



## DUMFRIES, VIRGINIA

Virginia's Oldest Continuously Chartered Town  
CHARTERED 1749 INCORPORATED 1961

17755 Main Street  
Dumfries, Virginia 22026-2386  
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[www.dumfriesva.gov](http://www.dumfriesva.gov)

**AT A REGULAR MEETING OF THE PLANNING COMMISSION, HELD ON JANUARY 13, 2014, AT 7:30 P.M., IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA:**

### **I. Call to Order**

Mr. Webb called the meeting to order.

### **II. Roll Call**

Present: John Webb, Chair  
Christopher Padberg, Vice-Chair  
Naeem Arshad  
Selonia Miles (arrived after roll call)  
Lou Praino  
William O'Kelly Russell  
Louise Waggy

Staff Present: Laura O'Dell, Town Planner/Zoning Administrator

### **IV. Discussion and consideration of the following:**

Mr. Webb asked for a motion to move item B, Consideration of Planning Commission Bylaws to Item A; Item C, Consideration of Planning Commission Calendar to Item B; and Item A, Consideration of Town Center Development CUP# 2014-001 to Item C.

Mr. Praino moved, seconded by Mr. Padberg to amend the agenda as noted. The motion carried by the following voice vote: Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, yes; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

#### **A. Consideration of Planning Commission Bylaws**

Mr. Webb asked for a motion to approve the amended Bylaws with the additional changes made during the work session.

Mr. Russell moved, seconded by Ms. Miles to adopt the amended bylaws. The motion carried and the following amended bylaws were adopted by the following voice vote. Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, yes; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

**PLANNING COMMISSION BY-LAWS**  
**TOWN OF DUMFRIES**  
Planning Commission Approval March 21, 2011  
Town Council Review and Approval March 15, 2011  
Planning Commission Approval January 13, 2014

**Article I: Creation**

The Zoning Ordinance was adopted in September 1979.

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**Article II: Mission Statement**

The Planning Commission ("Commission") will strive to seek the best solutions available to meet the needs and interests of the Citizens of the Town of Dumfries.

**Article III: Meetings**

1. The number of meetings per month and a schedule of meeting dates shall be established and may be altered or changed at any regularly scheduled meeting.
2. One regular meeting will be held the first Monday, following the regular Town Council meeting, of every month at 7:00 P.M. in the Council Chambers.
3. Additional meetings may be held at any time upon the call of the Chairperson or by two members of the Commission or upon the request of the Town Council following at least twenty-four (24) hours of notice to each member of the Commission.
4. Each member will be compensated for Public Hearings or meetings requiring attendance by Planning Commission members, regardless if a quorum is present for transaction of business. (Not to include regular meetings where a quorum must be present.)

**Article IV: Membership**

1. The Commission shall consist of five (5) to fifteen (15) members appointed by the Town Council for staggered four (4) year terms. Each appointee shall be a resident residing within the Town's limits that hold no office of profit under the Town government.

**Article V: Terms of members; filling vacancies.**

1. The term of a member of the Planning Commission shall be four years, from July 1 through June 30 of the respective years or as determined by Town Council. Any vacancy in membership shall be appointed by the Town Council. Such appointment, in the case of a member appointed to fill an unexpired term, shall be for the unexpired term only.
2. The Town Council may appoint any member for successive terms.
3. To fill a vacancy of an appointed member, the Town Council may follow this procedure or any part thereof. The Town Clerk shall notify the Town Council ninety (90) days prior to the end of the term or terms to expire. The Town Council shall fill any vacancies it may choose to fill, provided the Commission shall never have less than five (5) members.

4. In reviewing the qualifications of current appointed members to the Planning Commission, the Town Council shall consider the following:
  - a) Attendance and participation at meetings of the Commission or its committees;
  - b) Attendance at an Institute for Planning Commissioners and other training programs;
  - c) A witnessed knowledge of and experience in dealing with questions of community growth and development.
5. The Town Council may excuse current members of the Planning Commission from training requirements.

**Article VI: Election of Officers**

1. The Commission at its first regular meeting in June of each year shall elect a Chairperson and Vice-Chairperson, whose terms shall be for one year, beginning 1 July.
2. No member may serve more than two full consecutive terms as Chairperson or Vice-Chairperson.
3. A Recording Secretary shall be elected and may be a member of the Commission. If authorized by the governing body the recording secretary may be a clerical member or the Town Hall staff or an employee of the Commission.
4. The duties and powers of the Officers of the Planning Commission shall be as follows:
  - a. **Chairperson:**
    - 1) Preside at all meetings of the Commission.
    - 2) Call special meetings of the Commission in accordance with the By-Laws.
    - 3) Certify all minutes with the Recording/Transcribing Secretary, and other documents as necessary, as true and correct copies.
    - 4) Carry out other duties as assigned by the Town Council of the Town of Dumfries.
  - b. **Vice Chairperson:**
    - 1) During the absence, disability, or disqualification of the Chairperson the Vice-Chairperson shall exercise or perform all the duties and be subject to all the responsibilities of the Chairperson.
  - c. **Recording Secretary:**
    - 1) Shall keep the minutes of all meetings of the Commission in an appropriate minute book.
    - 2) Inform the Commission of correspondence relating to business of the Commission and attend to such correspondence.
    - 3) Shall be a Staff member or an elected member of the Planning commission
  - d. **Zoning Administrator for the Town of Dumfries:**
    - 1) Direct and coordinate activities of the Town Community Development staff so as to facilitate the functioning of the Planning Commission.

**Deleted:** <del>Will jointly, with the Director of Community Development, sign site plans and final subdivision plats. The Chairperson will commission and sign all correspondence, contracts and memos for record ¶

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- 2) Act as Agent between the Planning Commission and the Town Staff.
- 3) Receive and respond to questions from the Planning Commission and Town Staff.
- 4) Receive and respond to questions from the Planning Commission.
- 5) Shall act as agent to ensure that the actions and recommendations of the Planning Commission are properly and appropriately transmitted to the requisite person, body, or agency. The Zoning Administrator shall sign all site plans and final subdivision plats.
- 6) Give or serve all notices required by law or by the By-Laws.
- 7) Handle funds allocated to the Commission in accordance with the directives, the law, and the Town regulations.

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- e. Chair Pro Tem – In situations in which both the Chairperson and the Vice-Chairperson are absent from a hearing or meeting, the remaining members of the Commission shall elect a Chair Pro Tem from among themselves by a majority vote.

**Article VII: Conduct of the Members of the Planning Commission**

1. Members of the Planning Commission shall take such time as necessary to prepare themselves for hearings and meetings.
2. Planning Commission members shall comply at all times with the Virginia State and local Conflict of Interest Act (Code of Virginia §2.231-et seq., 1950, as amended, hereinafter “the Act”). A Planning Commission member with a personal interest (as defined in Code of Virginia § 2.2-3101 in any transaction or matter coming before the Commission must disclose that personal interest in accordance with the Act. The member shall disqualify himself/herself from participating in the matter if the matter has application solely to property or a business in which the Commission member has a personal interest, or is otherwise unable to participate by virtue of the Act. Nonetheless, a member may participate in the Commission’s deliberations and vote on the matter if the Commission member is a member of a business, profession, occupation, or group, the members of which are affected by the matter under consideration, and the Commission member complies with the declaration requirements of the Code of Virginia, § 2.2-3115 (G). The member may also participate in the matter under consideration if the matter affects the public generally, even though the personal interest of the Commission member, as a member of the public, may also be affected. In the event that a personal interest prevents a Commission member from participating in the Commission’s actions on a matter, the interest of that Planning Commissioner may be represented before the commission by a specifically designated representative or legal agent at the public hearing or work session, and testimony entered into the public record. Further, the Commission members shall, if required by the Act, complete a written declaration of the conflict in the form

specified by the *Code of Virginia*, such declaration to be kept with the minutes of the meeting.

**Article VIII: Absence from Meetings**

1. Each member of the Planning Commission who has knowledge of the fact that he/she will not be able to attend a scheduled meeting of the Planning Commission shall notify the Chairperson and or the Vice-Chairperson at the earliest possible opportunity and, in any event prior to 5:00 P.M. on the date of the meeting.
2. A member of the Planning Commission may be removed from office by the Town Council in the event that the member is absent from any three (3) consecutive meetings of the Commission, or is absent from any four (4) meetings of the Commission within any twelve (12) month period. A successor may then be appointed by Town Council for the unexpired portion of the term of the member who has been removed.

**Article IX: Maps and Documents**

All maps, plats, and other matters required by law are to be filed in the Town Hall in a place accessible to the Commission.

**Article X: Town Council**

Matters referred to the Commission by the Town Council shall be placed on the calendar for consideration and action at the first meeting of the Commission after such reference.

**Article XI: Quorum**

A majority of members of the Commission shall constitute a quorum for the transaction of business.

**Article XII: Reconsideration of Decision**

Reconsideration of any decision of the Commission may be had when the interested party for such reconsideration makes a showing, satisfactory to the chairperson, that without fault on the part of such party, essential facts were not brought to the attention of the Commission.

**Article XIII: Amendments to By-laws**

These rules may be amended at any meeting by a vote of the majority of the entire membership of the Commission provided the proposed amendments have been approved by Town Council, five (5) days notice has been given to each member of the Commission, and provided that notice of said proposed amendment is given to each member of the Commission in writing at least two weeks prior to said meeting.

**Article XIV: Deadline for the Agenda**

1. Deadline for filing for placement on the agenda for applications for plan review and sign permits shall be five (5) work days prior to consideration by the Planning Commission.
2. Deadline for filing for placement on the agenda for applications for master plans, precise development plans, variances, use permits, and sign variances shall be ten (10) working days prior to consideration by the Planning Commission.
3. Request for continuance of matters scheduled for a particular agenda shall be filed with the Town Clerk by Wednesday noon preceding the Monday meeting so that the printed agenda (available to the public on Wednesday) will reflect the requested continuance.

**Article XV: Order of Consideration of Agenda Items**

1. The Zoning Administrator (or his/her appointed Staff member) shall present reports and make recommendation.
2. The Planning Commission members may ask questions regarding the presentation by Staff.
3. Proponents of the agenda item make presentations.
4. Any opponents make presentations.
5. Applicant makes rebuttal of any points not previously covered.
6. Planning Commission members asks any questions it may have of the proponents, opponents, Zoning Administrator or appointed Staff and then take a vote.

Deleted: Director of Community Development

Deleted: Director of Community Development

**Article XVI: Deadline for Consideration of Agenda Items**

No new agenda items may be taken up after 9:00 P.M.

**Article XVII: Voting Procedure and Tie Breaker**

1. Voting shall be by voice vote.
2. Order of voting shall be rotated each month and Chairperson shall vote last.
3. In the event of a tie vote, the Town Council shall act as a tie breaker.

**Article XVIII: To effectuate Title 15.1, Chapter 11 of the Code of Virginia the Planning Commission shall:**

1. Exercise general supervision of, and make regulations for, the administration of its affairs;
2. Prescribe rules pertaining to its investigations and hearings;
3. Supervise its fiscal affairs and responsibilities under rules and regulations as prescribed by the governing body;
4. Keep a complete record of its proceedings and be responsible for the custody and preservation of its papers and documents;
5. Make recommendations and an annual report to the governing body concerning the operation of the Commission and the status of planning within its jurisdiction;

6. Prepare, publish, and distribute reports, ordinances, and other material relating to its activities;
7. Prepare and submit an annual budget in the manner prescribed by the Town of Dumfries; and
8. If deemed advisable, establish an advisory committee or committees.

Respectfully Submitted:

Mr. John Webb..... Chair.  
Date.

Mr. Louis Praino..... Secretary.  
Date.

## **B. Consideration of Planning Commission Calendar**

Mr. Webb asked for a motion to move the originally adopted meeting date of October 13 to October 20.

Mr. Padberg moved, seconded by Mr. Arshad, to amend the 2014 meeting calendar as noted. The motion carried by the following voice vote. Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, yes; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

## **C. Consideration of Town Center Development CUP # 2014-001**

Mr. Webb announced that the Planning Commission had not finished their discussion with Mr. Singh and the architect during the work session. He noted the discussion would continue after the completion of the regular meeting this evening. He suggested moving the item to the next work session for discussion, if necessary, and placing the matter on the regular agenda for action just in case the Planning Commission was ready to take some sort of action. He mentioned that this would still keep the Planning Commission in the time line to take action on the application. He believed State law provides 100 days; however, the bylaws state 90 days. He asked if anyone had any other suggestions.

Ms. Waggy asked if when the matter is brought up again whether the plans would be updated with a legend.

Mr. Webb wanted the Planning Commission, in the next part of the meeting, to develop a list of what needs to be seen before the Planning Commission can act on the Conditional Use Permit (CUP).

Ms. Waggy moved, seconded by Ms. Miles, to revisit the matter during the work session and come up with a plan or a list of requirements for the applicant.

Mr. Padberg was concerned with the information the Planning Commission was presented with today, which is fresh from the information that was presented last month. He explained it seemed that the plans were in a state of evolution. He did not know if he was prepared to present the applicant with a list of what needs to come back in order for the Planning Commission to consider the CUP. Some of the basics are so far apart that further discussion has to happen at the Planning Commission level and perhaps with the applicant. He agreed that more time was needed. He is mindful to the cost associated with redoing plans and he did not want to run the applicant around in circles. He heard some good comments this evening and he did not think it could be summarized in the confines of tonight's meeting.

Mr. Webb asked Mr. Padberg whether he thought the Planning Commission would not be ready by next month's meeting. He believes that when a request is made of the applicant, the applicant has to make changes, and bring it back to the Planning Commission, so the time to take action moves out with the request.

Ms. O'Dell agreed.

Mr. Webb clarified the Planning Commission does not have to do anything with the application next month. He stated the Planning Commission could place it on the work session and not place it as an action item. He noted Ms. Waggy has a motion on the floor.

Ms. Waggy withdrew her motion.

Mr. Webb wanted to discuss the matter further to determine exactly what the Planning Commission wanted to do. He felt there was so much to discuss and would rather see a special meeting called with the applicant.

Ms. Waggy mentioned that a verbal discussion took place about a wonderful reservoir for the resource protection area; however, the Planning Commission has not seen anything to document that.

Mr. Webb thought from what he saw in the presentation that the stormwater management pond would be on Town owned property. There would have to be an agreement signed. He asked what happens if the Town does not come to an agreement with the applicant. He pointed out that would require the development to be completely redone. He felt that should be taken care of early on in the process.

Ms. Waggy noted there was no mention of what would happen to the park.

Mr. Padberg mentioned that a Commissioner has pointed out that the development may be under parked. He would not support the six-story building under any circumstances, so he is a no go on that with this design. He pointed out that there are seven members and it was not just him. This was not the pitch given to the Town or what was presented at meetings during the summer. Maybe he missed something big that happened. To him the developer has taken the initiative to draw something that is drastically different from what was being pitched in the past.

Ms. Waggy thought the applicant knows what he wants to do mentally and is trying to portray that, which she understands; however, the Planning Commission does not have the meat and potatoes to approve or disapprove.

Mr. Webb asked Mr. Arshad if he was agreeing with having to set up a special meeting or something.

Mr. Arshad nodded in agreement.

Mr. Webb asked Mr. Russell.

Mr. Russell agreed. He would not vote in favor of any development if all the Planning Commissions questions are not documented and addressed in the drawings themselves. That includes if there are conditions or any other such matter written out in a word format. In his opinion there needs to be additional pages to the drawing set to show that in order to tie everything to one document.

Mr. Webb agreed with everything.

Mr. Padberg agreed.

Mr. Praino agreed among other things.

Ms. Miles nodded in agreement.

Mr. Webb wanted to determine if everyone felt the matter warranted a special meeting with this being the only matter discussed.

Ms. Waggy noted when the Planning Commission has the needed documentation to work with.

Mr. Webb wanted to know if a special meeting needed to be held on all the issues they have tonight because the Planning Commission is not going to finish them tonight.

Mr. Praino believed a special called meeting would be a good idea because at that meeting, if nothing else, what cannot be answered, or what documentation is missing, can be listed at that time.

Mr. Webb mentioned he has issues with the traffic study that was done. The Planning Commission needs to work through Ms. O'Dell to set up a meeting date with Mr. Singh. He asked each Planning Commissioner what date toward the end of the month or at the beginning of next month would work.

It was determined that any night the last week of January or the first week of February worked for everyone.

Mr. Webb asked Ms. O'Dell to work with Mr. Singh to schedule a meeting, preferably on Monday since that is when the Planning Commission usually meets.

Mr. Praino asked if the note in the narrative relating to working with the Public Works Department to develop a state of the art stormwater management system occurred. He felt if it occurred, it should be sketched in.

Richard West, Public Works Director, explained the Department as seen several iterations, as all of us have, on all aspects of the project. There have been some preliminary

discussions on the current round. He is waiting for a formal submittal of a site plan. He understood that a civil site submittal would be given to the Department by the end of this month.

Mr. Praino was interested in the flow with the new impervious area that is going in, the water coming down Washington Street, and Main Street, how it was going to be caught and held being since the area it would be held in is actually at sea level. He was wondering if the Planning Commission was going to get some kind of specs on it, because naturally it would not be approved without a retention facility.

Mr. West indicated there are some different approaches on that. Once you get down to Fraley Boulevard you are at elevation zero or less than one. There are alternative methods of handling that.

Mr. Praino asked if the maximum height of a structure 50 foot from grade meant the road from where the structure is at, the highest or lowest part of a hill, or zero.

Mr. Webb believes the Zoning Ordinance states the measurement is taken to the front of the building, but it is also always on the high side of the building. In other words, if the property slants down and the house if being built with the front of the house on the high side that is where you would take the height measurement.

Mr. Praino asked if what was from where the building is sitting and not from the foundation.

Mr. Webb did not know the answer to that.

Mr. Arshad felt clarification needed to be made on that.

Ms. O'Dell noted the Town's Code states that the height shall be taken from grade, meaning ground level where the ground meets the structure.

Ms. Waggy pointed out the developer would be building up to begin with on one end.

Mr. Praino explained the building platform, because no one knows how many feet above the sea level the front of the building is. Theoretically, the front door could be 30 feet above sea level depending on how high the platform has to be to meet the stormwater calculations. Adding that to get to the top of the building, you are not really at 75 foot, you are at 75 foot plus.

Mr. Padberg understood from what Ms. O'Dell, Mr. Webb, and what he recalls reading the developer is going to get credit for his backfill berm up to that platform. The seven feet above Main Street or whatever the building platform ends up being is not part of the height calculation.

Mr. Praino pointed out it is not the grade because you have added to it. They are not quite the same.

Mr. Webb explained you could not go by sea level and 20 feet up. He noted if ground has to be scraped you would not take the measurement before you scrape. In other words, you cannot have it both ways.

Mr. Russell stated it is from final grade.

Mr. Praino pointed out that the developer is going to bedrock to anchor it because it is all silt out there in order to put in pilings, or you would go down fifty feet or something like that. Where you start at is not grade of the land, it is the grade of the first floor.

Mr. Arshad felt clarification needed to be made because during the presentation there was a parking garage under the building.

Ms. O'Dell noted that if you have a single family home with a walkout basement, you do not take the measurement from the bottom of the walkout basement to the top. The measurement is taken from the grade ground level from the first floor up and that is what the Code states.

Mr. Praino asked, because depending on how high the building goes, how the height relates to the power lines behind Williamstown, which have reflectors for helicopters, etc. He asked if the developer decided to go with the cupolas whether they would need lights.

Mr. Webb suggested the fire department might be able to answer a question like that. There may be regulations on the height to when you need to start putting up lights.

Mr. Webb noted Ms. O'Dell would work on scheduling a meeting, preferable with at least five days notice, or as much as possible.

Mr. Praino asked if questions should be submitted before the meeting.

Mr. Webb felt that would be good to get the process started.

There was a brief side discussion about amenities on the first floor while Mr. Webb worked on a motion.

Mr. Webb asked for a motion to delay action on CUP# 2014-001 until the applicant furnished all requested changes to Town staff and the Planning Commission.

Mr. Padberg clarified that satisfies him and satisfies why the Planning Commission is not taking action. The meeting that was requested is to help inform the applicant what those requests are going to be.

Mr. Webb agreed.

Mr. Padberg moved, seconded by Mr. Russell, to delay action on CUP# 2014-001 until the applicant has furnished all requested changes to Town staff and the Planning Commission. The motion carried by the following voice vote. Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, yes; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

**III. Approval/Adoption of minutes**

Mr. Russell moved, seconded by Mr. Arshad, to adopt the December 16, 2013 minutes as presented. The motion carried by the following voice vote: Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, abstain; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

**V. Member Comments**

There were no member comments.

**VI. Next Meeting:**

**A. February 10, 2014**

Ms. O'Dell recalled there was no action taken on the 2012 Planning Commission Meeting Minutes that were reviewed a couple of months back because the Commission could not recall the meetings.

Mr. Webb did not know what the proper procedure would be for those minutes; however, he did not feel and most of the Planning Commission did not feel comfortable in approving them because they had been so long ago.

Teresa Young, IT Manager, clarified that the 2012 minutes were not approved.

Mr. Webb explained that about three months ago the minutes came to the Planning Commission, there were about eight or ten sets, and they were all for 2012. He went through them all, was not comfortable in saying that he remembered that they were correct, what he agreed on or said.

**VII. Adjournment of Business Meeting**

Mr. Arshad moved, seconded by Mr. Padberg, to adjourn the regular meeting and return to the work session. The motion carried by the following voice vote: Mr. Arshad, yes; Ms. Miles, yes; Mr. Padberg, yes; Mr. Praino, yes; Mr. Russell, yes; Ms. Waggy, yes; Mr. Webb, yes.

Minutes submitted by

Approved by

\_\_\_\_\_  
Dawn Hobgood  
Town Clerk

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John Webb  
Chair