



## DUMFRIES, VIRGINIA

Virginia's Oldest Continuously Chartered Town  
CHARTERED 1749 INCORPORATED 1961

17755 Main Street  
Dumfries, Virginia 22026-2386  
Tel: 703-221-3400 / Fax: 703-221-3544  
www.dumfriesva.gov

AGENDA FOR PLANNING COMMISSION  
WORKSESSION & MEETING FOR NOVEMBER 26, 2012,  
VENUE: DUMFRIES TOWN HALL  
ADDRESS: 17755 MAIN STREET, DUMFRIES VA 22026

### **PLANNING COMMISSION WORK SESSION 6:00 PM**

I. Call to Order

Chair Russell called the meeting to order.

II. Roll Call

Present: Naeem Arshad  
Christopher Padberg  
William O'Kelly Russell  
John Webb  
Louise Waggy  
Morgan Brim, Town Planner/Zoning Administrator  
Greg Tkac, Director of Public Works

Absent: Gina Critchley  
Vacant seat

III. Discussion

- A. SP 12-001 Folks Minor Site Plan. The Planning Commission will consult with staff on the administrative review of this minor site plan located at 17541 Jefferson Davis Highway (JDH), GPIN 8289-03-9842

Mr. Brim noted the property is in the B-1 zoning district, just under an acre, with the use classification of automobile sales. In September 2011, zoning text amendments were passed that eliminated automobile sales in the B-1 zoning district, which resulted in this property becoming a lawful nonconforming use. On April 27, 2012, a nonconforming use determination was made that limited the number of cars to 25. The limitation was set due to the certificate of occupancy, which was issued back in 1992, stating a maximum of 25 cars on the lot. The interpretation was made that it meant 25 cars for sale. The reason for the limitation is not documented; however, staff thinks the reason for limiting the number of cars allowed is probably the irregular shape of the lot. It seems reasonable to add 10 parking spaces for customer parking and employees. Anything over a 35-car threshold makes it a very difficult site to negotiate.

In July 2012, a notice of violation was issued for parking vehicles on the grass and dirt surfaces. An appeal was made and withdrawn after staff spoke with the client's attorney. A site plan amendment was submitted to establish a parking surface. Staff had to look at it very carefully because it is a nonconforming use and cannot be expanded; however, with the limit being set at 25 cars it does allow for some customer and employee parking. It was determined that expanding the parking lot did not expand the business. The site plan that was approved shows 22 parking spaces. The amended site plan would create an additional 11 parking spaces for a total of 33. This is a minor site plan amendment that does not require the Planning Commission's (PC) approval, but it does require staff to consult with the PC prior to administrative approval. He asked the PC to let staff know if they have any recommendations or suggestions.

Mr. Tkac noted the site plan does not show the grass area that staff requested be identified along Jefferson Davis Highway or the five foot grass buffer along the adjacent property to the east.

Chair Russell asked if there was going to be an issue with the increased impervious area.

Mr. Tkac received the comps, pre and post, and worked through that with the developer.

Chair Russell read note 10 on the site plan. "Silt fence shall be placed along the down-slope boundary as shown, if required by the Town of Dumfries." He asked, if required, whether that would be permanent or during construction.

Mr. Tkac indicated the note was not appropriate. That would be during construction only. The developer will do a sequence of construction. He felt the project would be done in a day and putting up a silt fence may be unnecessary.

Chair Russell asked if there were any seeding requirements.

Mr. Tkac advised that would be done by a note stating it had to be stabilized within seven days as part of the permit.

Mr. Webb asked if the second building at 17564 JDH had a different use.

Mr. Brim mentioned the building was used for massage therapy. It was noted the building could not be used in the future for automobile sales because of being a lawful nonconforming use.

Mr. Arshad pointed out the new site plan does not show the existing entrance to the massage parlor.

Ms. Waggy asked where the parking was for the massage parlor.

Mr. Tkac explained that the massage parlor has an entrance and a separate driveway. Parking is in the driveway for that property. In trying to maximize the grass area, the parking would be accommodated in the proposed parking lot.

Mr. Brim noted the parking stalls along Stage Coach Road are going to be designated for the massage parlor.

- B. ZTA-12-002 Town Council’s request for the review and update of allowable, conditional and accessory uses of the **B-1 Zone**
- C. ZTA-12-002 Town Council’s request for the review and update of allowable, conditional and accessory uses of the **B-2 Zone**
- D. ZTA-12-002 Town Council’s request for the review and update of allowable, conditional and accessory uses of the **FB/O-1 Zone**

Decisions made by the PC changing the zoning district work sheet are noted with gray highlighting and anything removed is lined through.

<b>B-1 Zone Use Considerations</b>				
<b>Use</b>	<b>Add as Alw</b>	<b>Add as CUP</b>	<b>Add as Acc</b>	
Assisted living facility		Add as CUP		
Automobile sales and service		Add as CUP		FB/O-1
Automobile rental agency - No service	<del>Add as Alw</del>	Add as CUP		
Bed and Breakfast Inn	<del>Add as Alw</del>	Add as CUP		
Boat sales (excluding non motorized) rental or lease, storage, service, or repair Add language for non-motorized boats up to a certain size (interior sales)	<del>Add as Alw</del>	Add as CUP		FB/O-1
Micro Brewery and bottling associated with a restaurant		Add as CUP		
Bus station, commercial	<del>Add as Alw</del>	Add as CUP		FB/O-1 as a CUP
Cafeteria/lunchroom/snack bar/automat	<del>Add as Alw</del>	Add as CUP		

Ms. Waggy moved, seconded by Mr. Padberg, to table the discussion until after the regular meeting. The motion carried by the following voice vote: Naeem Arshad, yes; Gina Critchley, absent; Christopher Padberg, yes; William O’Kelly Russell, yes; Louise Waggy, yes; John Webb, yes; vacant seat.

**PLANNING COMMISSION MEETING 7:00 PM**

I. Call to Order

Chair Russell called the meeting to order.

II. Roll Cal

- Present: Naeem Arshad  
Christopher Padberg  
William O’Kelly Russell  
John Webb  
Louise Waggy  
Morgan Brim, Town Planner/Zoning Administrator  
Greg Tkac, Director Public Works
- Absent: Gina Critchley  
Vacant seat

III. Approval/Adoption of minutes

There were no minutes available for approval.

IV. New Business

**A. PUBLIC HEARINGS**

1. CUP 12-002 Matthew’s Center Site Plan and Conditional Use Permit request to operate a special education school located at 17286 Dumfries Road, GPIN 8289-05-7538
  - a) Staff Presentation – Morgan Brim

Mr. Brim mentioned the current zoning for the site is B-1, which allows for schools, K – 12, with a conditional use permit (CUP). The applicant wants to go into an existing building where the Pillar Church and Reliable Tire operate. The Virginia Department of Transportation (VDOT) was concerned with left turns being made from the facility during peak hours so a channelization island will be installed to allow right in and right out only. The parking lot will be restriped at a 45-degree angle to provide better efficiency in flow. This will help designate the parking for the Matthew’s Center from the rest of the site. The applicant has addressed the concern expressed about having

more protection from the vehicles and the children at play. There will be a 12-inch high curb with the fencing set in from that, which will provide a little more definition and separation. The students are to be bused in and will help reduce the traffic flow that this site is proposed to see. He mentioned that in the southwest corner of the site there are two sheds, detached garages. Reliable Tire owns the sheds, which is a lawful nonconforming use. One of the conditions placed on the applicant was having the property in full compliance with Town Code. A certificate of occupancy will not be issued until the shed that was not approved is removed. The reason the shed has to be removed is it was placed after the zoning district changes and is considered an expansion. He read the following conditions that staff recommends.

Staff Recommendation:

Staff provides a positive recommendation of this CUP and Site Plan application and recommends the following conditions apply:

- a. Hours of operation shall be limited to the hours of 7:00 AM to 7:00 PM;
- b. Student count shall not exceed 36;
- c. Any students above the stated 36 maximum will require an amendment to the conditional use permit;
- d. The applicant shall provide entrance improvements as required by VDOT for right in and right out curbing;
- e. Directional signage to route visitors to the school is required and must be shown on the site plan;
- f. VDOT approval shall be required before a certificate of occupancy shall be issued;
- g. The Applicant shall submit a plan for the play ground for staff to review administratively;
- h. A walking path shall be designated from the school entrance to the play ground entrance;
- i. The applicant shall construct 12" high curbing and protective fencing around the play ground in conformance with the approved site plan;
- j. A building permit shall be approved by the Town before a certificate of occupancy will be issued;
- k. The property shall be in full compliance with Town Code, including the removal of the detached garage shown on the right in the photo above, before a certificate of occupancy will be issued;
- l. The School shall provide exterior lighting of the parking area in order to permit safe access to the facility by faculty, students and visitors;
- m. No signage is approved with this permit;
- n. Events out of character with the normal day to day operation of the school, taking place on the exterior of the building, will need to be permitted through the Town by obtaining a temporary use permit;
- o. All school buses or other vehicles in use by the school shall be parked in a marked parking stall out of view of the public way;
- p. The School shall take adequate and reasonable precautions to ensure that the operation of the school does not generate noise levels in excess of the ambient noise level;
- q. All students delivered to the school shall be accompanied into the building by a school staff member or the student's parents, guardian or caregiver, and
- r. A six foot high fence shall be constructed along the boundary of the east parking lot, initiating at the

southeast corner of the parking lot and terminating in alignment with the front facade of the building. Approximate location of where the fencing should be installed is shown in the photo above of subsection (n) of this report. Final fencing location shall be shown in the final site plan. Fencing materials shall be similar to those being proposed for the play area.

Mr. Webb asked if the distance between the channelized island and the curb is enough for a wrecker to get in and out without any problems.

Mr. Tkac indicated the site plan would be amended and the channelized island will be built to VDOT standards.

Mr. Webb's concern is the existing business that is there being able to get wreckers etc. in and out.

Chair Russell asked if the right in, right out was going to impede traffic on Route 234 at all.

Mr. Tkac explained it would be like the right in, right out that was recently constructed at the 7-11 south of the site.

#### b) Applicant Presentation

Mr. Mike Kitchen, with Christopher Consultants and a Member of the Board of Directors for the Matthew's Center, mentioned that Betsy O'Dell, Executive Director of Matthew's Center was present to answer any questions he may be unable to answer. He noted the school is for autistic children who are beyond the ability for the public school system to take care of. The intent of this facility is to try to provide services for the east end of the County and points south. He noted the school would provide services to 24 full time students, a maximum of 12 after school students, and a summer day camp. He mentioned they are going to be making some changes to the entrance in order to address the concerns of staff and VDOT. Some modifications have been made to address the concerns with the shed taking up parking. The students will all come in by bus to the rear of the building to gain access. A handicap accessible entrance does not meet current standards that will be redone to meet the standards. A teacher will accompany the students getting off the bus individually. Changes were made to what was originally proposed to the play area that will include a higher curb and a taller fence offset from the curb. This will not only protect the children in the play area but it will also protect the fence from vehicles that might

be coming around the corner. There will be tow trucks and other vehicles that may be coming around to the tire store. They are okay with the conditions that staff has requested. The most recent concern was about placing a fence along the one side of the property line to protect a gravesite from being disturbed by the children. The school is self-contained and with the nature of the facility, there will not be any students running around in that area.

Chair Russell asked for clarification that all services provided to the students will be within the building itself and the enclosed play area with no other area of the site being used aside from coming off the buses.

Mr. Kitchen agreed that was correct noting that there would be no external access to the play area.

Chair Russell asked if there would be any emergency requirement to have access to the play area.

Mr. Kitchen would have to look into that question.

Ms. O'Dell noted it might be a requirement since they have a padlocked gate at the Manassas location.

It was questioned as to what the historic resources were in the area where the gravesite is. It was noted there is one marked grave; however, it is known that there are other graves that have not been found. A citizen brought up the need to fence the area to protect it. It was brought up that the other side would not be fenced so it would not keep anyone from going in from the other side. It was suggested to put a fence around only the graves. The property is privately owned so the Town has no control over it. Ms. Waggy has lived in that area as a child and she remembers there being only three gravesites; a man, his wife, and a child. It was determined that there was no need to require a fence. It was noted that the condition for the fence can be removed and the recommendation for approval be sent to Council without that requirement.

#### c) Public Hearing

The public hearing was opened for citizen comments.

There being no comments the public hearing was closed.

d) Discussion

Ms. Waggy made the recommendation to remove the requirement for the fence along the east side of the parking lot.

Mr. Webb had a problem with requiring the Matthew's Center getting the shed removed before an occupancy permit is issued. Another tenant illegally placed the shed on the property and should be the responsible party to remove it.

Mr. Brim explained it is zoning practice when property is in violation that the property owner rectify the violation. The property owner has to work with the tenant. It is justified legally to withhold decisions on applications until the violation is abated.

Mr. Tkac felt it would be worse to not bring the application forward until the violation is abated.

Mr. Padberg assumed it would be part of the lease agreement between the property owner and the tenant. He did not see this as a court issue. If a tenant illegally erected a building on his property, he would give them so many days to remove it; if it were not removed, he would tear it down. He felt it was the appropriate time and venue to get the shed removed.

Chair Russell recommended removing staff recommendation r from the conditions of the CUP.

Mr. Kitchen asked for clarification on h of the staff recommended conditions.

Mr. Brim explained the reason for the requirement is in case you have to leave the exterior of the building to access the playground. It is just requiring a separate walking path. If you can get to the playground straight from the building, it meets the requirement.

Mr. Webb suggested deleting the word entrance from the condition.

e) Vote

Mr. Webb moved, seconded by Ms. Waggy, to move the site plan and conditional use permit as amended, by removing item r and deleting the first entrance from item h, for the Matthew's Center to Town Council with the recommendation to approve. The motion carried by the following voice vote: Naeem Arshad, yes; Gina

Critchley, absent; Christopher Padberg, yes; William O'Kelly Russell, yes; Louise Waggy, yes; John Webb, yes; vacant seat.

2. ZTA 12-003 Section 70-2 Criminal Violations and Penalties; addition of civil penalties for certain zoning violations

a) Staff Presentation – Morgan Brim

Mr. Brim explained this text amendment complies with Virginia Code Section 15.2-2286 A.5, which provides the zoning administrator or a designee to write a notice of violation as a ticket to an offender of the zoning ordinance. This requires a schedule of infractions to be placed in the Town's Code for which a ticket can be written. For example, if a business were to put up a banner without getting a permit the Code would allow a notice of violation be written in a ticket form. This is a warning and it states on the ticket that after 30 days if the violation has not been abated there will be a \$200 fine. The amount is augmented by \$500 every 10 days. After the 30-day period, the zoning administrator would go back out and write a ticket with a fine attached to it. If after 10 days the violation is not abated, an additional \$500 fine is attached and continues every 10 days thereafter until it reaches \$5000, at which time it would then go through the court system. What this does is it provides the incentive to the property owner or the violator, if there is a tenant, to come into conformity much faster than what has been seen in the past. It also allows a waiver to the court appearance with a guilty plea to the Town Treasurer and payment of the fine. With the research that has been done it has been shown to be very successful with localities in the surrounding area. A very small percentage of these cases actually go to court. This is not a way to generate money.

b) Public Hearing

The public hearing was opened for citizen comments.

There being no comments the public hearing was closed.

c) Discussion

Chair Russell noted that infraction number 8 states alteration of a structure within the historic district without a certificate of appropriateness. He is thinking, worst-case scenario, of someone coming in, tearing up a house, and putting on an addition. That

person would then have to work with staff to try to come into some type of compliance.

Mr. Brim confirmed that is all they would need to do. He explained what would happen if somebody put an addition on to a building in the historic district without a certificate of appropriateness that a notice of violation would be issued allowing 30 days for the violation to be abated. When the individual comes in and works with staff that is part of the process of the abatement. You may not get complete abatement. What it does is it provides staff leverage and it the individual 30 days to at least come in and apply for a certificate of appropriateness. To him the bigger issue is not having a certificate of appropriateness. He did not see any way of being able to fine them if they have applied within the 30-day period.

Chair Russell thought that was very true; however, he felt language needed to be included that acknowledges that. He did not know if the sentence that reads, "The penalty for a first that shall be a warning providing a reasonable period of remediation not to exceed 10 days" provides enough body. If the individual who has the violation comes to the Town, is in the process of remedying the problem, whether that places the violation in a holding pattern.

Mr. Brim indicated there are several violations currently past the 30 days, which could be taken to court. Some violations take a while to get compliance but since they are working with the Town staff has not moved forward. To him once an individual comes in, applies for the permit and starts working with the Town that takes them out of the violator status and puts them in the process of abatement.

Mr. Tkac noted they have a violator who has been in the process of abatement since March of last year. Reasonable is different things to different people.

Chair Russell felt it was important the citizens and Town Council understand that no one is being targeted.

Mr. Arshad asked if any additional infractions have been added or removed from the list provided.

Mr. Brim noted if there is a certain section of the Code that the PC wants to add, this would be the time to do it.

It was clarified that the proposed language is new and not currently part of the Code.

Chair Russell asked if the fee schedule was adopted by Code.

Mr. Brim explained the fee schedule is adopted by resolution through Town Council and these fees will be reflected in the amended fee schedule, which will be going back to Town Council. He noted Town Council may remove the amount of the fee from the Code being proposed and have it stated in the Code, "see fee schedule".

Mr. Padberg questioned number 10, accessory structure, whether there is a section covering the primary structure.

Mr. Brim suggested taking the word accessory out.

d) Vote

Mr. Webb moved, seconded by Ms. Waggy, to move the following zoning text amendment ZTA 12 – 003, Section 70 – 2, relating to criminal violations and penalties to Town Council with the recommendation to approve as amended, by removing the word accessory in number 10. The motion carried by the following voice vote: Naeem Arshad, yes; Gina Critchley, absent; Christopher Padberg, no; William O’Kelly Russell, yes; Louise Waggy, yes; John Webb, yes; vacant seat.

**Proposed Text Amendment/Addition to Section 70-2. – Penalties**

**Sec. 70-2.1- Criminal Violations and Penalties.**

- (a) Any person, whether as principal, agent, employed or otherwise, violating, causing, or permitting the violation of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not less than \$10.00, nor more than \$1,000.00. **for each violation. Each day upon which such violation shall continue shall constitute a separate offense. In the case of a continuing violation, further penalties and abatement orders are governed by Virginia Code § 15.2-2286 A.5.**
- (b) The remedy provided for in this section shall be in addition to any other remedies provided by law, however, the designation of a particular violation of the zoning ordinance as an infraction pursuant to Section 70-2.2 of this Code shall preclude criminal prosecution or sanctions, except for any infraction also resulting in injury to any person or persons or where such civil penalties exceed \$5,000.00.

**Sec. 70-2.2 – Infractions and civil penalties.**

- (a) Any violation of the following provisions of this chapter shall be punishable by a civil penalty of \$200.00 for the initial summons and \$500.00 for each additional summons. The penalty for a first offense shall be a warning providing a reasonable period of remediation not to exceed 10 days.
  - (1) Erecting or maintaining fences in violation of this chapter.

- (2) Erecting or maintaining signs in violation of this chapter (except for posting of signs on public property or public rights of way, which is not subject to civil penalty).
  - (3) Failure to enclose trash receptacles in violation of this chapter.
  - (4) Failure to use parking and loading spaces in accordance with this Chapter and approved site plans.
  - (5) Obstructions that impair the vehicular sight distance at an intersection, such as structures, fences, plantings or landscaping; and obstructions created by any structure or landscaping of any form along a public right-of-way that will impede the adjoining property owner's sight distance for access onto a public right-of-way.
  - (6) Conducting a home business, as defined in this chapter, without obtaining the appropriate permit, or conducting a home occupation, as defined in this chapter, without obtaining the approval of the zoning administrator.
  - (7) Storage, keeping collecting or bailing of paper, rags, scrap metals, other scrap or discarded materials, or the storage of automobile or other vehicles not in operable condition or the storage of machinery or parts thereof, in violation of this chapter.
  - (8) Alteration of a structure within the historic district without a certificate of appropriateness.
  - (9) Parking and storing vehicles in violation of this chapter.
  - (10) Constructing accessory structures in violation of this chapter.
  - (11) Nonconforming uses in violation of this chapter.
  - (12) Failure to obtain a certificate of occupancy in violation of this chapter.
  - (13) Growth of grass or weeds in violation of this chapter.
  - (14) Maintenance of buildings and grounds in violation of this chapter.
  - (15) Keeping of septic tanks, privies, cesspools and privy vaults in violation of this chapter.
  - (16) Keeping of stagnant water in violation of this chapter.
- (b) Each day during which any violation of the provision enumerated in subsection (a) of this section is found to have existed shall constitute a separate offense. However, in no event shall any such violation arising from the same set of operative facts be charged more frequently than once in any ten-day period, nor shall a series of such violations arising from the same set of operative facts result in civil penalties which exceed a total of \$5,000.00. The existence of a civil penalty shall not preclude enforcement by the zoning administrator under subdivision A.4 of Virginia Code § 15.2-2286 or enforcement by the City Council under Virginia Code § 15.2-2208.
- (c) After having served a notice of violation on any person committing or permitting a violation of a zoning ordinance provisions enumerated in subsection (a) of this section and if such violation has not ceased within such reasonable time as is specified in such notice, then, upon the approval of the town attorney, the zoning administrator shall cause two copies of a summons to be personally served upon such person.
- (d) Such summons shall contain the following information:
- (1) The name and address of the person charged.
  - (2) The nature of the infraction and the ordinance provision(s) of this chapter allegedly being violated.
  - (3) The location, date and time that the infraction occurred or was observed.
  - (4) The amount of the civil penalty assessed for the infraction.
  - (5) The manner, location and time in which the civil penalty may be paid to the town.
  - (6) The right of the recipient of the summons to elect to stand trial for the infraction and the date for such trial.
  - (7) A statement that a signature to an admission of liability will have the same force and effect as a judgment of the court.
  - (e) The summons shall provide that any person summoned for a violation may elect to pay the civil penalty by making an appearance in person or in writing by mail to the town treasurer's office at least 72 hours prior to the time and date fixed for trial and, by such appearance, may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

- (f) If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided by law. If the violation remains uncorrected at the time of the admission of liability or finding of liability, the court may order the violator to abate or remedy the violation in order to comply with the zoning ordinance. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within a period of time as determined by the court, but not later than six months of the date of admission of liability or finding of liability. Each day during which the violation continues after the court ordered abatement period has ended shall constitute a separate offense.
- (g) An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

3. ZTA 12-004 Town Council's request for the review of Section 70-14 Signs, related to the allowance of religious institutions and non-profit organizations to display temporary signs.

a) Staff Presentation – Morgan Brim

Mr. Brim noted this text amendment was initiated by Council to have the PC review the sign ordinance to propose an amendment to allow for religious institutions and nonprofit organizations the ability to display a temporary banner for 30 days, four times annually. The proposed amendment will cover special events, special programs, and grand openings. The fee schedule would be amended so that no fee was associated with the temporary banner for religious institutions and nonprofits; however, a permit would still be required.

b) Public Hearing

The public hearing was opened for citizen comments.

There being no comments the public hearing was closed.

c) Discussion

Mr. Padberg pointed out that a temporary banner could be displayed four months out of the year.

Mr. Webb mentioned the Town places temporary banners on the outside of the building all the time.

Mr. Brim noted the size of the sign was kept in conformity with the 20 square feet requirement already in the Code to keep it consistent. He mentioned that the PC could change the number times or days a temporary banner can be displayed.

Chair Russell asked if it was clearly defined in the zoning ordinance of what a banner sign shall consist of. The reason he asked is there are many types of signs. There are sail signs that are attached to a PVC pipe sticking in the ground and wave, which would fit in the 20 square feet requirement. On the other hand, is banner sign more of the traditional banner on the side of a building or stretched across two pieces of metal stuck in the ground

Mr. Brim explained there is a sign definition under the definitions section and section 70 – 14 of the Town’s Code there is specificity of what signs are. He noted there is not a specific definition of what a banner sign is. He noted that part of it is has been the interpretation of the zoning administrator as he enforces the zoning code. He indicated that if the PC wants to get away from freestanding banner signs it can be specified that it needs to be attached to a building or permanent sign structure.

Chair Russell was concerned with someone using an inflatable tube sign that falls within the 20 square feet that becomes a flailing sign. He asked if this type of sign or banner would be excluded.

Mr. Brim indicated that it would be excluded. There is not a definition for banner signs in the Code. A standard is set in the regulations that states no wind or waving signs allowed.

Mr. Webb suggested putting something in like anything that moves by artificial means is not permitted.

Chair Russell asked if someone came in with a helium balloon, strings that up, then hangs a sign from it whether that would be an issue, and would that be considered a temporary sign.

Mr. Brim referred to Section 70-14, subsection i, 8 and 9, which reads as follows. “(i) Signs prohibited in all districts. The following types of signs are prohibited in all districts: (8) Any sign which all or any part is in motion by any means, including fluttering, rotating, or other moving signs set in motion by movement of the atmosphere. This shall not apply to the hands of a clock or weathervane. (9) Any sign that contains or consists of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners, or other similarly moving devices. These devices, when not part of

any sign, shall be similarly prohibited unless specifically permitted by this chapter.” He felt that the Code covers that and there will not be an issue.

Chair Russell asked if the PC wanted to reduce the number of days being allowed from 30 to 20 or 21.

Mr. Padberg noted the ordinance gives religious institutions a tremendous amount of latitude that no other group gets. Nothing about the use is residential; however, all localities allow religious institutions in residential districts. He just wanted to remind the PC that although there is an occasional church along Route 1 they are also in the residential neighborhoods. He did not think there was anything that would keep him or his neighbor from putting up a sign for a non-profit.

Ms. Waggy noted it would be for an event or an activity.

Mr. Brim explained the sign has to be onsite. He noted the Code alludes to it strongly for freestanding signs. If you want to clarify it for banner signs, it can be reworded to state allowed onsite.

Ms. Waggy asked why. She asked about ACTS placing one out on Route 1 where they are located. She mentioned the United Methodist Church whose sign is also on Route 1 being able to place a banner.

Mr. Brim noted he would look into the matter. He explained that he has had requests to place a banner and the ordinance does not clarify them.

Mr. Webb asked if Council was aware this would apply to being displayed on their own property.

Mr. Brim was not sure if Council was aware of that.

Mr. Webb could see the PC making the recommendation to approve the text amendment and Council thinking banners can be displayed offsite, then the Zoning Administrator stating a banner cannot be placed offsite, and Council sending it back to be reworded. He felt that maybe the text amendment should be ran by Council one more time to make sure they understand the rest of the sign ordinance applies to banners. He asked what Council was really trying to accomplish. He asked if Council wanted to let religious institutions and nonprofit organizations place banners all over town.

Mr. Brim explained the reason this came up is there were churches that wanted to put up banner signs on their buildings to advertise preschools, programs, and day camps. He suggested changing the wording to religious institutions and nonprofit organizations are permitted to display a temporary sign banner on the property for which the sign relates, for a 30-day period four times annually.

Ms. Waggy would change the wording to up to 30 days.

Mr. Webb noted the words sign and banner in the sentence needed to be switched.

d) Vote

Mr. Webb moved, seconded by Mr. Arshad, to forward the amended zoning text amendment ZTA 12-004, with the words sign and banner switched, to allow religious institutions and non-profit organizations to display temporary signs with the recommendation to approve. The motion carried by the following voice vote: Naeem Arshad, yes; Gina Critchley, absent; Christopher Padberg, yes; William O'Kelly Russell, yes; Louise Waggy, yes; John Webb, yes; vacant seat.

**Sec. 70-14(h)**

(h) Temporary signs for religious institutions and nonprofit organizations. Religious institutions and nonprofit organizations are permitted to display a temporary banner sign, onsite up to a 30 day period, four times annually. The banner sign shall not exceed 20 square feet in size. Such signs are permitted in order to advertize special programs, events and grand openings. A permit is required.

V. Information/discussion items

A. Commissioner comments regarding the updates to the Design Guidelines as proposed from the ARB.

Chair Russell mentioned the Design Guidelines were emailed to the PC to review and make comments.

Mr. Brim provided the following overview of the changes made to the Design Guidelines.

- ✓ The Design Guidelines increased by 30 percent.
- ✓ Procedures were more clearly defined with a specified process.
- ✓ Graphics were added that show applicants what the Town is looking for.

- ✓ Discussions were had on a Phase 1 Archaeological Study for areas over 10,000 square feet of disturbed land. The Architectural Review Board (ARB) is still working through some of those specifics.
- ✓ The Sign Section was clarified to include what is allowed, what is not, content type, things that can be placed on a sign, color, font, etc.
- ✓ The color chart was connected throughout the Design Guidelines.
- ✓ There is more connectivity between the different sections of the Design Guidelines to Town Code and the Comprehensive Plan.
- ✓ An Introduction Section was included that goes over the different historical sites and the need for the Design Guidelines.
- ✓ A section is being added that recommends the Design Guidelines be looked at and considered every three years.
- ✓ Streetscape was included with graphics depicting what the Town wants Main Street to look like.
- ✓ A section was added on New Construction and Demolition.

Mr. Webb asked if anything conflicted with Section 70-14 in the Design Guidelines for signs.

Mr. Brim explained the Design Guidelines are in conformity with the Town's Code and tend to be more restrictive. He noted the number of fonts is limited to two in the Design Guidelines and are not limited in Code.

Mr. Webb brought up the ARB being regulated by the zoning ordinance and asked if it has to be in the zoning ordinance or whether it could be removed and the ARB develop bylaws like those that the PC has.

Mr. Brim noted from what he has found the Virginia Code does not provide that you have to have a code section, it provides the guidelines. He has seen a lot of municipalities that have a separate code section for each of its Boards and Commissions that provides the outline of things the locality wants to see happen and not be an if or maybe. The PC does not have one and he did not see the need for the ARB to have one.

Mr. Webb recommended taking it out of the Town's Code to keep from having to hold a public hearing with the PC and then one with Council every time the ARB wants to make a change.

Chair Russell noted if any Member reviews the Design Guidelines and sees anything to email Mr. Brim.

#### B. Discussion of upcoming Comprehensive Plan update

1. Where are we now?
2. What sections need to be updated?
3. What sections need to be added?
4. What process and public input/methods should be implemented?

Mr. Brim noted the Land Use Section of the Comprehensive Plan (CP) was recently updated with a couple of other sections. Staff is trying to get a Land Use Plan that addresses the entire Town. The CP currently addresses certain areas, like Main Street and Fraley Boulevard, which are not clearly defined and are general. The CP should specify the boundaries. There are other sections of the CP that need to be cleaned up. The two sections that are the priority to be updated are the Land Use and Facilities. If the Land Use Plan is completely updated when the technical update to the zoning ordinance is done, there will be a good basis to draw back on. The zoning ordinance should be the tool to implement the CP. The Facilities needs to be updated to coincide with the Capital Improvement Plan (CIP). A lot of the CP needs to be updated; however, with resources and timing focusing on the Land Use and Facilities sections seems reasonable. He was confident that the PC and staff could handle the Facilities section relatively quickly and with the Land Use section staff has requested funds during the Mid-Year Budget Review to allow hiring a consultant to assist. He explained the consultant does not write it for the PC, but goes through the process with the PC. The consultant has the ability and tools to create the document. If you want to get a solid zoning ordinance, you have to have a solid Land Use Plan. He noted the Land Use section should have been done prior to initiating the text amendments for the zoning districts.

#### VI. Member comments

Mr. Padberg mentioned that on the front page of The Washington Post this morning there was an article about 'granny pod'. In essence, this is a shed that comes in on a trailer, is set up next to your house with a self-contained bedroom, kitchen suite, and bathroom facility. There are three companies in the country making them. One is located in Virginia. It sounds like Virginia Code has already accepted this as a temporary housing classification. The concept is that your elderly parent could live on your property with the appropriate facilities.

Chair Russell asked with the holidays coming up and if funding is available, whether the members would consider having another meeting in December to get through the zoning district text amendments.

After a brief discussion, it was decided that a work session would be scheduled for December 10, 2012 starting at 5:00 p.m.

VII. Next meetings:

- A. December 10, 2012 and December 17, 2012

VIII. Adjournment of Business Meeting and reconvene the Work Session if necessary

Mr. Webb moved, seconded by Mr. Padberg, to adjourn the meeting. The motion carried by the following voice vote: Naeem Arshad, yes; Gina Critchley, absent; Christopher Padberg, yes; William O'Kelly Russell, yes; Louise Waggy, yes; John Webb, yes; vacant seat.

Minutes submitted by

Approved by

---

Dawn Hobgood  
Town Clerk

---

William O'Kelly Russell  
Chair