

**Hamilton Planning Commission
January 21, 2009
Hamilton Town Office**

The meeting was called to order at 7:16 PM and Roll Call was taken.

Present: Chairman Robert McCann, Vice Chairman Les Carlson, Mr. William Gallant, Mr. Russell Beal, Ms. Melodie Baxter, Mr. James T. Rollins.

Also Present: Ms. Maureen Gilmore, Town Attorney, Mr. David Beniamino, Town Zoning Administrator, Mayor H. Ray Whitbey.

Minutes

Mr. Beal made a motion to adopt the November 19, 2008 minutes into record. Mr. Gallant made a second on the motion and the vote passed 5-0-0, (Aye: Carlson, Gallant, Beal, Baxter, Rollins. Nay: none. Absent: none).

Public Comment

Mr. Brent Campbell of Hamilton spoke in favor of the proposed By Right Option amendment to Article 4, Section 6.2 of the Hamilton Zoning Ordinance discussed at the earlier Public Hearing. Mr. Campbell addressed the concern of the Commission for by right use and noted the current permitted uses per the Town Ordinance.

Officers Report

Mr. Gallant noted that he had sent a copy to all Town Council and Planning Commission members of a meeting (Loudoun County Business Association Summit) to be held on February 23 in Leesburg. It is presented by Loudoun County Department of Economic Development and will cover business associations activities, including services they offer, lessons learned and benefits their members receive. It will include representatives of all the present Loudoun business associations. Hamilton would benefit greatly by forming a business association, and this provides a lot of information and contacts. He urges some of the town business owners to attend. Mr. Gallant will also be in attendance.

Old Business

Mr. McCann advised that there is a Town Council work-session on Saturday January 24, 2009 at 8:00 AM to discuss the Land Use section of the Comprehensive Plan. The Commission will receive a briefing from the Council, after which further review and discussion can begin. Mr. Beniamino stated that the goal is for the Council to agree on guiding principals and a mission statement to which the Commission can utilize in the Comprehensive Plan review. Mayor Whitbey invited the Planning Commission to attend.

C-2 Zoning Change - Mr. Beniamino provided a staff report of action thus far:

In September of 2008, the Planning Commission forwarded a recommendation to the Town Council in favor of allowing the aforementioned uses by special use permit. During the November 10, 2008 meeting of the Hamilton Town Council, this item was sent back to the Planning Commission with instructions/recommendations to look at allowing single family residential uses within the existing structures as a by right use. Mr. Beniamino recommends the Commission explore the 2 available options and decide which course of action is the best for the Town to take, also providing a refined recommendation to the Council including the reasons for the recommendation.

Discussion highlights are as follows:

- Mr. Beal asked for a review of the pros & cons of burdens to the owner under special use process. Mr. Beniamino responded that an engineer/certified land planner would need to put together a site plan that would go the Panning Commission and a Special Use Permit application would need to be filed. Presently there is no way for the fee requirements to be waived by the Planning Commission or by the Zoning Administrator but Ms. Gilmore noted that an amendment could be made to the Zoning Ordinance. That could be another task if the Commission could undertake. Mr. Beal inquired where the costs came from and Mr. Beniamino responded that these are Town imposed fees, designed to recapture some of the costs incurred by the Town. Mr. Beal asked what all would be required for by right use and what inspection process would be applicable. Mr. Beniamino responded that there no inspection is required for a commercial structure to change to a single family use, but there is a \$50.00 fee for the

Zoning Permit form. Mr. Gallant and Mr. Beniamino noted that under current guidelines, interior modifications could require an inspection to take place.

- Mr. Rollins inquired if someone wanted to turn a commercial structure into residential dwelling, could they just move right in? Mr. Beniamino responded yes, it could be done without an Occupancy Permit and fines could be assessed, but an Occupancy Permit is an easy form to fill out and only takes a day or 2 to process.
- Mr. Gallant asked if a Special Use Permit would require an Occupancy Permit to be filed and Mr. Beniamino responded that a Special Use Permit would allow individual concerns to be addressed. Ms. Gilmore advised that under Virginia law, the Commission is permitted and the Council can approve, Special Use Permits with conditions which would have to be related to the special use. This allows the recommending and governing bodies to consider whether or not there would be impact to surrounding properties, transportation, etc for that special use and then to attach conditions that would minimize the impact to those various areas. Conditions cannot be imposed that are unrelated to the named impact.
- Mr. Campbell commented on the action he has taken since moving into Hamilton, per the direction of the Town and the County, noting that all permit and inspection requirements have been met. For the benefit of the Commission, Mr. Beniamino clarified that there is a difference between a Zoning Occupancy Permit and a Building Occupancy Permit. The County issues Building Occupancy Permit to meet the Virginia building code and Mr. Beniamino issues Zoning Occupancy Permits to meet the Town standards as there are no applicable State standards.
- Mr. Gallant and Mr. Carlson expressed concern for long term impact and discussion was held about how the design of Hamilton differs from surrounding Towns for residential occupancy in a commercial structure.
- In response to questions raised by Mr. Gallant and Mr. Carlson, Mr. Beniamino reviewed the current fee standards: \$1500.00 for a Special Use Permit, \$1200.00 for a Site Plan Application and 3% of the costs of any public improvements, if applicable. Mr. Beniamino advised that if the Commission wants to proceed with the Special Use Permit recommendation, a review of the Land & Subdivision Ordinance could take place and he could recommend changes.
- Mr. McCann asked what will happen if under a by right allowance a commercially zoned residential property wanted to rezone back to commercial? Mr. Beniamino responded that they would need to come into conformance with today's ordinance. Ms. Gilmore stated that the Town would never know this occurred unless someone reported it or the owner came into the Town Office. Ms. Gilmore continued to say that this is part of the risk that is taken and noted that as the Planning Commission may be aware, much of the work the BZA has had to accomplish is often the result of people making improvements/changes without coming into the Town Office and filling out the necessary permits or applications.
- Mr. Rollins expressed confusion why the Commission would recommend the Special Use Permit, as he has concern for abandon properties versus the renting of properties for residential use which would encourage occupancy.
- Ms. Gilmore referenced the 3 current commercially zoned properties being used as residential, the Pearson property whose use is grandfathered in, the Heard Property which is zoned commercial but used as residential under a Special Use Permit and Mr. Campbell's property.
- Ms. Gilmore stated that the Planning Commission should decide whether to consider revisions to the Comprehensive Plan in order to promote business. Also in need of consideration is whether to recommend that the Zoning Ordinance be changed in order to make owning a business a viable option in the center of town.
- Ms. Baxter acknowledged that Hamilton is a small town and would like to know what changes are coming, which would be made known under a Special Use Permit.
- Mr. McCann stated that he believes that it would be a major mistake of the Town to allow by right use, as control would be lost but added that he is in favor of changing fees to assist property owners. Concerns were expressed for a loss of revenue to the Town for tax money which might never be recovered. Time limitations could be placed and fees reviewed to assist property owners, but what is best for the Town should be the main concern.
- Ms. Gilmore offered considerations that the Planning Commission could recommend to the Council, and noted that it was important that all residents are treated equally.

A motion was made by Mr. Rollins to recommend the By-Right Option amendment to Article 4, Section 6.2 of the Hamilton Zoning Ordinance. Mr. Gallant made a second on the motion and the voice vote was defeated 1-4-0, (Aye: Rollins. Nay: Carlson, Gallant, Beal, Baxter. Absent: none).

A motion was made by Mr. Beal to recommend to the Town Council the Special Permit Use under Article 4, Section 6.2 of the Hamilton Zoning Ordinance, with a fee schedule and site plan requirement review under the Special Use Permit section in reference to the residential use of a commercial property. Ms. Baxter made a second on the motion and the voice vote passed 4-1-0, (Aye: Carlson, Gallant, Beal, Baxter. Nay: Rollins. Absent: none).

Proposed MH Zoning. Mr. Beniamino presented a recommendation for the Hamilton Trailer Park owned by Ms. Shirley Pearson. In the proposed draft the property will be designated as the Manufactured Home Community District (MH-1). Before the Town can move forward Ms. Pearson needs to submit a formal request and then mutually beneficial discussion can begin. Once the drafted plan and her request are both compatible and compliant, a recommendation can be sent to the Town Council for review and action. The Commission needs to find resolution for present non-conforming/grandfathered sites, which the Pearson property falls under. Presently on the Pearson property, homes can be removed from the non-conforming site but cannot be replaced without a site plan due to the non-conformance. Mayor Whitbey expressed the desire for the Planning Commission and Town Council to be prepared to work with Ms. Pearson to achieve resolution.

Ms. Baxter made a motion to recommend that the Planning Commission forward the following draft language, titled "Article 4, Section 10: Manufactured Home community District (MH-1)" to the Hamilton Town council for their consideration. The following language has been studied by the Planning Commission but cannot be recommended until such time when the town receives a formal request and/or plan from Ms. Pearson showing the current state of the property and any future development scenarios. Mr. Rollins made a second on the motion and the vote passed 5-0-0, (Aye: Carlson, Gallant, Beal, Baxter, Rollins. Nay: none. Absent: none).

Westham Estates - no action

New Business

Election of Officers.

Mr. Carlson made a motion to elect Mr. Robert McCann as Planning Commission Chairman. Ms. Baxter made a second on the motion and the motion passed 5-0-0, (Aye: Carlson, Gallant, Beal, Baxter, Rollins. Nay: none. Absent: none).

Mr. Gallant made a motion to elect Mr. Les Carlson as Vice Chairman of the Planning Commission. Mr. Beal made a second on the motion and the vote passed 5-0-0, (Aye: Carlson, Gallant, Beal, Baxter, Rollins. Nay: none. Absent: none).

Mr. Rollins made a motion to elect Mr. Gallant as Secretary to the Planning Commission. Ms. Baxter made a second on the motion and the vote passed 5-0-0, (Aye: Carlson, Gallant, Beal, Baxter, Rollins. Nay: none, Absent: none).

2009 Calendar Review.

Mr. Gallant made a motion to approve the 2009 Planning Commission Meeting schedule as discussed. Mr. Beal made a second on the motion and the vote passed 5-0-0, (Aye: Carlson, Gallant, Beal, Baxter, Rollins. Nay: none, Absent: none).

The 2009 Schedule is outlined as follows:

Bi-monthly Planning Commission Meeting (second Wednesday): March 11, May 13, July 8, September 9, November 18 (3rd Wednesday to avoid Veterans Day).

Bi-monthly Planning Commission work session (second Wednesday): February 11, April 8, June 10, August 12, October 14, December 9.

Information Items

Mr. Beniamino reported one zoning violation is being resolved. It involves extra lawn mowers and junk cars. Owner has agreed to remove and has started doing it, but has asked for more time. He has sent out 5 other violations. He will review them with Town Council.

Mr. Beal made a motion to adjourn.



Chairman Robert McCann



Ms. William Gallant / Ms/ Mary Tjssing