

FLUVANNA COUNTY PLANNING COMMISSION
WORK SESSION AND REGULAR MEETING MINUTES
Circuit Court Room--Fluvanna County Courts Building
December 12, 2017
6:00 p.m.

MEMBERS PRESENT: Barry Bibb, Chairman
Ed Zimmer, Vice Chairman
Lewis Johnson
Sue Cotellessa
Howard Lagomarsino
Tony O'Brien, Board of Supervisors Representative

ALSO PRESENT: Jason Stewart, Planning and Zoning Administrator
Brad Robinson, Senior Planner
James Newman, Planner
Fred Payne, County Attorney
Stephanie Keuther, Senior Program Support Assistant

Absent: None

Open the Work Session: (Mr. Barry Bibb, Chairman)
Pledge of Allegiance, Moment of Silence

Director Comments:
None

Public Comments:
None

Work Session:

Discussion of Setbacks - James Newman, Planner

Current Definitions - 'Yard' and 'Setback'

Yard: An open space on a lot other than a court unoccupied and unobstructed from the ground upward by structures except as otherwise provided herein.

-Front: An open space on the same lot *as a building* between the front line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the front line and the rear line of the lot and extending the full width of the lot.

-Side: An open, unoccupied space on the same lot *as a building* between the side line of the building (excluding steps and ramps affording pedestrian and wheelchair access) and the side line of the lot, and extending from the front yard line to the rear yard line.

Setback: The minimum distance by which *any building or structure* must be separated from *the front lot line*.

Current Definitions – 'Building' and 'Structure'

Building: Any structure having a roof supported by columns or walls, for the housing or enclosure of persons, animals or property.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground. This includes, among other things, dwellings and buildings, etc.

Issue:

Current definition of 'Yard' only applies to buildings, not to structures. Current definition of 'Setback' only applies to front lot line. Issues with Palmer Solar SDP; solar arrays are not buildings as defined, and therefore not subject to side yard requirements
Proposed Resolution:

Change definition of 'Setback' from:

"The minimum distance by which any building or structure must be separated from *the front lot line*."

...to....

"The minimum distance by which any building or structure must be separated from a street right-of-way or lot line."

Bibb: What if you have an outbuilding that is not permanently attached to the ground and can't be moved, what is that considered a building or a structure?

Payne: It's a building or accessory.

Reorganization of code section:

Accessory building setbacks for A-1, R-1, and R-2 zoning are listed in Sec.22-17-13.

- Proposed changes move accessory setbacks into applicable code sections.
- Modified R-1 as example:

Sec. 22-5-6. ~~Yard~~ Setback regulations.

(A) Side. The minimum side ~~yard~~ setback for each main structure shall be twenty-five feet (25') on each side.

(B) Side. *The minimum side setback for each accessory structure shall be fifteen feet (15') on each side.*

(C) Rear. Each main structure shall have a rear ~~yard~~ setback of fifty feet (50') or more.

(D) Rear. *Each accessory structure shall have a rear setback of twenty-five feet (25') or more.*

Strategic Zoning Initiative – James Newman, Planner

Current Fluvanna Process & Policy

1. A zoning change fee (\$1,000 fee, plus \$50 per acre)
2. Land Use Taxation Program to roll back taxes, plus interest
3. Higher annual tax liability
4. There is little incentive for owners of these types of properties to seek a zoning change due to the costs.

AND

Properties must be zoned commercial to be actively marketed by the State.

New Rezoning Fee

- Current rezoning fee is \$1,000 + \$50 per acre
- Draft changes to ordinance removes the \$50 per acre
- Rezoning becomes a flat fee of \$1,000
- Rezoning fee affects all rezoning's in the county. Not limited to Zions UDA or CPA

Strategic Zoning

- Roll back taxes apply only when use changes, not when zoning changes
- Entire County?
- Zion Crossroads Community Planning Area [or other CPA(s)]?
- Zion Crossroads Urban Development Area?

After discussion, Planning Commission decided to apply Strategic Zoning to the entire Zion Crossroads Community Planning Area. Staff will bring an official proposal at a later date.

Small Home Business Ordinance Discussion – Brad Robinson, Senior Planner

Gave a brief presentation of definition comparisons from other localities.

At the July meeting, we had speakers ask for more flexibility for businesses that operate from home particularly Artisans, Artist, etc. I want to note, Small home industries come in to play when their looking to use an accessory structure.

Stewart: We would like to change the intensity for small home business. A sewing small home business intensity would be different from say a brewery.

Robinson: Some of our main concerns are businesses not being able to participate because of the Special Use Permit requirements. Do we want to change those requirements? Or change the definition?

Bibb: Some teach classes to kids, how would that apply to them?

Robinson: Some localities break it down by class. Example class A, class B.

Bibb: I would like to have some flexibility.

Zimmer: Some of the issues were with the SUP fees.

Cotellessa: Some jurisdictions have SUP classes like minor and major.

Bibb: How does the planning department feel? If someone only teaches a class for six times out of the year, it seems unnecessary to have a SUP.

Robinson: I think we should reevaluate the fine arts studio definition.

Open the Regular Session at 7: 00pm (Mr. Barry Bibb, Chairman)

The Pledge of Allegiance followed by a Moment of Silence.

Director's Report: Mr. Stewart

Board of Supervisors Actions:

November 15, 2017

None

December 6, 2017

None

Board of Zoning Appeals Actions:

None

Technical Review Committee for November 9, 2017:

- I. **SUP 17:04 – The Light Academy** – A request to establish an Educational Facility with respect to 10 acres of Tax Map 39, Section A, Parcel 48. The property is zoned A-1(Agricultural, General) and located on the north side of Cunningham Road (Route 697), approximately 350 feet west of the intersection with Shores Road (Route 640). The property is located within the Rural Preservation Planning Area and the Fork Union Election District.

- II. **ZMP 17:04 – Amber Hill LLC** – An ordinance to rezone, from A-1 Agricultural, General to I-2 Industrial, General, 90.17 acres of Tax Map 4, Section A, Parcel 27A. The property is located along Memory Lane (State Route 698), approximately 0.35 miles south of the intersection of Richmond Road (U.S. Route 250). The parcel is within the Rural Residential Planning Area and the Palmyra Election District.

Public Comments:

None

Approval of Minutes

Minutes of November 6, 2017

Motion:

Johnson made a motion to approve the minutes of the Planning Commission meeting as presented. Seconded by Lagomarsino. The motion carried a vote of 5-0 AYE: Johnson, Lagomarsino, Bibb, Zimmer and Cotellessa NAY: None ABSTAIN: None ABSENT: None

Public Hearing:

Capital Improvement Plan FY 2019-23 – Brad Robinson, Senior Planner

A proposed Capital Improvement Plan (CIP) for fiscal years 2019 through 2023 (FY2019 – FY 2023) has been prepared by County Staff (County Administration, Parks & Recreation, Public Schools, Public Works, Sherriff's Office, Fire & Rescue, etc.). The proposal has been forwarded to the Planning Commission for review, in accordance with Virginia Code §15.2-2239. You were also advised going forward for the Planning Commission to only rank the current year, not the out years.

SCHOOLS

- **Capital Reserve Maintenance Fund (Previous Funding Note): Rank 1**
- **Computer Instructional Technology & Infrastructure Replacement: Rank 1**
- **Fluvanna Middle School Track and Court Resurfacing: Rank 1**
- **Elementary Playground Equipment: Rank 1**
- **Underground Fuel Tank Replacement: Outer Year**
- **Carysbrook Elementary Roof and HVAC Replacement: Outer Year**
- **Abrams Building Renovation: Outer Year**
- **Central & West Central Bathroom Remodeling: Outer Year**
- **Fluvanna Middle School Annex Gymnasium Floor: Outer Year**

SCHOOLS FLEET REPLACEMENT

- **School Buses: (Baseline Funding - \$150K/yr) Rank 1**
- **Student Transport / Facilities Vehicles: Rank 1**

Motion:

Zimmer made a motion in addition to the school that the Planning Commission recommend approval of the FY2019 – FY2023 Capital Improvement Plan (CIP) as presented, with a list of funding priorities prepared by the Planning Commission. Seconded by Cotellessa. The motion carried a vote of 5-0 AYE: Zimmer, Cotellessa, Bibb, Johnson and Lagomarsino NAY: None ABSTAIN: None ABSENT: None

ZMP 17:04 - Amber Hill LLC – Brad Robinson, Senior Planner

To amend the Fluvanna County Zoning Map with respect to 90.17 acres of Tax Map 4, Section A, Parcel 27A, to rezone the same from A-1, Agricultural, General, to I-2, Industrial, General.

The property is located along Memory Lane (State Route 698), approximately 0.35 miles south of the intersection of Richmond Road (U.S. Route 250). The parcel is within the Rural Residential Planning Area and the Palmyra Election District.

- **90.17 acres of Tax Map 4, Section A, Parcel 27A**
- **Ordinance to rezone from A-1, Agricultural, General to I-2, Industrial, General**
- **Palmyra Election District**
- **Rural Residential Planning Area**
- **Auto reclamation facility proposed**

- ❖ Property located in the Rural Residential Planning Area but lies adjacent to the Zions Crossroads Community Planning Area;
- ❖ This is an area designated as the county's primary regional economic development area;
- ❖ If the rezoning is approved, the proposed use still requires approval of a special use permit and a site development plan.

- ❖ Property was formerly used as a salvage yard;
- ❖ Several other properties along Memory Lane are currently zoned I-1;
- ❖ Special use permit required;
- ❖ Planning Commission should consider how this request does (or does not) align with the goals and objectives of the Comprehensive Plan.

Zimmer: What necessitates a Special Use Permit above the rezoning?

Robinson: The salvage yard classification would require a SUP and I-2 zoning.

Bibb: The Board of Supervisors sent this to us? **Robinson:** Yes

Zimmer: What does that exactly mean 'it was sent to us'?

Robinson: The BOS has the ability to initiate a rezoning but it still has to go through the PC first.

Zimmer: What does an auto reclamation facility do?

Jason Smith, Fluvanna County Director of Economic Development: Tractor-trailers will deliver vehicles. The vehicles will then be stripped down inside the facility for recycling then store the parts on site.

Bibb: Why is the name of the company not being mentioned?

Steve Nichols, Fluvanna County Administrator: We're still in negotiations with this company and they've asked not to be disclosed yet.

Lagomarsino: If this company was to fall through and we changed the zoning to I-2 what by-right uses will it then have?

Cotellessa: Our package lists the uses: Contractor's storage yards, Sawmills, Lumberyards Sawmills, Machine shops, Solid waste collection facilities, Manufacturing, light Truck terminals manufacturing, medium Upholstery shops, Railroad facilities Wholesale warehouses, and Research laboratories.

Robinson: That is correct.

Bibb: This type of facility is more refined then the way it used to be done.

Robinson: Just to be clear this application is only for the rezoning process. Some of the issues regarding the proposed use by the citizens will come up during the SUP process.

Frank Gallo, 115 Mechunk Ridge Lane: I am not opposed to Economic Development, however I'm all for rational development. In 2013, the PC passed this to light industrial. In 2014, Economic Development suggested light industrial technology businesses, retail commercial businesses, technology parts, specialty healthcare facility again in 2014 a technology overlay. In 2016 work session for the BOS recommended a hybrid zoned commercial industrial. This is the heaviest use you could make of this land and the worst! Memory lane is a small road if you're going to have tractor trailers going up and down it you're going to have problems. I encourage you, despite the push from the BOS, to deny this.

David Gourley, 390 Buck Ridge Rd; My property adjoins this property on the backside. This property is not in the comp –plan it just borders it. Zoning inconsistent with a plan to benefit an individual is called spot zoning and is not permitted. The fact that it was a junk yard grandfathered in is not relevant. The only tax benefit is its industrial. My concern is the downstream agricultural, where will they get there water? Have you started or finished this James River project yet?

O'Brien: The pipeline is coming from the department of corrections not the related (interrupted)

David Gourley: From the reservoir, the one I can see the bottom of.

O'Brien: The pipeline from the JRWA will come in 2020

David Gourley So it hasn't even been started yet.

O'Brien: The money has been appropriated and it's ready to start.

Vernon Smith Jr.: I own 85 acres that adjoin; my daughter (Sergeant Katie Smith) sent a letter pertaining to this. I have raised my children here on this property. I recently gave land to my daughter and just gave some to another daughter, so that the whole family would be together. All of a sudden, the land we planned to live on the zoning will be changed so our plans would be upset. What builds on that land is sort of a problem for us now. When we bought the bought the 73 acres from the Cosners, this was not the plan.

Zimmer: Mr. O'Brien, what are your thoughts on this?

O'Brien: As a large part of our Economic Development efforts, we competed for this large national company. We feel very positive about the potential of this company for not only a slew of jobs but also the investment and expansion it would bring in. In addition, to really build on the vision of the Economic Development of at the Crossroads. Everyone may have a different vision as to what that may look like but the reality is it has to start somewhere. This was already previously a junk yard but this is going to be much cleaner and organized. The recycling of used car parts these days due to the cash-for-clunkers car parts has become a very profitable business. Apparently there's not enough parts around so these parts get shipped all around the world. There will be lots of revenue that's generated from machinery and tools tax, industrial tax, rezoning of the property and of course the jobs that will be coming into the area.

The BOS has made a commitment to bringing Economic Development into Fluvanna County so that they can compete with surrounding counties and this is a viable business that adds to that vision.

Johnson: What about the car crushing? Will that be inside?

Smith: We don't have a lot of details regarding that process but they won't be crushing vehicles everyday every hour. Most operations will be from 9 to 5

Payne: That's a question for the special use permit.

Zimmer: Another letter that came in with questions are more for the Special Use Permit as well

Cotellessa: I think if we divorce from the SUP and any impacts of this particular business from the rezoning action is appropriate. Then what we have to do is decide whether I-2 zoning is the appropriate zoning for this particular parcel of land given the uses that may be on the property by, by right or SUP. This particular deal, while we're working very hard at it, can certainly fall through and then you would have a certain number of by right uses that could go in there as well as other Special Use Permit uses. My immediate concern is that there are properties in between this from the community planning area. I think the question we need to limit ourselves to is, is this land right for I-2 zoning?

Lagomarsino: I agree with the comments but the problem is do we get into speculative zoning, and zone this based on this particular project coming through and it doesn't then we end up with other uses. I think our analysis tonight needs to focus on those other uses.

O'Brien: It's a very small possibility of this falling through.

Bibb: There are other industrial uses in the area.

Lagomarsino: Part of what the problem is, is where we're at with this. It's not coming from the entity that wants to build. One problem I have is they have no skin in the game at the moment.

O'Brien: That's not entirely accurate, however this is in an effort to fast track the process. It has nothing to do with no skin in the game.

Lagomarsino: The other issue is if you look at other I-2 uses; if this does fall through, look at a saw mill that has a lot of noises and stuff that goes with it, a truck terminal, that could be a major impact.

Smith: Amber LLC is aware of this discussion. They are prepared to come to the next BOS to answer questions. We've been in contact with their engineering team. This is one of the contingency of them coming.

Johnson: I don't think it matters what we say. Even if we deny it I think it would still go through with the BOS

O'Brien: It's still the role of the Planning Commission to do the heavy lifting. The BOS respect the opinion of the Planning Commission. It's never done until there are three votes.

Bibb: Is there a way to rezone it and if it doesn't go through then the rezoning could be rescinded?

Payne: Yes. The BOS has the right and duty to evaluate the impact of a zoning action. Economic Development is a proper subject for zoning consideration. I'm not saying I'm telling you what to do but you should consider Economic Development aspects of any rezoning. There are considerations to be made on both sides.

Motion

Mr. Zimmer moved to recommend approval of ZMP 17:04, an ordinance to amend the Fluvanna County Zoning Map with respect to approximately 90.17 acres of Tax Map 4, Section A, Parcel 27A, to rezone the same from A-1, Agricultural, General, to I-2, Industrial, General. There was no second.

Motion

Mrs. Cotellessa moved to recommend deferral of ZMP 17:04, an ordinance to amend the Fluvanna County Zoning Map with respect to approximately 90.17 acres of Tax Map 4, Section A, Parcel 27A, to rezone the same from A-1, Agricultural, General, to I-2, Industrial, General. There was no second.

Motion

Mr. Zimmer moved to recommend denial of ZMP 17:04, an ordinance to amend the Fluvanna County Zoning Map with respect to approximately 90.17 acres of Tax Map 4, Section A, Parcel 27A, to rezone the same from A-1, Agricultural, General, to I-2, Industrial, General. Mrs. Cotellessa seconded. The motion failed with a vote of 2-2-1. AYES: Lagomarsino and Cotellessa. NAYS: Bibb and Zimmer. ABSTAIN: Johnson.

Motion

Mr. Zimmer moved to recommend denial of ZMP 17:04, an ordinance to amend the Fluvanna County Zoning Map with respect to approximately 90.17 acres of Tax Map 4, Section A, Parcel 27A, to rezone the same from A-1, Agricultural, General, to I-2, Industrial, General. Mrs. Cotellessa seconded. The motion carried with a vote of 3-1-1. AYES: Lagomarsino, Cotellessa and Zimmer. NAYS: Bibb ABSTAIN: Johnson.

SUP 17:04 – The Light Academy Inc. – James Newman, Planner

A request to establish an Educational Facility with respect to 10 acres of Tax Map 39, Section A, Parcel 48. The property is located on the north side of Cunningham Road (Route 697), approximately 350 feet west of the intersection with Shores Road (Route 640). The property is located in the Fork Union Election District and is within a Rural Preservation Planning Area.

Proposed Conditions for Special Use Permit

1. Regular hours of operation shall be 6:30 A.M. to 6:30 P.M. After school, activities and ancillary uses of the property and facilities (such as community classes, dances, club meetings, sports, etc.) shall be permitted until 11 P.M.
2. A minor site plan will be required to be filed within two (2) years of the date of Special Use Permit approval.
3. Outdoor events featuring 200 or more people will require a separate Special Use Permit for an ‘Outdoor Gathering’, as specified in the current Zoning Ordinance.
4. The property shall be maintained in a neat and orderly manner so that the visual appearance from the road and adjacent properties is acceptable to County officials.
5. The Board of Supervisors, or its representative, reserves the right to inspect the property for compliance with these conditions at any time.
6. Under Sec. 22-17-4 F (2) of the Fluvanna County Code, the Board of Supervisors has the authority to revoke a Special Use Permit if the property owner has substantially breached the conditions of the Special Use Permit.

Bibb: Is this the same Light Academy operates another facility now? This building was a school to start with, now they’re bringing back the use it was intended for.

Applicant: As part of the educational facility, we would possible like to offer a preschool in that area. There isn’t anything currently in that part of the county.

Cotellessa: Is this k-12

Applicant: K-10th, possibly next year through 12th

Cotellessa: How many teachers do you have?

Applicant: Three full time, multiple part time staff.

Johnson: I think it’s an excellent use of this property.

Motion:

Johnson made a motion to recommend approval of SUP 17:04, a request to establish an Educational Facility with respect to 10 acres of Tax Map 39, Section A, Parcel 48, [if approved] subject to the six (6) conditions listed in the Staff Report.

Seconded by Lagomarsino. The motion carried a vote of 5-0 AYE: Johnson, Lagomarsino, Bibb, Zimmer, and Cotellessa NAY:

None ABSTAIN: None ABSENT: None

Public Comments:

None

PRESENTATIONS:

None

Site Development Plans:

None

Subdivisions:

None

Unfinished Business:

Strategic Zoning Initiative – James Newman, Planner

Motion:

Cotellessa moved that the Fluvanna County Planning Commission direct staff to initiate a Zoning Text Amendment to amend “Section 22-17-7, Fees” to amend the rezoning fee, and to schedule a future public hearing for formal Planning Commission consideration and recommendation to the Board of Supervisor Seconded by Johnson.
The motion carried a vote of 5-0 AYE: Cotellessa, Johnson, Lagomarsino, Bibb, and Zimmer NAY: None ABSTAIN: None ABSENT: None

New Business:
None

Public Comments:
None

Adjourn:
Chairman Bibb adjourned the Planning Commission meeting of December 12, 2017 at 8:09 P.M.

Minutes recorded by Stephanie Keuther, Senior Program Support Assistant.

Barry A. Bibb, Chairman
Fluvanna County Planning Commission

Approved