

**Special Joint Town Council &
Planning Commission**

**Culpeper County
School Board Office
September 24, 2009**

The Council of the Town of Culpeper and the Planning Commission convened in special joint session at 7 p.m. with Mayor Pranas A. Rimeikis and Vice Chairman Meaghan Taylor presiding. Present: Calvin L. Coleman, Duke M. duFrane, James C. Risner, Robert M. Ryan, Christopher H. Snider (arrived at 7:05 p.m.), William M. Yowell, Council Members. Also present: Jeffrey B. Muzzy Town Manager; Kimberly D. Allen, Town Clerk; Martin Crim, Assistant Town Attorney; Maxie Brown, Zoning Administrator and Marlys Houston, Planning & Zoning Assistant Absent: Michael T. Olinger, Council Member.

Planning Commission members present were Vice Chairman Meaghan Taylor, James C. Risner, and Linda H. Thornton. Absent: Kenton Dunn, Planning Commission Chairman, and Thomas E. Huggard.

Vice Chairman Taylor called the Planning Commission meeting to order.

Mayor Rimeikis called the Town Council meeting to order.

Council Member Coleman requested an item be added to the agenda and Mayor Rimeikis noted that all council members must be present at the special meeting in order to allow an addition.

Mayor Rimeikis thanked the Commission for their attendance at the work session so that council members could better understand the issues in question pertaining to the rezoning (transportation impact, access points, buffering, residential units, entryway and access from Rt. 29) as discussed at the September 8, 2009 council meeting.

Mayor Rimeikis stated there would be no public input at the meeting.

Re: Case TZ-001-2009: Request by Clore Family LLC to rezone 4.3659 acres from R-1 to C-3 located on Madison Road

The applicant seeks to rezone 4.3659 acres to construct a mixed-use project, utilizing four (4) concept plans, which show the development of between 68,000 to 153,000 square feet of commercial and up to 182 multifamily family units. The applicant has offered a Revised Proffer Statement, which offers transportation improvements and provides for a traffic impact analysis, including a traffic signal warrant study. The proffer statement also restricts inappropriate land uses and offers building elevation drawings and includes other amenities. No cash proffers are offered with the rezoning proposal, as the number of proposed units does not exceed the number of by-right units allowed under the existing zoning classifications.

If approved, the Town would receive zoning fees, tap fees, and utility fees generated from the new development. In addition, the proposal would increase the Town's tax base and provide employment opportunities.

Numerous residents and citizens attended the public hearing; five residents spoke in opposition to the request.

Following its public hearing on August 18, 2009, the Planning Commission voted 5-0 to recommend approval of this request, subject to a Revised Proffer Statement which limits the total number of residential housing units to 182. The Revised Proffer Statement, dated August 19, 2009 (included in the Case File) reflects this change. Revised Proffer Statement, dated September 8, 2009 presented at council meeting (included in the case file).

Council Member Snider stated his concern was mainly the traffic impact and questioned the lack of a traffic study and the requirement for such as well as the mixed use and the buffering. The proffer statement was revised at the meeting that council did not have the proper opportunity to review ahead of time.

Mayor Rimeikis asked when a traffic impact study was normally done. Maxie Brown, Zoning Administrator, stated that it would be provided at the time the site plan was submitted.

Mayor Rimeikis asked if the study could be done a year from now or 10 years from now, why was it an issue to have it done now vs. having it done later and more importantly, what was the state requirement.

Martin Crim, Assistant Town Attorney stated that a traffic study was typically submitted at the time of rezoning; however but in this case, VDOT had no problem with waiting until later in the site plan stage and noted it was really their call. He noted this is a four acre (4) rezoning of a 15 acre site, and there was not a large amount of impact on a site of this size in any event or on the traffic as a whole, relatively speaking. Mr. Crim asked Zoning Administrator Maxie Brown if she would like to expand on his comment. Zoning Administrator Brown stated based upon the information that she received from VDOT, the assessment by Mr. Crim was accurate.

Council Member Coleman questioned who would pay for the traffic light and improvements if the site plan later determined it was necessary. Assistant Town Attorney Crim responded that it would be paid by the owner prior to the first occupancy permit being issued.

Council Member Snider questioned the way the proffer was written, which implied that “at such time as a signal warrant study concludes that the applicant’s development justified the installation of a traffic signal at the intersection of Business Route 29 and Zeuswyn Drive” if the traffic light was not justified in five (5) years, who would pay for it. Assistant Town Attorney Crim responded that if the applicant proceeds with the traffic impact and signal warrant study and finds that it is not warranted, the Town taxpayers would pay for it because it would not be an impact from this rezoning.

Council Member Risner stated a property owner would not be required to pay for a traffic light if the development does not warrant it, but the proffer states if the development warrants it, the developer will pay for it.

Council Member Snider asked if this would hold the town harmless ten years from now; if the project reaches full build out and a traffic signal is warranted, the developer still will pay for it.

Assistant Town Attorney Crim replied it would be at the time of the site plan submission even if it is ten years from now. The study will examine the existing traffic without development and then a hypothetical future situation with the development having occurred based on engineer’s data used to generate traffic counts. If those hypothetical traffic counts generate the need for a traffic signal, one will be installed.

Council Member Snider questioned the number of vehicle trips per day for all three concept plans. He questioned if the project was at build-out, how many cars would be going down Zeuswyn Drive. Zoning Administrator Brown indicated she would have to get that information and report back.

Council Member Risner suggested staff write down the questions that council and Planning Commission members have so they can get the information and report back in an agreed upon timeframe.

Further discussion ensued regarding the traffic impact with Council Member Risner stating the plans should show vehicle trips expected.

Council Member Snider stated he was not a golfer and his only interest was the impact of traffic.

Council Member Coleman questioned liability issues of golf balls from the road going to the County Club. Assistant Town Attorney Crim responded the road would have to be built to VDOT standards and comply with the Facilities Standards Manual, and this issue was not part of this rezoning.

Vice Mayor Yowell questioned the screening, berming, and six (6) entrances into the development and if that many were needed.

Assistant Town Attorney Crim noted that the by-right use includes multi-family and commercial; there was usually an incompatibility with any golf use.

Council Member Snider questioned why the berm was not in the proffer statement. He noted the concept plan stated it would be a 6' berm, but an email indicated it was 3' to 6'. He questioned the legality if it was just in the concept plan. Assistant Town Attorney Crim noted that the concept plan is part of the proffer, and depending on the engineering, the height was not known until layout was completed.

Vice Mayor Yowell asked if anyone could clarify why there needed to be so many access points. Council Member Risner noted that other developments do not have as many, and maybe the location and amount of entrances could be researched further by the Planning Commission.

Council Member Coleman questioned if there were other access points researched.

Council Member Ryan believed if Council agreed that a road was necessary off of Route 29 Business, VDOT should be requested to figure out how it should be done. Mayor Rimeikis questioned why it was not developed as an option; Council Member Coleman indicated it was VDOT's determination. Council Member Risner suggested reviewing this option again with VDOT.

Council Member Snider suggested a "right-in/right-out" scenario.

Council Member Coleman asked the definition of "mixed use" in the zoning ordinance. Zoning Administrator Brown responded there was no definition, but C3 zoning allows residential and commercial development. Mr. Coleman suggested it was something to be looked at further. Council Member Risner stated the new comprehensive plan would address it.

Council Member Snider questioned if there would be any control over the orientation of the buildings. Ms. Brown responded that rezonings are discretionary, but the proffer noted that certain buildings would front Rt. 29. Council Member Snider indicated his concern in protecting the "gateway to the Town". He suggested that the project be attractive to attract good tenants. Zoning Administrator Brown noted that when the site plan is submitted, if the buildings are substantially different, or if the elevation photos are different, the process would start all over. She indicated the difference would be an amendment to the proffer statement, which would trigger the Planning Commission and Town Council public hearings again.

Council Member Coleman asked if the proffers were on the entire 15 acres, not just on the four (4) acres that are proposed to be rezoned. Zoning Administrator Brown responded yes, the applicant made the change with the second proffer statement for clarification.

Council Member Coleman questioned the school system with a mixed use development. Zoning Administrator Brown responded that cash proffers were to mitigate anything over by-right zoning; therefore, the reduction to 50 residential units negates that cash proffer.

Council Member Snider questioned the point at which Zeuswyn Drive would become public or remain private. Assistant Town Attorney Crim responded it was to the existing Town and County boundary but will clarify that.

Mayor Rimeikis questioned if it was common to have numerous concept plans submitted, and Mr. Crim responded it was not common.

Council Member Snider referenced the substantial change in the Hoover building and the necessity for the change to come back before the Planning Commission and Town Council. Zoning Administrator Brown noted that if a plan is substantially changed, staff would make a recommendation based on specific information, but each project would be evaluated on a case-by-case basis. She indicated she would rely on a review by the Attorney as well as the Planning Commission.

Council Member Snider referenced the landscaping plan, and asked for clarification on the “15% above FSM requirements” and if it included the height of trees and buildings. Assistant Attorney Crim indicated staff would have to clarify the definition of what it applies to.

Mayor Rimeikis asked Ms. Brown to recap the issues that need to be addressed, Zoning Administrator Brown cited that following:

- Number of vehicle trips per day – for Concept Plans 1-3.
- Liability issues from golf balls.
- Clarify size of berm, as noted on concept plan.
- Research the entrance cuts and access along Zeuswyn Drive to see if they can be reduced.
- Research access to 29 and whether a “right in/right out” scenario could be done.
- Mixed use development– not specific in zoning ordinance based on land uses.
- Ensure buildings fronting Rt. 29 are attractive as a suitable gateway to Town.
- Locate where Town/County boundary ends start in relation to the road dedication and improvements (clarify on map).
- Verify landscaping 15% in addition to what is required in FSM and does it apply to number or size or height.
- Determine specific evergreen tree types.
- Verify if service road could be installed.

Council Member Ryan suggested installing a service road. Council Member Risner responded that service roads were trashy and his experience with them has not been good.

Council Member Ryan questioned the 55’ height of the buildings, and Assistant Town Attorney Crim stated that it was measured in stories, and the buildings would be four (4) stories. Zoning Administrator Brown replied that one story equaled 14 feet and that the 55’ was actually a reduction.

Discussion ensued as to the time line for a response back from staff. The consensus was that the Planning Commission would review a staff report at their October regular meeting, and then the case would return to Council in November for possible action.

Assistant Town Attorney Crim clarified with Mayor Rimeikis that he was not looking for a formal vote from the Planning Commission, and that the staff report being submitted to the Planning Commission would be submitted to Council at their November meeting. Mayor Rimeikis responded yes.

Council Member Risner stated that the Planning Commission and staff will review the concerns and questions of council and provide a report back to council.

ADJOURNMENT

There being no further business to discuss, a motion was made to adjourn. The meeting adjourned at 7:45 p.m.



Clerk

Mayor

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