



DUMFRIES, VIRGINIA

Virginia's Oldest Continuously Chartered Town
CHARTERED 1749 INCORPORATED 1961

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AT A REGULAR MEETING OF THE PLANNING COMMISSION, HELD ON FEBRUARY 10, 2014, AT 7:00 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
Lou Praino
William O'Kelly Russell
Louise Waggy

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

III. Approval/Adoption of minutes

Ms. Waggy moved, seconded by Mr. Praino, to adopt the January 13, 2014 minutes as presented. 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.

IV. Discussion and Consideration of CUP 2014-003

Mr. Padberg moved, seconded by Mr. Praino, to request staff set a public hearing for March 10, 2014.

Mr. Webb suggested a friendly amendment to schedule a joint public hearing at 6:50 p.m.

It was clarified by Mr. Padberg that the Council is not doing any joint public hearings.

Mr. Webb clarified he was proposing a public hearing at 6:50 p.m. on March 10 with the regular meeting starting at 7:00 p.m.

Mr. Praino asked if that posed a problem for staff.

Mr. Webb noted there was a work session scheduled that could be ended at 6:50 p.m.

Mr. Praino and Ms. Waggy were okay with the friendly amendment.

Ms. Waggy pointed out this is about the fourth or fifth church going into that shopping center. Every time a church goes in, it reduces the Town's tax base that might place a hardship on the other property owners who could have an increase in their taxes to compensate for taxes the Town is not getting. She was just pointing this has an effect on the Town's tax base and where it is coming from. She has nothing against churches. She has voted for each of the churches that have come before the Planning Commission. She is just looking at the Town as a whole in the business district and the

basis for her comment. Each church comes to the Planning Commission with a conditional use permit; if there is nothing wrong with it, the Planning Commission approves it. The Planning Commission needs to let Town Council know that the Planning Commission has this concern and that it will impact the taxes of the Town.

Mr. Praino asked whether the Planning Commission, if the concern is the trend that seems to be happening with nineteen places of worship going in, should request Town Council consider the matter on their agenda for discussion, or perhaps the Town Council have a discussion with the Planning Commission. He explained it does impact the way the Planning Commission views things, it also impacts the way the Comprehensive Plan has to be drafted, and actually, it really sets the tone for the Town. The Planning Commission needs some guidance.

Ms. Waggy recommended a joint meeting.

Mr. Webb suggested waiting to discuss the matter under Member Comments.

Mr. Padberg stated that with respect to the whole issue, what the Planning Commission was trying to get its arms around is essentially, what the right number of churches to have is. Like anything else in planning, scale becomes the question that the residents and the Planning Commission are trying to understand. He did not have the answer to that. Keep in mind, the lion's share of churches in the Town, which is twenty counting the one the Planning Commission has tonight, are extremely small and what he would refer to as micro churches.

Ms. Waggy noted there are a couple of large churches.

Mr. Padberg agreed. He noted Dumfries United Methodist has a huge congregation. Grace Church on Fraley Boulevard has been very successful too.

Ms. Waggy noted there is one on Main Street.

Mr. Padberg noted there are also a lot of smaller ones. In the staff report, staff noted the applicant is saying there are 35 members per service. He pointed out that there are two things to ask. How many churches relative to the size of the congregation, because one McLean Bible Church has more members probably than all twenty in the Town put together. Also, how much square footage of business land is consumed by churches? He does not know how that relates to other jurisdictions when you have a use like the Dumfries United Methodist Church in a residential district.

Ms. Waggy noted that is where churches belong.

Mr. Padberg explained that planners historically have had that vision. In that instance, there is no argument with the location. The Planning Commission keeps talking about tax dollars being taken off the table and he did not know, and is not clear, on what that number would be. Think about the taxes that are actually collected from a business. In terms of raw tax revenue, some leaders in the Town are talking about eliminating the Business/Professional/Occupational Licenses (BPOL). If BPOL is

going to be eliminated it must not be a huge source of revenue for the Town. Once you take BPOL out of the equation, unless you are a restaurant, what are the major taxes that are being lost from churches? Perhaps in the case of a church that owns its property there are some real estate taxes. That is where most of the Town's revenue comes from.

Ms. Waggy did not think that churches paid real estate taxes.

Ms. O'Dell explained that churches do pay real estate taxes.

Mr. Padberg asked if that included churches that own the property.

Ms. O'Dell agreed that was correct. She verified with Ms. Ladd, Treasurer, that all properties in the Town pay real estate taxes.

Mr. Padberg thanked Ms. O'Dell. When he was thinking about this the other night, he did not have the answer to that question. Real estate taxes are the big nut whether it is a house or a business. Dumfries is unique from the County in that the Town does not have half of the budget going to a school system, because the County is supporting that.

Ms. Waggy pointed out that the Town has half of the budget going to a Police Force.

Mr. Padberg understood that. In the County, a lot of residents end up being tax negative. In other words, they take more services. Many residences, most in fact historically, take more services from the jurisdiction than they pay in real estate taxes and other taxes the jurisdiction collects.

Ms. Waggy indicated she would be an example of that since she does not pay any real estate taxes to the Town or the County.

Mr. Padberg noted that a family with seven kids in school would be too, because it costs the County \$10,000 or \$7,000 a year to educate every child. The logic here is that the County depends on businesses to make up for that, because if it were not for businesses the County's budget model would not work, it would collapse. You cannot have an all-residential jurisdiction unless the tax rate is through the roof. Dumfries does not really have that. He wanted to be realistic when talking about the math. Unless a church goes in where a restaurant was, the amount of taxes being talked about is not that big of a deal. Again, he thinks that the Planning Commission is talking about scale. There are a lot of them, but a lot of them are not really big. He knew that within the County's around Dumfries churches are going in industrial and business areas, areas that he and Ms. Waggy would not typically consider for church locations since they are from the school of thought that you saw churches in neighborhoods. He did not know how other localities are addressing churches. He noted the Planning Commission has had a lot of applications recently, but on the other hand, maybe the Planning Commission is overreacting a little bit. He was just throwing that out. He was not saying the Planning Commission was. If people are not supporting the church then the church is going to go away. Dumfries has one of the lowest commercial rental rates in the surrounding area. There are so

many commercial vacancies in the business sector that it will self govern itself. A church is not going to go into Reston Town Center where rates are \$50.00 a square foot for retail. That is why you do not see them; it is not because they do not want to be there. They are here right now because Dumfries has a favorable rental rate. He agreed with what everyone was saying about being alarmed about what seems to be a tide of this coming. When he steps back and looks at it he has to ask what is it really hurting. Vacant space is being filled with good God fearing people, what harm can come of that.

Mr. Praino asked the Planning Commission to forget all of those things. He mentioned that if the spaces were filled with businesses, the Town would have more local jobs available for high schoolers and students. The biggest thing right now is finding a job base within the Town and it is not the number of churches going in, it is the fact that they are all going into the tax-generating mile of road, north and south. The Town only has one mile of tax generating highway. The rest of it is just homes, residential. This is the Town's main drag. The Town is not like Fairfax or Arlington where you can have 10 thrift stores on one street because there are more roads. He felt it was a darned if you do and a darned if you do not set up.

Mr. Webb noted in a way it is like a double-edged sword because a church going into a business area, especially like where this one is going, a shopping center, it is potentially taking up floor space for another business. Then again, if it is vacant already at least it is something for the owner of the property.

Mr. Russell really liked what Mr. Padberg said. He wanted to reiterate and highlight one thing that Mr. Padberg stated. Looking at the spaces that are being rented and looking at the real estate that is in Dumfries the rates for commercial are very low, but it is low for a reason. The age and the quality of those structures are not going to get tenants that require a higher end. This is what drives the market. Churches are going to go where they can get the lowest rate because of being non-profits. The businesses are going where they think they can sell their product or service and where they are productive and comfortable. With the real estate stock the Town has, until some of these spaces are improved or redeveloped, he did not see restaurants and everything else deciding to suddenly locate here. He did not want to put words in Mr. Padberg's mouth. He is trying to interpret what Mr. Padberg has said to the Planning Commission. He agrees with Mr. Padberg, not that it is an overreaction, but he thought it really needs to be looked at, if there is an issue. Town Council is talking about getting rid of the BPOL tax, there is already a property tax on the property itself, so really, what is being lost. As a Commissioner, he cannot make a determination that there are too many or there are too few. Honestly, if there is a tenant in the building, he thought that was good, because you do not end up with that jack-o-lantern effect where you have missing teeth or brown dark buildings. If

you have a tenant in the building that is a good tenant, that is paying and bringing people in to the area, that is better than not having anyone there at all.

Mr. Webb asked Ms. O'Dell to check with the property owner to see if there is an agreement with Grace Church or if Grace Church is just parking there non-gratis and have that information available at the public hearing.

The motion requesting staff set a public hearing for March 10, 2014 at 6:50 p.m. 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.

V. Member Comments

Ms. Waggy explained that in the past the Council has met with the different Boards and Commissions at least once or twice a year. Council does not seem to be doing that now. She requested that the Planning Commission meet with Council, in a private setting, to hash out problems that the Planning Commission is having like this, not problems, but things the Planning Commission is concerned about so that the Planning Commission is on the same page the Council is on, such as having churches in the business district. She has nothing against churches. Her concern is the base of the tax dollar for the Town.

Ms. O'Dell asked if this would be a work session or a regular scheduled Planning Commission meeting.

Ms. Waggy noted the meetings were like a work session before.

Mr. Webb explained every six months the Planning Commission would set up, at the beginning of the year or whenever, some possible dates where the Council would meet with the Planning Commission to go over issues, concerns, stuff like that. It was working out fairly well and then all of a sudden it just suddenly stopped two or three years ago. He thought what Ms. Waggy was alluding to is to try to get that system going again.

Ms. Waggy noted it is a request to meet with Council, not publicized, just a work session.

Mr. Padberg stated it was a unique meeting in it of itself. He clarified the meeting had its own date.

Mr. Webb stated it was not part of the Planning Commission meeting and it was not part of the Town Council meeting.

Ms. Waggy noted whatever is convenient for Council the Planning Commission will try to work around it.

Mr. Webb noted that most of the time the Planning Commission was pretty flexible. He noted the Council used to meet with the Architectural Review Board (ARB) and the Board of Zoning Appeals (BZA) too.

Ms. Waggy mentioned Council used to meet with the museum also.

Mr. Webb agreed, with Historic Dumfries.

Ms. Waggy felt the Commission should see which way the wind blows on various issues.

Mr. Russell asked if a date has been set for a work session or public hearing for the Singh property.

Ms. O'Dell noted that Mr. Singh is requesting that it be at the next meeting.

Mr. Webb asked if that was a public hearing.

Ms. O'Dell indicated it was. She explained the final set of plans have been made and should receive them next week. She will distribute those to the Planning Commission. She noted that Mr. Singh has stated he is not making any more changes and requested that the Planning Commission vote either to recommend it or to not recommend it. She was scheduling the public hearing for the next meeting as well.

Mr. Padberg asked if she was scheduling a public hearing.

Ms. O'Dell confirmed that.

Mr. Russell questioned the Planning Commission having to recommend it go to public hearing.

Mr. Webb stated the Planning Commission has to take a vote on it.

Ms. Waggy stated the vote is taken after the public hearing.

Mr. Webb clarified the Planning Commission needs to vote requesting staff to advertise a public hearing. It is not on the agenda for tonight.

Ms. O'Dell did not think the Planning Commission could vote to schedule a public hearing. She spoke with the Town Clerk who stated Council only requires it.

Mr. Russell asked why the Planning Commission had that exercise tonight.

Ms. O'Dell did not know.

Mr. Russell asked if the Planning Commission just wasted the applicant's time.

Ms. Waggy wanted to see the plans.

Mr. Webb was concerned. If the Planning Commission does not have any input to staff as to when the Planning Commission wants a public hearing then staff can just all of a sudden tell the Planning Commission, on the agenda, a week before the meeting that there is a public hearing on such and such without the Planning Commission being aware of it. To him, no, the Planning Commission should be the ones to determine when to hold a public hearing. That is his personal thoughts.

Ms. Waggy noted the Planning Commission should see the plans before setting a public hearing.

Mr. Webb reiterated that was his opinion.

Ms. Waggy stated that is how the procedure works.

Mr. Webb stated the Planning Commission should have input as to when to hold public hearings.

Ms. Waggy explained that just because that is what Mr. Singh wants is not necessarily, what could happen. The procedure is to review then recommend the public hearing.

Mr. Padberg noted the meetings with Council started during Mayor Yohey's term. At the time, with the dynamics that existed with staff, he found it to be very helpful. As time went on, it did go away. He did not know if it was a conscience decision, it just stopped happening. At some point when he was Chair, someone had asked him about it. At that point, he believed that Mr. Taber had become the Town Manager and things seemed to become more organized and structured. He made the decision to let it just stay status quo because he did not feel the need for the meeting at the time. One of the issues was with 14 people in the room it was extremely hard to get any traction on any issue. He suggested if the Planning Commission was going to ask Council to hold a meeting that an agenda is prepared that is concise. He asked if there has been any progress on the zoning violation at 17939 Main Street.

Ms. O'Dell stated a letter has been sent, otherwise, not any substantial progress. She has also sent one to The Car Store and met with them.

Mr. Padberg explained he started this with Council and did not want to forget about the need to develop a draft for the adult video thing.

Ms. O'Dell apologized.

Mr. Padberg asked if the public hearing was for the CUP.

Ms. O'Dell confirmed it was.

Mr. Webb mentioned that at the Town Council meeting last week, it was stated that there would be no more joint public hearings. It was stated a month before by the Town Manager when there was a little mix up with the way things were going and even last week he changed it a little bit with the Mayor because they were going to vote and give a recommendation during the Planning Commission meeting and he did not think that should happen.

Ms. O'Dell reminded the Planning Commission that a vote was previously taken to move the yard sale ordinance to Council for a joint public hearing. Since there is no longer going to be any joint public hearings a public hearing needs to be scheduled to make a recommendation to Council for their public hearing. She wanted to schedule that for the next meeting as well.

Mr. Webb stated the Planning Commission voted recommending Council schedule a joint public hearing on that matter.

Ms. Waggy asked if the motion could be withdrawn and a new one made.

Mr. Webb thought the Planning Commission could, whether it is this meeting or not. He was a little gun shy on this because the Planning Commission tried to change the agenda one time by voting on it, changed it to add an action item, and then at the next month the Planning Commission was voting on it again because the Town Attorney stated the Planning Commission could not add an action item to the agenda. He has seen it done many times before. He is reluctant to vote. He asked that be placed as an action item in March to rescind the vote.

Mr. Padberg explained his objection to having joint public hearings was based on frequently being asked to vote that night.

Ms. Waggy indicated the Planning Commission was unable to have a discussion.

Mr. Padberg noted that in order to vote the Planning Commission has to have a discussion. He mentioned what happened the other night with the applicant. The Planning Commission was crowded in the back of the room in a full house. Not all of the Planning Commission Members had a seat. It is not an appropriate setting for a body making zoning recommendations, like the Planning Commission, to have an intelligent interaction and discussion amongst themselves much less with the applicant. Having said that, if the Planning Commission is in a situation where it is too uncomfortable to undo the recommendation that has been done, maybe as long as a vote is not taken that night then you could take that out. He hated to keep saying one more, one more, because he is the one who has been so vocal about it. It is the voting that is the big issue. It is not that we are all sitting in the same room gathering information from the public about how they feel. That has never been the problem. When he first got on the Commission, the Commission would be moved to a back office, which is really not appropriate because then it is not a public meeting. Then the Commission tried to stay in Council Chambers. Every time has been clumsy somehow. If the Commission is not voting and are not expected to bring a recommendation back to Council that night relative to the hearing then it can probably fly, in this case.

Ms. O'Dell noted that is typically how she has been involved in public hearings. The public hearing is set, it is not actually a formal meeting; however, the Commission would be present to witness or hear any public comment. There is not a formal meeting. There is not a formal vote. There are not the formalities that are done here for joint public hearings and they move quite smoothly.

Mr. Webb, over the past 19 years, has always fought against, after the public hearing is over, running back into what used to be the conference room, have a quick meeting, and come up with a recommendation for Council. Because, a lot of times while the Commission was in the conference room, Council was expecting the Zoning Administrator to give a report. To him, if it was a joint public hearing, it should be the public hearing is held and no action is taken. Then at the next Planning Commission meeting, a recommendation could be made and then Town Council can vote on it the

next month at their regular meeting because they would have the Planning Commission's recommendation in the Planning Commission report. He thinks that maybe the easiest thing to do is for the Planning Commission to hold its own public hearing. As the Town Manager pointed out with the Planning Commission holding its own public hearing, it is not going to cost the Town any more money because the public hearing would be held during a regularly scheduled meeting. The cost for advertising would be the same or maybe even cheaper than it would cost for the Planning Commission to attend a joint public hearing. He did not have any idea how much advertising for the public hearing cost.

Mr. Padberg pointed out it does not save the applicant any time. If the Planning Commission holds a public hearing, makes a recommendation that night, then it goes to Council who holds a public hearing, and then Council can vote on it that night if they choose to that night. He explained that what he and Mr. Webb were saying is that they are opposed to voting on it the same night. So, a joint public hearing would have to be held, come to the Planning Commission at the next meeting cycle, which as Mr. Webb pointed out would only be six days later, make a recommendation to Council, and then it would be another full month before Council saw the recommendation at their meeting. He may be missing something here; the applicant is not benefiting time wise. That is always an issue and the Planning Commission is always trying to help them move things along, especially the simple ones.

VI. Next Meeting:

A. March 10, 2014

Mr. Webb noted the work session would start at 6:00 p.m. and end at 6:45 p.m., a public hearing would start at 6:50 p.m., with the regular meeting starting at 7:00 p.m. If there are items that need to be carried over from the work session, the work session can be suspended and continued after the regular meeting.

VII. Adjournment of Business Meeting

Mr. Arshad moved, seconded by Ms. Waggy, to adjourn the regular meeting. 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

John Webb
Chair