PLANNING COMMISSION MINUTES

October 27, 2009

Attendees:

Dan Talbot/Chair	Cole McGregor/Vice Chair
Vic Corbo	Charlotte Shifflett/Administrative Secretary
Madelyn Dixon	Cathy Morrison/Secretary
Goldie Helsley	

Margretta Isom/Council Representative

Guests:

Donna Bodkin
Donna McCormick
Charles Long

The meeting began at 7:00 pm with Dan Talbot presiding. He welcomed guests from Dayton, Virginia who attended as part of a training assignment.

Cathy Morrison made a motion to accept the Oct 6, 2009 minutes, seconded by Goldie Helsley.
Voice vote 6-0 (Margretta excused 1st hr.)
Motion Carried

Old Business:

Chairman Talbot requested that Attorney Sigler give us an update on the status of the well.

- The well is making progress.
- The town may be able to proceed without the implementation of the proposed Public Use Ordinance.
- It has no public road, the drive is only there for working crews.
- In the future there may be a need to have a Public Use District Code but it is necessary at this point and time. Not CRS
- Maintenance staff is proceeding to lay pipe before freezing weather.
- R 8 district, where the well is located, allows for some flexibility.

Rezoning:

Attorney Sigler distributed a print out to members, with a suggested amendment to the Elkton Town Code.

Amendment to the Elkton Town Code
October 27, 2009

§110-610. Downtown Business District B-1

§ 110-611. General Business District B-2

§ 110-613. Light Industrial M-1

B. Permitted Uses

(_____) Single family detached dwelling, provided that (a) the single family detached dwelling was existing as a conforming use as of April 2007 and (b) there shall be no more than one single-family detached dwelling per lot.

- Removed as permitted use Dec 2005.
- A Public Hearing was held on April 2007
- What retroactive effect, if any, will it raise?
- We need to give residents their rights back.
- We need to go through the proper adoption procedures.
- Include B 1?

§110-708 Review Non Conforming Use

- If a home burns in a business district do you have a choice to rebuild?
  - Ref. § 110-708. Nonconforming lots, buildings, and uses.

B (2) e.

A structure which by reason of passage of this chapter has become nonconforming which has been damaged by fire, explosion, act of God, or the public enemy to the extent of more than 50% of its accessed value at the time of damage shall not be restored except in conformity with the regulations in the district in, which it is located. When damaged by less than 50% of its accessed value, a nonconforming structure may be repaired or reconstructed, and used as before the time of damage, provided that such repairs or reconstruction are completed within one year of the date of such damage.

- If rezoning is requested and granted, the business may be allowed an option to convert to residential. However, a Special Use Permit would be required so it would not be held to nonconforming.
  - Basically, rezoning may not be a requirement. Do we as a body want to force an owner into residential, stop building, or leave as is—allowing houses to be there?
- Swallow property was discussed by the members. On April 4, 2007 when the Public Hearing Ordinance changes were made the property was vacant and its last use was business.
  - The house is a single family dwelling with occupants living on the second floor. Bottom level is vacated and is to be business only.
  - The definition of a single family home is (1) family only occupies it.
  - Should we amend the Special Exception Permit?
  - The owner may request to be rezoned.

- Chairman Talbot offered several options to be considered before arriving at any decisions.
  - Pass Attorney Sigler's amendment.
  - Pass amendment and rezone all the properties **except** W Spotswood Trail as presented.
  - Pass amendment and rezone **all** areas as presented.
- Attorney Sigler, addressed several issues which concern her regarding the original map.
  - In comparison, Gibbons Avenue is in the R 5 zoning district and she expressed a concern about rezoning this area to R 4. We are bringing in additional R 5 zoning on Water Street and Wirt Avenue. We could run a risk of being challenged and our argument may not be as strong. The possibility of creating more scrutiny by down zoning on Gibbons Avenue remains.
  - R 4 and R 5 lot sizes are the same in both districts.
  - Dan inquired if someone challenges a "piecemeal" downzoning does it effect one property or the area as a whole?
  - Lauri feels it may affect the whole area since we were planning to rezone it (the area) as a whole.
  - Dan emphasized it was the commission's intent to rezone the whole area. Relative to that fact, letters were mailed to all affected property owners with only (1) negative response returned.

♦ Vic Corbo made a motion to hold a public hearing for the purpose of rezoning properties discussed, according to map dated Oct. 27, 2009; to include Water Street change from R 5 to R 4 as shown; excluding the properties from Shenandoah Avenue to First Street on W Spotswood Trail. The motion was seconded by Cole McGregor.
Voice Vote: Yeas
M. Isom, G. Helsley, C. Morrison, M. Dixon, V. Corbo, C. McGregor, Dan Talbot
Motion Carried: 7-0

♦ Cole McGregor made a motion to hold a public hearing accept proposed changes as shown on amendment, dated October 27, 2009, to include areas modified to exclude single family dwellings, to allow pre-existing single family dwellings. Cathy Morrison seconded the motion.
Voice Vote: Yeas
M. Isom, G. Helsley, C. Morrison, M. Dixon, V. Corbo, C. McGregor, Dan Talbot
Motion Carried: 7-0

♦ Cathy Morrison made a motion to hold a public hearing for the purpose of rezoning on W Spotswood Avenue, from Shenandoah Avenue to First Street, from B 2 to R 4. as shown on map dated October 27, 2009. The motion was seconded by Vic Corbo.
Voice Vote: Yeas
M. Isom, C. Morrison, V. Corbo, C. McGregor, Dan Talbot
Voice Vote: Nays
Madelyn Dixon, G. Helsley
Motion Carried: 5-2

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♦ Vic Corbo made a motion noting if from Shenandoah Avenue to First street, if W Spotswood Tr is rezoned to R 4; a Special Use permit will be issued to the existing nursing home.
Voice Vote: Yeas
M. Isom, G. Helsley, C. Morrison, M. Dixon, V. Corbo, C. McGregor, Dan Talbot
Motion Carried: 7-0

DISCUSSION:

♦ Bompiani property located on 270 Millbank Lane
♦ (2) separate lots annexed in 2005
130A (A) L 12 A and 130A-(A)- L13 should be rezoned from B 2 to ~~R 4~~ R2 CLS 12-11-2009

♦ Cole McGregor made a motion to hold a public hearing for the purpose of rezoning 2 separate lots on 270 Millbank Lane, Lot Numbers 130A (A) L 12 A and 130A-(A)- L13; rezone to ~~R 4~~ R2 12-11-2009 from B 2.
Voice Vote: Yeas
M. Isom, G. Helsley, C. Morrison, M. Dixon, V. Corbo, C. McGregor, Dan Talbot
Motion Carried: 7-0

The Planning Commission is officially recommending that a joint Public Hearing be scheduled with Town Council to receive public comments in an attempt to finalize rezoning on Water Street, Wirt Avenue, Gibbons Avenue and Spotswood Tr. Shenandoah Ave. CLS 12-11-2009

Pathforward:
Dan Talbot and Charlotte need to re-color code the map dated October 27, 2009, to reflect the voting at this meeting.

With no further business to discuss, the meeting adjourned. The next scheduled meeting will be held on the first Tuesday in December, 12/01/2009. Be aware that a public hearing may be scheduled before our regular meeting.

Submitted By:
Charlotte Smifflett

Dan Talbot/Chair

Cathy Morrison/Secretary