a motion to recommend denial.

Mr. Kip seconded the motion.

The vote was 6 in favor to recommend denial. Ms. Helander abstained.

### Building Height Waiver

Mr. Nevill made a motion to recommend denial based on the same reason as for the zoning text amendment.

Mr. Kip seconded the motion.

The vote was 6 in favor to recommend denial. Ms. Helander abstained.

There was no further discussion and the meeting was adjourned at 8:25 PM.

Minutes submitted by Dee Highnote