

The following minutes are a summary of items on the agenda. This meeting may be viewed in its entirety by accessing the video of the same date online via the Town’s website at www.frontroyalva.com.

The Planning Commission meeting of the Town of Front Royal, Virginia was held on January 18, 2023, at 7:00 PM.

CALL TO ORDER

Chairman Merchant called the meeting of the Planning Commission to order at 7:00 pm.

ROLL CALL

Present: Darryl Merchant, Chairman
 Connie Marshner, Vice Chairman
 Daniel Wells, Commissioner
 Glenn Wood, Commissioner

Staff Present: Lauren Kopishke, Planning Director/Zoning Administrator
 George Sonnett, Assistant Town Attorney
 John Ware, Deputy Zoning Administrator
 Connie L. Potter, Executive Assistant, Clerk of the Planning Commission

ADDITION/DELETION OF ITEMS FROM THE AGENDA

There were no additions or deletions.

MINUTES

- December 21, 2022 – Regular Meeting

Commissioner Wood moved, seconded by Commissioner Wells to approve the meeting minute as written.

VOTE: Yes – Marshner, Wells, Merchant, Wood
 No – N/A
 Abstain – N/A
 Absent – N/A

ROLL CALL

CITIZEN COMMENTS

There were no citizen comments.

CONSENT AGENDA

- A. **2300021** – Jeffrey Kelble. A request for a Special Use Permit for a commercial outdoor recreation facility located at 1847 N Royal Avenue and identified by Tax Map 20A3-1-1 & 2. The property is zoned A-1, Agriculture and Open Space Preservation District.

Vice Chairman Marshner moved to accept the consent agenda, seconded by Commissioner Wood.

VOTE: Yes – Marshner, Merchant, Wells, Wood
 No – N/A
 Abstain – N/A
 Absent – N/A

ROLL CALL

PUBLIC HEARINGS

Chairman Merchant explained the process for speaking at the public hearing. He asked speakers to try and keep their comments to 3 minutes.

- A. **2200494** – Barbara Samuels – A request for a Special Use Permit for a ground floor dwelling unit at 437 S. Royal Avenue identified by tax map 20A7-3-10. The property is zoned C-1, Community Business District.

Mr. Ware reviewed the application request. The property is located near the intersection of S. Royal Avenue and South Street. This building is known as the Sam Snead Realty Building. Included in the staff report was a location map, first floor plan, site pictures and the Special Use Permit application. Currently the parking lot has eight (8) parking spaces defined with concrete wheel stops including once (1) handicap space. Professional offices are located on the first and second floors and they occupy a total of 3,162 square feet. Town Code Section 148-870.A.2 requires one parking space for 300 gross square feet for professional offices which equates to eleven (11) parking spaces. Town Code Section 175-104 requires all new uses for developments and changes of use shall comply with the off-street parking requirements of Chapter 148. The existing dwelling unit on the 2nd floor and the proposed dwelling unit on the 1st floor will require two (2) parking spaces per dwelling unit requiring a total of four (4) parking spaces for the dwelling units. A total of fifteen (15) parking spaces are required for this structure under the current types of use. In addition, Chapter 148-870.A.7 requires with the exception of off-street compact car spaces and off-street parallel spaces, off-street parking spaces shall include an area not less than 162 square feet is a 9 x 18 parking spaces. Compact car spaces shall include an area not less than 144 square feet which is 8 x 18. Currently the site has eight (8) parking spaces with concrete wheel

stops and the uses require fifteen (15). Town Staff recommends approval of the ground floor dwelling unit with the conditions listed in the staff report.

Chairman Merchant opened the public hearing.

There were no speakers. Chairman Merchant closed the public hearing.

Vice Chairman Marshner moved, seconded by Commissioner Wells that the Planning Commission forward a recommendation of approval to the Front royal Town Council for Special Use Permit Application #2200494 for one ground floor dwelling unit at 437 S. Royal Avenue with the following conditions:

- 1) This Special Use Permit is only authorized for one (1) ground floor dwelling unit to be located at 437 S. Royal Avenue.*
- 2) The existing parking lot shall be striped to provide the appropriate number of designated parking spaces prior to issuance of final zoning compliance in accordance with Zoning Ordinance Chapters 175-104 and 148-870.A.7.*
- 3) Town Staff shall inspect the property prior to the issuance of final zoning compliance to ensure the construction activities are limited to one ground floor dwelling unit.*
- 4) Upon inspection of the property, if it is found that the property is not in compliance with local regulations, including but not limited to, the conditions of this special use permit, the Town may revoke this special use permit after notice to the applicant and public hearing.*

VOTE: Yes – Marshner, Wood, Merchant, Wells
 No – N/A
 Abstain – N/A
 Absent – N/A

ROLL CALL

B. FY 2024-2028 Capital Improvement Plan (CIP). Annual review of the draft CIP for conformance with the Comprehensive Plan. The CIP is not a budget, but rather, is a planning and finance tool that identifies needed capital improvement projects for the coming five (5) fiscal years.

Ms. Kopishke gave a brief overview of the FY2024-2028 Capital Improvement Plan (CIP) noting that the proposed CIP Budget is \$3,204,844. A list of projects was included in the staff report.

Chairman Merchant opened the public hearing.

There were no speakers. Chairman Merchant closed the public hearing.

Chairman Merchant explained that the Planning Commission is required by code to review the CIP and submit a recommendation to Town Council on an annual basis. The Planning Commissions involvement is primarily for those future infrastructure improvements located in the Comprehensive Plan as a way to notify Town Council of those projects that are forthcoming. The CIP also includes various department level improvements that they are requesting funding.

Commissioner Wood moved, seconded by Commissioner Wells that the Planning Commission forward the FY24-FY28 Capital Improvement Plan to the Town Council as presented.

VOTE: Yes – Merchant, Wood, Wells, Marshner
 No – N/A
 Abstain – N/A
 Absent – N/A

ROLL CALL

C. 2200385 – Rezoning NVR Ryan Homes – This application was submitted by NVR Inc., for the conditional rezoning of approximately 43.9 acres from the R-E District to the R1-A District. Proffers and a concept plan have been submitted for the site.

Ms. Kopishke explained that the applicant is proposing to rezone 44 acres located at the southwest intersection of Happy Creek Road and Shenandoah Shores Road from R-E to R1-A. The difference between those zoning districts is that the density would be from one (1) dwelling unit per acre to approximately three (3) dwelling units per acre. The applicant is requesting to create 134 lots which is a reduction from the original plan of 142 lots. At previous work sessions the Planning Commission requested that the applicant resubmit to accommodate comments from Warren County to include walking trails, a connection to the future East-West Connector and the proposed flyover. Ms. Kopishke gave a virtual presentation of the resubmitted plan. The revised plan shows approximately 5.5 acres that provide for the flyover, shows an area for trails, reduced the lots from 142 to 134 and provided a second entrance off of the proposed East-West Connector so there would be 2 entrances. In addition, the proffers were amended to include approximately \$3500 per unit for public schools. Staff recommends approval with the five (5) conditions listed in the staff report.

Chairman Merchant noted that the East-West Connector, the flyover, and Leach Run Parkway Extended are not constructed at this point but are merely shown on the Town transportation plan as future improvements to that area. He then asked the applicant to make a presentation.

Ty Lawson spoke on behalf of the applicant. Mr. Lawson attended two (2) Planning Commission works sessions where they heard the Planning Commissions comments and addressed those comments. The plan is for 134 single-family detached homes as opposed to the 142 at the original submission. The biggest change is the layout to accommodate the future Leach Run Parkway Extended and the modification that when the East-West Connector is built the entrance into the development will be in the green space and the old entrance terminate. They have added 5.5 acres of green space with opportunities for playing fields and walking trails at the request of the County regarding parks and recreation for the community. They have also built into the proffers a mechanism to convey a tract of land for the Leach Run Parkway. The existing connection went

through the traffic study done by Kittelson & Associates, and it works very nicely with the existing road network. Mr. Lawson noted they were able to maintain a level of Service B even after a full buildout. The applicant is proffering to pay for the public streets, sidewalks, and water and sewer connection and will comply with all local ordinances before these items are accepted into the system. Mr. Lawson explained the mathematical equation used to calculate the proffers for each single-family dwelling unit to provide the monetary amount for schools. He noted there are more children generated from townhouse units vs. single-family dwelling detached units.

Chairman Merchant opened the public hearing.

John Lundberg, 203 Peach Tree Court, Front Royal. Mr. Lundberg spoke strongly against approval of the rezoning application. He felt the proposed development would significantly increase the number of vehicles backed up on Shenandoah Shores Road which then cause long backups on Happy Creek Road. These backups pose health, welfare and safety problems for residents, schools and businesses located north of the tracks. Mr. Lundberg expressed that no land in this area should be rezoned that encourages large housing developments until the land-locked status of communities in this area has been resolved.

Steve Cherry, 212 W. Main Street, Front Royal. Mr. Cherry shared his support for the rezoning amendment if access to the Shenandoah Shores Road community is addressed first.

John Stanmeyer, 75 Stonegate Court, Front Royal. Mr. Stanmeyer expressed he was against the proposed rezoning until roads are constructed to access the area properly and noted he is concerned that emergency services will not have appropriate access to the area until new roads are constructed.

Zachary Wendt, 27 Hillvue Street, Front Royal. Mr. Wendt stated he was representing his father-in-law who is against approving the rezoning application until the roads can support the additional traffic.

Ari Henrique, 68 View Drive, Front Royal. Mr. Henrique shared he was opposed to exposing the public to unsafe conditions and is against approval of the rezoning application until the safety of the community is guaranteed.

Stephen Pilon, 1138 Happy Ridge Drive, Front Royal. Mr. Pilon stated he was not against development however the roads need to be addressed first. He questioned how long it would be before the flyover and the East-West Connector would be constructed.

Eileen Hilleary, 1394 Riverview Shores Drive, Front Royal. Ms. Hilleary expressed that she is against approval of the rezoning application noting there should be no construction north of the railroad crossing unless plans and funding is in place to improve the roadway infrastructure. She mentioned that this is already a stressed area and more development without the proper road infrastructure would cause risk to the health and welfare of citizens and potentially impact critical hospital and emergency access along Happy Creek Road.

Gene Kilby, 836 Shenandoah Shores Road, Front Royal. Mr. Kilby agreed that there needs to be development in this area but that it is landlocked. He is for development but not until the East-West Connector and flyover are in place.

Mike Foeckler, 2827 Shenandoah Shores Road, Front Royal. Mr. Foeckler said he was representing Christendom College. The college is not opposed to growth in the area but is opposed to poor planning. The road infrastructure needs to be addressed and planned prudently and properly for the growth.

Jane Elliot, 59 Woodward Court, Front Royal. Ms. Elliot shared that she is against approving the rezoning application. The one-way in and one-way out problem has to be resolved either by a flyover or another way in. She expressed concern that when a train is present on the tracks there is no way in or out to this area which is a safety issue.

Robert MacDougall, 2370 Shenandoah Shores Road, Front Royal. Mr. MacDougall expressed concern of the traffic in the area and noted that he was not against development however the road infrastructure had to be resolved and in place before development occurs.

Jesse Brooks, 82 Overbrook Lane, Front Royal. Mr. Brooks believes there needs to be another entrance and exist into the Shenandoah Shores community. He is not against development but wants things to happen in the correct order. Mr. Brooks noted that he has been impacted by the train crossing many times.

There were no additional speakers. Chairman Merchant closed the public hearing.

Vice Chairman Marshner had questions about parking. Mr. Lawson responded that parking had been discussed in their work session and that the streets will be designed to Town standards and will meet the parking requirements of the Town Ordinance with the dwelling units having 2-car garages and parking in the driveway. The properties are designed to allow parking on-site and street parking. He noted the parking more than meets the ordinance requirements.

Commissioner Wood ask when construction would begin. Mr. Lawson stated that site development would begin in 2025.

Commissioner Wood asked when the East-West Connector would be done.

Ms. Kopishke stated that the initial construction of the East-West Connector was proffered by a landowner in 2012. Staff cannot give an accurate estimate when that will be done.

Commissioner Wood asked how many houses had been approved for that development.

Ms. Kopishke answered that per the proffers of Front Royal Limited Partnership over 300 homes have been approved but that is predicated on construction of the East-West Connector.

Chairman Merchant shared that the issue of the flyover is no longer a Planning Commission issue. They have planned for this since 1978 when it was annexed. Planning Commission and the Town

understood that there has to be a way to get across the railroad or the interchange. The second phase of planning was the execution. He explained that the Planning Commission has no authority for funding or for pushing these projects forward. The Town has to start looking at funding the transportation infrastructure in this area. Either approving or denying this application has no impact on the train and it will still block access moving forward. From what he is hearing from the citizen comments, now is the time for this area to be addressed. This is not a time for division between the Town and the County. The majority of the traffic is coming from the county with Shenandoah Shores becoming a full-time subdivision, Christendom College has grown to 500 plus students and the construction of two (2) chapels. Chairman Merchant encouraged citizens to push Town Council and the Board of Supervisors that it is time for this to be addressed. It was mentioned that there are 500 houses out in this area with only 30 of those house being located within Town limits. The biggest question is who pays for this? He noted that there is no way a developer of 140 acres can build a 33-million-dollar flyover. There has to be collaboration between the Town and the County. As the traffic study indicated the Saddle Crest Development will not lower the level of service at the intersection to lower than B which is a perfect method of effort. The master plan north of the railroad has primarily been designated for residential development. East of Shenandoah Shores Road is primarily industrial, and the majority of the remaining land is for higher density residential as the recent Comprehensive Plan surveys indicated. In 2016 the Town constructed a portion of the Leach Run Parkway from Route 55 John Marshall Highway to Happy Creek Road. It was originally designed to be a flyover at that point and connect into Shenandoah Shores Road further west of where the location is now. He agrees with VDOT that an engineer needs to review this and noted the Town no longer has an engineer on staff. He would recommend to Town Council to fund or look at real cost numbers for these improvements. Chairman Merchant spoke about the money proffered to the schools and referred to an email from the Warren County staff questioning if the contributions are enough. The proposed proffer 5.1 calls for \$3,551.00 to be proffered per lot for schools and apparently the county analysis requests \$4,735.00 for schools and \$4,000.00 for parks for a total of \$8,770.00. Negotiation of proffers are a matter of Town Council and not the Planning Commission. He would recommend to Council that we develop some type of process to negotiate the proffers that is fair and equitable for all parties involved. He expressed concern to how many units would be developed per year and noted that the Planning and Zoning staff has been reduced and does not have enough staff to process the number of proposed units per year and noted he would like to see Council clarify how many houses per year to be developed.

Commissioner Wood stated that currently Mr. Sayre could build thirty houses there by-right without a Special Use Permit. The County has no moratorium on building. Housing is needed in the community however the Town and County need to do it in a smart way. Critical infrastructure is needed, and he will vote no for this rezoning application.

After some additional discussion the following motion was made.

Commissioner Wells moved, seconded by Commissioner Wood that the Planning Commission forward a recommendation of approval to Town Council for Application # 2200385 to reclassify approximately 43.9 acres identified as Tax Map #20A221-3A from Estate Residential District R-E to Residential District R1A with the following conditions:

1. *The applicant will amend the proffer statement to include language addressing their responsibility to expand and install the on-site utility infrastructure in accordance with Town Code Chapter 134.*
2. *The applicant will amend their proffers to include language addressing their responsibility for the cost of installing stormwater facilities on site in compliance with the subdivision ordinance (Ch 148 of Town Code) and the maintenance of the stormwater structures by the HOA.*
3. *The applicant will amend their concept plan to provide the size and location of open space areas.*
4. *The applicant will construct the entrance in accordance with Town and VDOT standards.*
5. *The applicant will amend the proffer statement including the concept plan, to address the comments and concerns raised by the Town’s outside counsel to the Town’s satisfaction.*

After further discussion the vote was taken.

VOTE: Yes – Merchant, Wells
 No – Wood, Marshner
 Abstain – N/A
 Absent – N/A

ROLL CALL

Because there was a tie vote the motion died.

Chairman Merchant asked if there were any other motions and there were none.

OLD BUSINESS

None.

NEW BUSINESS

None.

PLANNING DIRECTOR REPORT

Ms. Kopishke reviewed the December monthly report.

COMMISSION MEMBER REPORTS

Vice Chairman Marshner moved, seconded by Commissioner Wood whereas public comment on application # 2200385 has demonstrated serious public safety, health and welfare issues with the transportation infrastructure in the northeast part of town, whereas the Comprehensive Plan states on page 188, 3rd from the bottom future rezoning applications should give consideration,

previous sentence encourage plan development so future uses are compatible with surrounding uses and as transportation infrastructure improves. We have that in our Comprehensive Plan. This is a violation of that principle. This resolution we seek to develop future development as infrastructure improves. Therefore, be it resolved that the Planning Commission urges the Town Council in the strongest possible terms to undertake action with all possible dispatch that will move the East-West Connector or flyover from hypothetical plans to action with a plan or words to that affect.

She expressed that her purpose was to explain to the Planning Commission that we are not antidevelopment, we are not anti-Tom Sayre, we are just public health and safety and this proposed rezoning was not in the interest of public safety. This is the point she is wanting the Planning Commission to convey.

Commissioner Wood asked if the resolution could be drafted and discussed at a work session.

Vice Chairman Marshner agreed and withdrew her motion.

Chairman Merchant stated this will be put on the agenda for a work session

ADJOURNMENT

Commissioner Wood moved, seconded by Vice Chairman Marshner to adjourn the meeting.

VOTE: Yes – Marshner, Merchant, Wells, Wood
 No – N/A
 Abstain – N/A
 Absent – N/A

VOICE VOTE

The meeting adjourned at 9:03 p.m.

Approved by Planning Commission
 Date: 2/15/2023