Planning Commission

Meeting Minutes
DECEMBER 7, 2010

Present:
Cole McGregor, Vic Corbo, Madelyn Dixon, Goldie Helsley, Margretta Isom, Daniel Talbot, Cathy Morrison
Administration: Lauri Sigler and Charlotte Shifflett

Cole McGregor /Vice Chairman called the meeting to order at 7:00 pm and began with the "Pledge of Allegiance".

Dan Talbot arrived.
Minutes:
Vic Corbo made a motion to accept the minutes from the October 25, 2010 meeting with several corrections as follows:

- Omit Cathy Morrison from the first vote; change number from 7 to 6.
- Cole will be writing an ordinance for new businesses locating in Town.
- Pg 2 change letters to EDRC

The meeting continued by a second from Margretta Isom.
Voice vote = 6-0
Margretta Isom, Cathy Morrison, Goldie Helsley, Dan Talbot, Madelyn Dixon, Vic Corbo, Cole McGregor
Motion Carried

Charlotte will e-mail packets to Dan Talbot, Cole McGregor, Cathy Morrison, and Vic Corbo. Madelyn Dixon, Goldie Helsley, and Margretta Isom will receive packets via delivery.

- Dan Talbot met with Council on November 30 at the Retreat Workshop.
- Petitioner's requesting the closure of N to M Alley dropped in on the session for discussion.
- Pete Bonavita attended on behalf of the requestors. He addressed the following items in Sign Ordinance regarding Elkton Plaza West and Downey Knolls Sub-Division:
    - After 80% of lots are sold developer must take down "For Sale" signs.
    - Mr. Bonavita is concerned that the percentage rate is too low. He would like to see the number more than 80%.
    - Since the project is being developed in stages the situation with sales will be unique.
    - He inquired as to "who will enforce the code relative to sign ordinances?"

Code Enforcements

- State Code allows the Zoning Administrator to be the primary enforcer.
- Town Code –Ref. 110-1104
    - The Zoning Administrator may provide written notice of any violations of the provisions of Article XI and may order in writing the remedying of any such condition. Further, the Administrator may bring any legal or equitable action to ensure compliance with the provisions of this chapter, including but not limited to injunctive and equitable actions.
- No enforcement is defined in the Sign Ordinance.
- State Codes does not allow special power over signs. The same procedure is followed as other violations.
- The Elkton Town Code has criminal penalties within the code; it is only a crime after conviction and will be heard in court. **Ref 110-1103**
- No Civil Suit penalties are included in the Code.

General District Court
Civil Rights

- In court all persons are entitled to a trial.
- The Zoning Administrator may write and mail a certified letter citing the violation.
- An option will be offered to pay the fine; *<which is a determination of guilt>*.
- If fine is unpaid, the Judge finds if the person is in violation and decides if he/she should be convicted. No jury will become involved.
- A Judge retains the right to ask for an injunction *<Stops Violation>*.
- If the violation is defined as a Nuisance in **Chapter 120** the judge may:
  1. give time for clean-up
  2. impose a penalty

Criminal Convictions
- If pursuing a criminal conviction most people will avoid being charged even though it is just a misdemeanor.
- Violation letters are mailed by certified letter.
- Civil and Criminal procedures are basically the same. However, a choice must be made since you can't do both.
- Attorney Sigler passed out copies of enforcement ordinances from the Town of Herndon in addition to Albemarle and Loudon Counties.
- Members were partial to the ordinances enforced by the Town of Herndon.
- Town employees would need to be educated regarding any new ordinances which may be implemented. Charlotte would have authority to send maintenance personnel on the property to mow, clean up etc .to bring the property into conformance.

Zoning Form:
- The Zoning Administrator should set-up a file to track all violations.

Proposed amendment to
CHAPTER 110, LAND DEVELOPMENT
Article VII, Use Regulations
Section 110-706. Signs
November 15, 2010

§ 110-706 _____Special Exception Permits.

A. Upon proper application, and after following the process described in Section 110-801(C) herein, the Council may grant a special exception permit authorizing a sign which would otherwise be prohibited by this Chapter. The permit may contain such conditions as the Council deems proper. Nevertheless, the Council restates it's holding that the substantive provisions of this Chapter are generally in the Town's best interests, and the Council anticipates that special use permits as authorized by this section will be appropriate only in unusual circumstances.

B. In evaluating the proposed special exception, the Council shall address the following concerns:

(1) Whether the special exception is consistent with the intent of the Town zoning ordinance,
(2) Compatibility with surrounding use,

(3) The proximity of dwellings, churches, schools, parks and other places of public gathering,
(4) The probable effect of the proposed sign on the peace and enjoyment of people in their homes,
(5) The probable effect of glare upon the uses of surrounding properties,
(6) The contribution, if any, such proposed sign would make toward the deterioration of the area and neighborhoods,
(7) Whether the denial of the special exception would create undue hardship,
(8) Whether the property or aspect of the sign requiring the special exception is special, extraordinary or unusual.

- Number 7 could reference a rejection of special exception regarding a Bed & Breakfast and/or a home occupation.

Discussion:

BZA

- Chairman Talbot presented a suggestion noting that the BZA Board may need be the governing body to assist with the enforcement.
- Councilman Workman suggested a team may need to be formed to review non-conforming sign issues and requests.
- The main function of the board is to deal with variances. Enforcement is not listed in their description as a duty.
- Councilwoman Isom informed the group she had been advised the $300.00 fee was too high to file a request with BZA.

Checklist:

Pathforward:

Charlotte was advised to design a checklist for future use by the Zoning Administrator. The following items are several that should be included:

a. Designed to reflect a checklist.
b. Contents should be very rigid and very driven.
c. It should include guidelines that no one in the public sector is able to ignore.
d. Avoid any politics.
e. Have a requirement incorporated that requires signatures from various levels of the governing body.

Church Sign:

- Councilman Snow inquired if Planning Commission members would consider visiting the church site and possibly rezone the lot from business to residential?
  - This is an option but would need to be requested by a church official.
- No message board will be allowed in a residential area but could be displayed in a business district. The new diagram presented by the church showed a sign on top of the base with a message board in the center of the brick base.
- A question was presented asking if any business zoning existed in the general area?
  - B 2 exists, close by on the South Eastside H/Way and is a part of the Comprehensive Plan.
- Business district proposal would allow larger signs than in residential districts.
  - Once the Sign Revisions have been recommended to hold a Public Hearing and hopefully revisions pass the zoning would allow applicants to apply the 50 mile hour speed limit and increase the size 25%. As referenced in proposed draft: *Ref. C. General Requirements. Number 15.*

Draft of Sign Ordinance:

Planning Commission

Meeting Minutes Following Public Hearing

August 10, 2010 7:00 pm

Re: George Hensley Street Closure:

Vic Corbo made a motion to approve closing Henry Avenue, which is a non-conforming lot consisting of 9,987 Sq Ft in an R 3 district (13 Sq Ft short of minimum requirements), as shown on plat by Newman's Surveying dated July 29, 2010. Any future development must meet all current zoning ordinances that are in effect at the time of the proposed development The motion was seconded by Goldie Helsley.
Voice vote 5-0
Dan Talbot, Cathy Morrison, Goldie Helsley, Vic Corbo, Cole McGregor
Motion Carried

Re: Foundation Survey

No comments were received at the Public Hearing regarding the Foundation Survey. A short discussion followed and the following motion was made.

Cathy Morrison made a motion to adopt 110-713 with an amendment to F (2) *"or structures designed to aid disabled persons."* The motion was seconded by Cole McGregor.
Voice vote 5-0
Dan Talbot, Cathy Morrison, Goldie Helsley, Vic Corbo, Cole McGregor
Motion Carried

Re: Downey Knolls
Discussion:

- The plan contains 42 duplexes vs. 44 lots for single family.
- Mr. Bonavita shall place in the Proffers that he may not place more than the 42 duplexes in the sub-division.
- Calculations show the addition of duplexes increases the number of people to approximately 30 more than the original plan.
- The Planning Commission prefers the Developer lists changes to Proffers rather than covenants. The Town has no control to enforce covenants.

With the conclusion of business, the meeting adjourned. The next regular meeting is scheduled for September 7, 2010.

Chairman/Dan Talbot

Secretary/Cathy Morrison

Passed Sep. 7 - 2010