

MINUTES OF HARRISONBURG PLANNING COMMISSION

March 9, 2011

The Harrisonburg Planning Commission held its regular meeting on Wednesday, March 9, 2011, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Charles Chenault, MuAwia Da'Mes, Judith Dilts, Alan Finks (arrived at 7:04), Deb Fitzgerald, Bill Jones and Henry Way.

Members absent: Alan Finks.

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, City Planner; Alison Banks, Planner and Secretary.

Chairman Jones called the meeting to order and determined there was a quorum with six of seven members in attendance. He then asked if there were any corrections, comments or a motion regarding the minutes from the February 9th Planning Commission meeting.

Mr. Chenault moved to approve the minutes from the Planning Commission meeting.

Mrs. Fitzgerald seconded the motion.

All voted in favor of approving the minutes. (6-0)

New Business

Ordinance Amendment – S.U.P. for Fences to Exceed Height Regulations

Chairman Jones read the request and asked staff to review.

Mr. Fletcher said an application was submitted by William and Susan Cale to amend the Zoning Ordinance to add a use to the list of special uses available in the R-1, Single Family Residential District. The use would permit fences to exceed height regulations, which in residential districts is generally restricted to six feet. (In business and industrial districts, if the fence is used for security purposes, there is no height restriction.) After reviewing the application and discussing the impact it could have on neighborhoods within the R-1 district, staff believed that if such a use should be added to this classification, in particular circumstances, it could be appropriate in other residential districts. Thus, staff is proposing to further modify the Zoning Ordinance by adding the same use to each residential district (R-1, R-2, R-3, R-4, R-5, R-6, and R-7) special use permit list.

The following language would be added to each residential district special use section: *Fences greater than the height otherwise permitted, under such conditions as are deemed necessary by the City Council.*

The proposed language specifically calls attention to allowing “fences greater than the height otherwise permitted” because the maximum height, which is generally limited to six feet, can sometimes be taller than six feet or be further restricted to less than six feet. This is clarified within Section 10-3-115 of the Zoning Ordinance, which regulates walls and fences, and explains that fences shall not exceed six feet except in specific situations when they are attached to a principal building, where they can reach a height of eight feet. This section also points out that fences on corner lots may be further restricted in height, and location, due to sight distance issues.

In particular, the Cales proposed the amendment to be able to erect a fence taller than six feet in height to help control deer movement on their property. Concurrently with the ordinance amendment, the Cales are applying for a special use permit to install an eight-foot fence.

There are situations that may arise where it could be appropriate for a fence to be taller than what is permitted by right, thus staff believes this amendment is justifiable. Adding this as a special use requires public hearings, notifications to adjoining property owners, advertising on the property and in the newspaper, and provides the opportunity to add conditions that City Council may deem appropriate. Thus staff does not foresee negative side effects in modifying the Zoning Ordinance for this purpose.

Staff recommends approval and supports a favorable recommendation to City Council.

Chairman Jones asked if there were any questions for staff.

Mr. Way said was it intentional to say just fences, not walls and fences.

Mr. Fletcher replied that it was not intentional. We could actually add walls to the language; it is not a bad idea.

Chairman Jones said explain why we need to do this by special use permit and not just amend the ordinance to place the fence limit at eight feet.

Mr. Fletcher said six foot may be an arbitrary number that has been in the ordinance for a long time. Six foot is somewhat of a standard height that you can preorder materials. Six foot is not overly burdensome as a height, especially if it is an opaque fence.

Chairman Jones agreed that it does appear most fences come in four or six foot heights. That leads me to believe that an eight foot fence is something that is going to require a special order.

Chairman Jones then asked if there were any further questions for staff. Hearing none, he opened the public hearing and asked if the applicant or the applicant's representative would like to speak.

Ms. Lisa Hawkins, attorney with Lenhart Obenshain, explained she is representing the Cales, the applicants who started the conversation we are having related to amending the ordinance regarding fences and the addition of a special use permit to exceed the height requirements. The special use permit following this amendment discusses the specific fence that the applicant is proposing and I will address that portion separately. Our intent in requesting the special use permit amendment was to propose the ordinance in such a way that we felt provided the most flexibility for the City moving forward and evaluating specific applications. By fitting this within the special use permit process it allows you to consider each set of facts and circumstances independently, and individually; then reasonable conditions could be imposed if needed. This seemed better than trying to determine what fence height might be appropriate across the board within the City. In that regard, I believe there are other sections of the ordinance that are handled in a similar fashion, where normal requirements or deviations from the ordinance are handled by special use permit, so there is precedence. If you have any questions the applicant is here as well and we will be happy to answer them. Thank you for your time and consideration on this matter.

Chairman Jones said based on where this property is located I am assuming that this is a deer issue.

Ms. Hawkins said that is correct. The special use permit application that follows addresses that issue in more detail. I actually brought in a sample of the fence that is being proposed. There is an existing fence in place, which in most places is six feet high, although, in some places it may be higher. That fence is not working to keep the deer away or out of the area, so that is the impetus for this request.

Chairman Jones asked if eight foot would be high enough.

Ms. Hawkins replied we certainly hope so; that is the promise made by the manufacturer of this fence. The fence contractor is here as well if there are any specific questions you may have.

Chairman Jones asked if there was anyone else wanting to speak in favor of the proposed amendment.

Mr. Brandon Howdyshell, 231 Sunrise Avenue, said he would like to see this special use permit regulation passed. Behind my residence is the Oriental Food Market; my back yard actually sits lower than the Oriental Food Market's property. They have a six foot fence on their property, which is actually only a foot taller than my four foot fence. Weekly, I pick-up an entire Wal-Mart bag full of trash that can barely be tied shut. I also have four dogs at my home and I find all kinds of food and trash in my back yard, putting my dogs' safety and health at risk. I have no privacy in my back yard whatsoever; because of the topography, if you are standing in the Oriental Food Market parking lot you are much taller than the six foot fence and looking directly into my back yard. I would like to see this special use permit process go through so that I could use it for the safety of my property and dogs.

Ms. Jerry Howdyshell, property owner of 231 Sunrise Avenue, said there are not only problems with just trash. There are people that stand in the Oriental Food Market parking lot and yell at the dogs or yell at us. The Oriental Food Market closes at nine at night and you cannot even be out on the deck in the evenings because people are in the parking lot yelling, throwing trash, or teasing the dogs. We would just like to be able to put a fence or structure up tall enough that would alleviate all that complication with the adjoining neighbor. We had tried several different avenues and when we came to the City and spoke with Rosalyn Ray (Zoning Inspector) she told us about the proposal for tonight's meeting. She encouraged us to attend tonight. We really hope you consider this so that we might be able to get some relief in the future too.

Mr. Fletcher gave the Howdyshells his card and asked them to give him a call to set up a meeting regarding the special use permit process. He then told them they may want to stay and watch how the process goes with the Cale's special use permit.

Mr. Finks said the type of fence these people would be looking for is completely different than what the Cales are proposing.

Mrs. Turner said this ordinance amendment does not have a maximum height, so if the Howdyshells wanted to ask for something more than eight foot, they can. They can also ask for something opaque versus something with holes. They can basically ask for the type of fence that would best suit their purpose.

Chairman Jones asked if there was anyone else wishing to speak in favor of the proposed amendment. Hearing none, he asked if there was anyone wishing to speak in opposition of the proposed amendment. Hearing none, he closed the public hearing and asked for discussion.

Mr. Chenault made a motion to recommend approval of the ordinance amendment with the inclusion of "walls" in the language. I think this gives us another tool to utilize for particular zoning situations through the special use permit process.

Mr. Finks said before we go any further I want to ask this question again, just to make certain that all we are doing here tonight is correct. Almost all subdivisions have restrictive covenants; how is that handled.

Mr. Chenault replied that the restrictive covenants would trump any special use proposal for a higher than allowed fence or wall.

Mr. Finks asked if there were restrictive covenants on the Cale's property.

Ms. Hawkins replied no.

Mr. Finks said he did not want to give people hope of obtaining something and they find out it cannot be done.

Mr. Fletcher said that is something we would review with special use permit applicants when we meet with them.

Mr. Finks said in that case, I second the motion.

Chairman Jones said there is a motion to recommend approval and add "walls" to the language. He then called for a voice vote on the matter.

All voted in favor (7-0) of the motion.

Special Use Permit – Fence Height (Cale Property)

Chairman Jones read the request and asked staff to review.

Mr. Fletcher said there is one correction and I have already spoken to the applicant's attorney about this. The application, the original staff report, and the survey of the parcel all reference the area as being three acres; it is actually double that size, six acres. This does not change the characteristics of anything, nor does it change our view on the request.

Mr. Fletcher said the Comprehensive Plan designates this area as Low-Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of 1 to 4 units per acre. Low-density sections are found mainly in well-established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

The following land uses are located on and adjacent to the property:

Site: Undeveloped wooded lot, zoned R-1

North: Undeveloped wooded lot, zoned R-1

East: Westover Park, zoned R-1

South: Across Grove Street, single family homes, zoned R-1

West: Undeveloped wooded parcels, zoned R-1

Concurrently, with the Zoning Ordinance amendment to modify the R-1, Single Family Residential District to add a special use to allow fences to exceed maximum height regulations, the applicants are requesting a special use permit per proposed Section 10-3-34 (9) to allow an eight-foot in height fence. The property is located between Westover Park and Thomas Harrison Middle School accessible via New York Avenue along Grove Street. More specifically, it is a 6.0 +/- acre, wooded lot located across Grove Street from the applicants' residence at 710 New York Avenue.

As illustrated in their submitted materials, the applicants would like to install the Deer Blocker Deer Fence, a product from Nixalite of America Incorporated. The fence would be eight feet in height knotted with four-inch, open squares made of polyethylene mesh. The fence would be supported by

black enamel finished posts, which match the color of the fencing material, positioned at a maximum distance of 20-feet apart. (The photographs provided within the packet are pictures of the existing fence.) The product is described to be virtually invisible at normal viewing distances. The fence, and several gates, would be installed to help prevent damage by white tailed deer and would be positioned around the perimeter of the subject property, except along the boundary with Westover Park where it will be located a few feet away from the property line. The applicants' contractor met with Lee Foerster, the Director of Parks and Recreation, to explain more specifically where the fence would be installed. Mr. Foerster had no concerns.

By-right, property owners may install fences on their property boundaries. In residential districts, walls and fences cannot be electrified, barbed, or otherwise secured in a manner inappropriate or dangerous to the neighborhood. Fences are generally restricted to six feet in height; however, if the fence is attached to a principal building, and it is clearly incidental to the function of the building, they may be as high as eight feet. In business and industrial districts, if the fence is used for security purposes, there is no height restriction. Building permits are not required unless the fence is taller than six feet; therefore, if this request is approved, the applicants will be required to obtain a building permit before installing the fence.

As described above, the subject property is a 6.0 +/- acre wooded lot adjacent to Westover Park. This parcel is part of more than 40 acres of wooded area (excluding the acreage of Westover Park) adjacent to the Wyndham Woods neighborhood that has historically had deer nuisance problems. Without a doubt, the applicants' property is home to many deer.

Staff does not foresee negative side effects in approving this application. The property is somewhat remote and surrounded by relatively quiet uses including single family homes, undeveloped property, and Westover Park. In fact, this type of fence could be more welcomed by neighbors and users of Westover Park as it would preserve the natural, forested, and park-like viewscape rather than erecting a by-right alternative, which could be a six-foot opaque fence. Staff understands the reasoning behind the applicants' desire to have such a fence and it proves to be a situation with appropriate characteristics, suitable for special use approval.

Staff recommends approving the special use permit with the following conditions:

1. The special use shall only be applicable to the proposed fence in this application.
2. There shall be no advertising on the fence.
3. If in the opinion of Planning Commission or City Council, the fence becomes a nuisance, the special use permit can be recalled for further review, which could lead to the need for additional conditions, restrictions, or the revocation of the permit.

Lastly, the applicants should be aware that a building permit is required because the fence would exceed the six foot height regulation.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked the applicants or the applicant's representative to speak.

Ms. Lisa Hawkins said she would like to offer an actual sample of the fence being proposed for the property; however, she would need the sample back. One other item I wanted to clarify, the staff report reads that the fence posts would be a maximum of 20-feet apart, they will actually only be 15-feet apart. At the risk of sagging in some areas the current proposal is to stay at 15-feet. Also, one other item that I was not aware of at time of submission, during the first window of time,

perhaps a month or two, there would be colored flags attached to the fence until the deer get use to the fence. This is in hopes that you do not hurt any of the deer by alerting them that the fence is there. We would be happy to answer any questions you may have.

Chairman Jones asked if there were any questions for Ms. Hawkins. Hearing none, he asked if there was anyone wishing to speak in favor of the request. Hearing none, he asked if there was anyone who wished to speak in opposition of the request. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mrs. Fitzgerald asked if there was any discussion about what might happen to the deer nuisance in other properties surrounding this area. Would this likely worsen it for others?

Mr. Fletcher said I actually thought about that today and no, it was not discussed. Definitely it is a matter of concern because it would not permit the deer onto this property; therefore, the deer would be pushed further into neighborhoods or compounding the problem on other properties.

Mrs. Fitzgerald said this also gives folks a remedy if they choose to go this direction.

Dr. Dilts said it will decrease the available resources to the deer; so perhaps, it would decrease the deer population.

Mrs. Turner said she had thought about this also; but, all the adjoining property owners did receive notification of this and none of them came forward to ask questions or offer that as a complaint.

Mr. Finks said I have no problems with this and it does provide recourse for others. Therefore, I move to recommend approval with the three conditions that staff has provided.

Mrs. Fitzgerald seconded the motion.

Chairman Jones called for a voice vote on the motion.

All voted in favor (7-0) of the motion.

Chairman Jones said these items move forward to City Council on April 12th with favorable recommendations.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mr. Fletcher said Proactive Zoning targeted the Route 33 West area of the City, where they found six violations consisting of inoperable vehicles and discarded materials. Next month they will be in the Chicago Avenue Sector.

Other Matters

Comprehensive Plan – Urban Development Area (UDA) Recommendation

Mr. Fletcher said I am going to turn the presentation over to our consultants that we have been working with regarding the Urban Development Area (UDA) proposal. Please welcome Milton Herd of Herd Development and Jason Espy of Renaissance Planning Group.

Mr. Milton Herd said our purpose for tonight is to give you a briefing and overall view of the legislative requirements for Urban Development Areas and the work that we are doing for the City. As well, I will give you a status of the work that we have done to date on this. Hopefully, there will be sufficient time afterwards to answer any questions you may have.

First, I want to discuss the legislation within the State Code that brought this about. The legislation was first adopted by the State in 2007 and updated last year. It requires certain higher growth localities to adopt UDAs. These UDAs are meant to be places that are appropriate for higher density based upon their proximity to transportation, water and sewer, and other developed areas. UDAs are required to be shown on the Land Use Map within the Comprehensive Plan. The reason the State is doing this is to concentrate future development to get greater physical efficiency for levels of government. The real provocation, we feel, is the shortfall in public funds for transportation and the State would like to have more compact development so that the Virginia Department of Transportation (VDOT) can afford to continue to maintain roadways.

In counties you generally see the conventional “sprawl” pattern of development as opposed to the “compact” pattern, which is really what this UDA legislation is pushing us toward. There are two criteria that pull you into the UDA requirement: 1) if you are a locality with more than 20,000 people and you had 5% overall population growth between the two census periods (2000-2010) or 2) if you are a locality (with any population) that had 15% overall population growth between the two census periods. Harrisonburg falls into the first category. Locally, Harrisonburg, as well as Rockingham County, the towns of Broadway, Grottoes, Elkton, Mt. Crawford, and Timberville, all fall under this legislation. In terms of specific deadline requirements that you need to be aware of for adoption – the Code requires that Cities, Towns, and the larger Counties do not have to adopt UDAs until July 1, 2012; however, the City of Harrisonburg is working under this grant from VDOT and that contractual grant term ends on September 30, 2011. The City would need to be finished all work by that time; therefore, the time frame is a bit shorter.

The most controversial part of this legislation is probably the fact that it requires certain minimum densities to be designated within these UDAs and within the Comprehensive Plan. For some localities that could be a challenge, it should not be for Harrisonburg. The requirements are that within the UDA the Comprehensive Plan must provide for densities of four dwelling units per acre for single-family, six per acre for townhouses, twelve per acre for apartments or condominiums, and 0.4 floor area ratio (FAR) per acre for commercial development or any combination thereof. Those are minimum densities and again they are not unheard of densities, especially for Harrisonburg. There is a lot of flexibility with this and you have to show it in your Comprehensive Plan. It is a policy; it does not mean you have to rezone land. This legislation does not preclude you from adding criteria or other specifications and what things you would bring into judgment on approving a rezoning to meet it. I think there is still a lot of latitude in how you interpret this legislation and how you make it work for you. There is another provision that is somewhat tricky, and that is because the Code is trying to help localities to concentrate development, it requires that the UDA be large enough to meet the projected increase in population and commercial growth for at least ten years, but not more than twenty. That prevents the UDA from being overly large; it kind of makes them smaller than localities are expecting them to be. The forecast for these increases must be based on the Virginia Employment Commission forecast which is issued on a regular basis.

How would growth be directed to the UDAs? The Code requires that the Comprehensive Plan describe the financial and other incentives to encourage development in the UDA; but that is all it says in the Code. So again, there is a lot of latitude in terms of what type of incentives you might

have or how specific you describe them. The Code also mentions that, to the extent possible, State and local funding for things like transportation, utilities, and others, would be directed towards UDAs. To us that is a signal; in the future the State may start to tie money and funding to UDAs. That is why it is important to take the UDA legislation seriously when identifying areas that you really do care about and target places where you want to see infrastructure and development; because it could, at some point, be tied to State funding.

There is also a provision that the legislation requires the Comprehensive Plan, when designating the UDA, must include traditional neighborhood design development principles such as pedestrian friendly road designs, street interconnectivity, mixed use neighborhoods and mixed housing types. All of these are concepts that many localities have been working toward for the last couple decades and now the legislation says the Comprehensive Plan must include these provisions as policy. Again, this does not require that the zoning regulations be changed to do these; it just somewhat nudges you in that direction. Of course, the City of Harrisonburg is already ahead of this with the Mixed Use District and other districts that support these elements.

The benefits with this legislation are obvious to the extent that you have more compact development; less tax burden on infrastructure; greater efficiency; more transportation options; and it helps take pressure off of rural areas. Some estimates show that it can be about 70% cheaper to serve compact growth areas for localities. There are even benefits to developers with reduction of onsite infrastructure costs. We have seen studies that indicate neighborhoods that are walkable actually have higher housing values and hold their value better over the course of time; so there are homeowner benefits too.

Harrisonburg received a VDOT Grant of \$50,000 for consultant time, to help the City implement this legislation. VDOT selected four consulting teams to work with this grant program, the Renaissance team is one of those four and they were assigned to Harrisonburg. We began working with City staff in July 2010 and really got this going in the fall of 2010. The grant period of work does end in September of 2011. We have been working with staff to do the initial analysis and get some proposals together for you to consider. There are benefits to having a grant; it provides free money for consulting assistance, it furthers your ongoing Comprehensive Plan update and Zoning Ordinance amendments, and, to some degree, it helps ensure an efficient growth pattern. This is also an opportunity to coordinate with Rockingham County, because they are in the same process and time frame as you. The grant also has a component for doing amendments to your Zoning and Subdivision Ordinances to help implement these ideas. This is not part of the legislative requirement; it is part of the grant requirement. Lastly, as part of the grant, we are going to do a general analysis of the transportation benefits for the UDA.

In terms of our work/plan schedule for you there are four phases – the regulatory assessment, Comprehensive Plan revisions, Zoning and Subdivision Ordinance revisions, and then documentation and adoption. We have done quite a bit of work within items one through three; things may get a bit more intense as we complete drafts for you and you go through the public review process in the coming months. We will continue to work with you on some specific objectives in your grant such as: 1) to look at the growth projections for both the City and the University; 2) to review areas of the Comprehensive Plan for higher density and mixed use to determine if those are appropriate; 3) reviewing the zoning classifications and subdivision regulations and looking at possible amendments to those to make sure that they accommodate new urbanist features and make them attractive; 4) working and helping staff on public input and what sort of public format do you want to hold on these changes; 5) reviewing proffer guidelines for

either inclusion in the Comprehensive Plan or as a separate policy item; 6) and describing the transportation benefits, which is a key part of our work. Therefore, our next steps in working with you are to review, refine, and affirm the work we have done to date in terms of locations for the UDAs, the draft text for the Comprehensive Plan to designate UDAs within the plan, and possible amendments to the Zoning and Subdivision Ordinances.

I will now let Jason take you through the analysis that we have done in calculating and locating the UDAs.

Mr. Jason Espy said that one of the value added elements that we could bring to the table is that we are walking through this process with a lot of different communities across the Commonwealth. I am going to give you some numbers tonight that we came up with in the process of analyzing calculations for Harrisonburg. Again, let me emphasize that this is somewhat of a “one size fits all” legislation, and that can be difficult. This same legislation must apply to more rural and transitioning Counties, as well as more urbanized areas which may already have a legacy of higher densities or more compact growth. So our job is how to make this work for you.

The UDA calculation steps are basically looking at future housing projections, figuring out how many acres are needed, future commercial areas based on population and how many acres are needed, and how many acres are needed for the UDA to accommodate a ten year growth but not to exceed a twenty year envelope. We updated the population forecast when the 2010 census figures were published in February and because the Virginia Employment Commission (VEC) demographer projections had not been published yet for the Commonwealth we just applied the same growth rate for the previous projections to the updated 2010 projections. This slightly refreshed the numbers for 2020 and 2030; again what we are dealing with are the increments between 2010 – 2020 and 2010 – 2030 to get that ten to twenty year envelope.

How do we calculate the future housing needs – we look at the population between the increments. To calculate the number of housing units needed to accommodate the population increase we use the national average of 2.5 and for commercial area needed we used the average of 60 SF per person. You have those totals within your packets. Again this is where we have some flexibility and I will go through some of those options with you. When calculating the acreage for the UDA the most conservative approach is the minimum legislation of four dwelling units per acre; under that approach the UDA would need 599 acres for a minimum of ten years and 1,241 acres not to exceed the twenty year threshold. Another approach within the legislation says you can do four, six, or twelve dwelling units per acre, where it would be a straight variable split of 33% for each. The final approach tends to be favored in localities which already have densities within the Comprehensive Plan that are already higher than the four, six, and twelve approach, and we are recommending this approach for Harrisonburg. This approach takes how many housing units and non-residential square feet are needed for the UDA and then see if you have existing acreage within the locality’s higher densities that can be applied to that and meet the numbers for the UDA.

In doing our review we looked at the various UDA acreage requirements within the Land Use Guide designation and Harrisonburg already has Mixed Use areas, Medium Density and High Density areas; all which well exceed the minimum required by the UDA. In terms of determining how much buildable area was available in these areas we looked at what is developed, undeveloped, or developable. Developed is having some level of tax assessment investment; undeveloped are those areas of public lands, right-of-way, utilities, etc; developable land is land that is vacant or underutilized. Using this approach we isolated three areas for priority; these are areas of your Land

Use Guide that you already recognized as High Density areas. Many of the Land Use Guide areas in your Comprehensive Plan have a range of densities so we applied a mid-point and projected it out through the ten year and the twenty year envelope. The three specific areas we isolated on Harrisonburg's Land Use Guide meet the legislation for UDAs.

At this time Mr. Herd said we want to bring you up-to-date on the work we have been doing with staff as far as drafting language for the Comprehensive Plan and Zoning and Subdivision Ordinances. We have developed some language for your Comprehensive Plan amendment that would meet the requirements of the Code. It is minimal, but that is because Harrisonburg is so far along to meeting the terms of the legislation there was not much to do there. We would like to hear reactions to that language and hopefully, move it along for formal review within your Comprehensive Plan. We have also been working on the Subdivision and Zoning Ordinances and have prepared some analyses of those with the idea of trying to make Mixed Use District a bit more attractive to developers. We also want to make sure that your ordinances honestly reflect the Code requirement of 0.4 FAR, because you do not use floor area ratio as a way to measure commercial density. Finally, we focused on refinements that encouraged Traditional Neighborhood Development (TND) projects and incorporate the principles for TND, particularly in the Subdivision Ordinance. The legislation does not make you amend your code; however, the Grant does. Therefore, I think the next step would be to get some feedback on any proposed amendment from staff and you all.

Mr. Herd finished by saying Jason and I are available to hear any comments, questions, suggestions, recommendations, or whatever reactions you may have to this information. We are here to help you on this.

Mr. Fletcher said I would like to add that this is very good timing for us because we are currently going through the Comprehensive Plan update; we can just add the Urban Development Area update to our Comprehensive Plan language if everyone is okay with our recommendations. Also, what Mr. Herd was talking about with the Zoning Ordinance regulations, specifically some the problems that we have already noticed, such as in the MX-U, R-6, and R-7 zoning districts where they are master planned communities and every time someone wants to do something different with the master plan they have to come back and amend the plan. We are trying to help with some by-right incentives to get people more interested in building that way.

Mr. Finks questioned if September was the deadline for approval of all of this.

Mr. Fletcher replied that September is the end of the Grant process, the UDA, if all goes as planned, would be approved when the Comprehensive Plan is approved, hopefully in May. The work that the consultants would continue to do is to work with staff on the potential Zoning Ordinance amendments.

Mrs. Turner said remember, by September we need to incorporate UDAs into our Comprehensive Plan; which we intend to have adopted before then. We also need to review and make whatever revisions we feel are appropriate to our development ordinances by September.

Mr. Way said on the specifics of the Code where it discusses 4- single-family dwellings, 6- townhouses, 12- apartments/condos per acre and a FAR of at least 0.4 for commercial development or any proportional combination; is that implying that it has to be mixed use, commercial and residential? Or is it saying it can be a group of different types of residential?

Mr. Herd said that is very clumsily written and subject to all kinds of interpretations; particularly the part “or any portion thereof.” I take the liberal interpretation, which means the only thing that is really operative with this is the minimum densities. Everything else, you can write it as you want.

Mr. Way said when I look at the UDAs that are outlined on our maps there are areas that are residential now, and not all mixed use. It is implying that they will become mixed use areas in the future.

Mr. Herd replied no, I do not think so; unless, of course, you want it to say it that way. As long as you provide for those densities to add up to the required envelope of units/acres, I believe you are covered. The language is so vaguely written and it is very flexible.

Mr. Espy said I think the underlying guide is going to be the land use designation within the Comprehensive Plan. The UDAs are just an overlay to make sure that you are targeting areas that can at least meet those densities.

Mr. Way asked if there have been any discussions regarding urban growth boundaries in relation to this.

Mr. Herd replied no, not that I am aware of; although, I suppose, that this is the beginning of Virginia thinking about that. This is very soft legislation, whereas an urban growth boundary would be much firmer in the requirement.

Mr. Way said the formula that was used for determining the UDAs was done by number of units rather than acreage. If I am reading that correctly, it makes for less acreage than if you do it by the other measures presented. If we like this idea and we want to support this idea, would we not want to spread it wider around the City? To me it appears you have chosen the minimalist approach.

Mr. Espy said there is flexibility with this. You can choose the most conservative or if you have much larger densities available in your Comprehensive Plan, then you can be broader. Again, the density we used was a mid-point of the density range provided in your Plan. You can certainly choose the higher end if you want.

Mrs. Turner said it was asked earlier if we had to use areas where mixed use development was planned or could you incorporate areas where you would just have residential. The answer given was it depended on how liberal you construe the legislation. The areas where we selected to use are all areas where the Land Use Guide descriptions of those areas and corresponding zoning all incorporate, or allow for the incorporation of some level of the mixture of uses. Of course the mixed use areas being the most intense mix; but, the others allow for some mix of commercial, residential, and professional as well.

Mr. Finks asked how this affects the Comprehensive Plan.

Mr. Fletcher said the text language for the UDA shows up in Chapter 5 and then on the Land Use Guide the UDAs would be overlaid directly onto the guide. This is a rather small amendment in the overall scheme of things.

Mr. Finks asked are we going to do this without public input.

Mr. Fletcher replied this is Planning Commission’s opportunity to recommend for it if you want it included in the language and then it would be under a public hearing when we do the entire Comprehensive Plan. Also, at the Public Input meeting on March 23rd we would have the maps available that show the locations of the UDAs.

Mr. Way asked if the population projections given in the summary were along the same lines that staff has been predicting?

Mr. Fletcher said I have not actually compared to what is in our text; but it should be in agreement.

Mr. Herd said it may not be, because we updated ours with the 2010 census.

Mr. Fletcher said it is something that would be double checked.

Mrs. Turner said that is a good point, because now that we have the 2010 census figures we need to go back and look at what we used before. Last time we had several different scenarios of population growth.

Mr. Fletcher said if you like what you have seen, then it can be incorporated as presented into the Comprehensive Plan.

Mr. Way questioned why a particular section of a mixed use area was not included in the UDA.

Mrs. Turner said because of what our Comprehensive Plan already had in it – areas planned for mixed use at higher densities and medium density residential areas – we just kind of had to pick which of those areas we wanted to encourage first to develop in this form. It does not mean if someone comes in with a good proposal for a rezoning to mixed use that we would not support it because it is not in the UDA.

Mr. Espy agreed and said this part of the process is more housekeeping for compliance to the legislation.

Mrs. Fitzgerald said are you looking for a motion to include this within the Comprehensive Plan.

Mr. Fletcher replied a motion would be good; just to say Planning Commission likes it and wants to recommend incorporating into the Comprehensive Plan as shown.

Dr. Dilts said so moved.

Mrs. Fitzgerald seconded the motion to recommend incorporating the language into the Comprehensive Plan.

Chairman Jones called for a voice vote.

All voted in favor (7-0) of the motion.

Mr. Fletcher said just to continue on with Comprehensive Plan items – tomorrow, all of the draft chapters, maps, etc. will be uploaded onto the website. Each of you will be emailed a link to that site so that you do not have to receive the entire item in your email. There will be notes to pay attention to certain chapters because of UDA changes and updated statistics. We will also have hard copies at our office, so you can direct people to the link or to our office for hard copies. Remember, two weeks from tonight we will be meeting at the Lucy F. Simms Center for Continuing Education for an open forum for public input on the draft. We have had a map created that shows the changes in the Land Use Guide from the 2004 amendment to what is being proposed now; it shows specifically what parcels have been recommended for change. If all goes as planned, this should go to public hearing on April 13th.

Adjournment

The meeting was adjourned at 8:25 p.m.

Chairman William L. Jones, Jr.

Secretary, Alison Banks