

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 June 16, 2021, at 7 PM.

ROLL CALL – Determination of Quorum

Present: Douglas Jones, Chairman
Connie Marshner, Vice Chairman
William Gordon, Commissioner
Darryl Merchant, Commissioner
Joshua Ingram, Commissioner

Staff: Christopher G. Brock, Interim Director
Alfredo Gutierrez Velasquez, GIS Coordinator / Planner I
Connie L. Potter, Executive Assistant

CALL TO ORDER

Chairman Jones called the meeting of the Planning Commission to order at 7 PM.

APPROVAL OF MINUTES

- March 17, 2021, Planning Commission regular meeting minutes.

Commissioner Merchant moved, seconded by Commissioner Gordon to approve the meeting minutes as written.

VOTE: Yes – Jones, Marshner, Gordon, Merchant, Ingram
No – N/A
Abstain – N/A
Absent – N/A

CITIZEN COMMENTS

There were no speakers.

PUBLIC HEARINGS

- **FRREZON 2641-2021** A rezoning application submitted by Jason and Christie Sine, requesting amendment of the Zoning Map of the Town of Front Royal Zoning Ordinance to reclassify Warren County Tax Map #20A4-1-4 totaling 0.74 acres from Limited Industrial District I-1 to Residential District R-2.

Chairman Jones opened the public hearing.

The application for review proposes to rezone approximately 0.74 acres from I-1 Limited Industrial District to R-2 Residential District in the Royal Planning Area. The stated purpose of the rezoning request is to allow for the use of the property for residential duplexes. The property is located on the east side of Crosby Road between East 8th Street to the north and East 6th Street to the south. The property abuts the railroad on its entire eastern side and extends behind two parcels. The applicants explain in their “Statement of Justification” that they would like to find some way to utilize their land, noting that it is an odd-shaped piece of property that for some reason is zoned industrial and said that everything on Crosby Road is either currently single-family dwellings or one commercial building. Nothing there is industrial. In addition, the applicants mention that an approved rezoning would benefit the Town in that a piece of vacant, odd-shaped land would generate more in real estate taxes if there were residences on the property.

Based on the findings, staff recommends the adoption of the zoning map reclassification of Tax Map Parcel 20A4-1-4 from Limited Industrial District I-1 to Residential District R-2 as requested in the application as it complies with the comprehensive plan future land use classification for the Royal Planning Area.

Christie Sine shared they had purchased the property for extra land usage when they were living in Front Royal. There are several homes across the street from the property and this is a predominately residential street. Due to the square footage of the lot, they would like to build a duplex structure and will sell them once constructed.

The Planning Commissioners held some discussion with the applicant and discussed how the duplex would be accessed. Also mentioned was that the stadium lights at this location are on late and that this location also included the carnival grounds. The question was raised if there would be a way to notify prospective buyers of the duplex. Additional comments by staff confirmed the property is not located in the floodplain. Staff mentioned again that there were no proffers submitted with the rezoning application and that staff had not received any review comments from the review agencies in Town.

Vice Chairman Marshner moved, seconded by Commissioner Gordon that the Planning Commission forward a recommendation of approval to Town Council to rezone the 0.74-acre site, Tax Map Parcel 20A4-1-4, identified in the application from I-1 Limited Industrial District to R-2 Residential District.

VOTE: Yes – Gordon, Marshner, Ingram, Merchant, Jones

No – N/A

Abstain – N/A

Absent – N/A

- **FRZORDAM 2519-2021** Zoning Ordinance text amendment initiated by the Front Royal Town Council. The purpose of the proposed amendments is to change the use regulations of the C-2 Downtown Business District pertaining to the administrative permitting of residential units and the special use permitting of apartments by Town Council.

Chairman Jones opened the public hearing.

Bill Barnett expressed that he was pleased to see this issue considered by the Planning Commission and Town Council. He noted there has been no legal apartment buildings of any size built in Front Royal for many years. The only concern he has heard from Commissioners is that the proposed ordinance does not have a lot of requirements that you normally associate with this kind of construction. Because up to eight (8) apartment units can be approved administratively by the Town Planner (may change to Town Manager) anything larger than that has to be done by Special Use Permit. This allows the Planning Staff and the Planning Commission to have some control over what it becomes, and Town Council will have complete control of what it becomes and what requirements are needed.

Chairman Jones asked what the usage trend on the 2nd story buildings on Main and Chester Streets has been and if the use has increased or decreased.

Mr. Barnett said he had a collection of Front Royal phones books from the 60s and 70s and in looking through those phone books he recognized teachers, trades people, etc. that lived in those buildings. He stated that in the mid to late 70s those people started disappearing and it started to become a low rent district. Front Royal and Warren County has very little housing for elderly people, and we are losing seniors to surrounding counties where they allow patio homes and have more apartments, etc. There are also very few properties for people just starting out in life and he stated that Front Royal needs this and he believes it would help the downtown district thrive.

Vice Chairman Marshner said someone had mentioned to her they had seen on Facebook that Mr. Barnett’s plan was to have about sixty (60) apartment units on Main Street and asked him to address that information.

Mr. Barnett said that he has not proposed a number of units because they had not yet spent the money on hiring an engineer for the project. He clarified that he had only done

a presentation for the Board of Architectural Review and Town Council to see if there was interest in such a project.

Commissioner Merchant reminded Commission members that before them tonight was not anyone seeking apartment approval but creating the ordinance for this type of project.

Chairman Jones closed the public hearing.

Commissioner Gordon pointed out that at a previous work session Commissioners wanted to include the definition of conversion in a similar way to how development is defined. He feels this definition needs to be included in the ordinance amendment.

Vice Chairman Marshner said it seemed like the proposed ordinance is asking them to write a blank check and she was not comfortable with that.

Commissioner Gordon expressed that his take is that it is allowing for buildings that currently exist to administratively allow for eight (8) units and we are allowing for new development to exist on a smaller parcel of land, but new development would still have to comply with the existing section 175-113 whereas all regulations would still apply to a new development. In his opinion it was not a blank check and was allowing it to be easier to convert existing buildings.

Commissioner Merchant said he shares the Commissioner's concerns over this document. He stated he was neither for nor against apartments in the C-2 District. The role of the Planning Commission is to take the resolution passed by Town Council and craft that into an ordinance that meets their desires and what they view as important in the Town. Town Council has given us the task to initiate amendments to the by-right and Special Use Permit regulations of the C-2 District pertaining to apartments and other multi-family dwellings.

The first change requested to make is under section 175-47(A) which allows the conversion of existing residential and/or commercial structures into buildings with a greater number of dwelling units not exceeding eight (8) total existing and new dwelling units combined. The text in red is what was added. Before it was just "conversion". This applies to the entire C-2 District, not just Main and Chester Streets and is only for the conversion of existing buildings. In the by-right structure the other two items allowed are single-family and two-family dwellings. Commissioner Merchant asked about new apartment structures for the entire district and noted that the C-2 District covers a large area. Are new apartment structures not permitted by-right as a residential use in a C-2 District? He mentioned that they had not reviewed townhouses and multi-family and expressed he had issue with that.

Under the Special Use Permit Category Commissioner Merchant said that "located in buildings constructed after January 1, 1999" was deleted and replaced with "apartments

in accordance with the area requirements of 175-49”. Nowhere in this does it mention conversion of a building to 8, 9 or greater units. When looking at the definition “apartment house” is defined in the Code as 3 or more dwelling units. Apartment development is a term that is used to describe more than one apartment house on a single piece of property. We have regulations for an apartment or new apartment construction as well as an apartment development. This may have been confused in the code section. For a Special Use Permit all we say is apartments in accordance with the requirements of section 175-49. The area requirements in this section for lot area only is a requirement for a new structure. A conversion under our current ordinance does not require any land area other than what it sits on. Apartment houses, apartment developments, or conversion are not addressed, it only says “apartments”. He assumes all three of those would be usable by Special Use Permit. Other areas of the C-2 District are vacant, so we do not want to completely remove the area requirements because they are important in other parts of this ordinance. He asked if putting new walls inside an existing building was a new apartment? Commissioner Merchant said that in his opinion that as long as you build on the same footprint you can tear the old building down. As long as someone uses the same footprint, he would not consider that a new structure. A new structure is something that is occupying new space, never occupied by a building before. He expressed that his concern about this definition is because we were trying to limit the activity of conversion of units for great than eight (8) units to a specific section of Main Street, Chester Street, and a portion of Jackson Street. If you look at section 175-113 the opening statement for the supplemental requirements for apartments states “all apartment developments”. It is his opinion that all of those requirements only pertain to an apartment development. The apartment development is being defined in Town Code as a lot that contains more than one apartment house. The requirements of section 175-113 do not apply at all to a conversion of an existing building and we are trying to put in an exemption to a use that is not covered in the original part of the ordinance. Basically, we are saying that 175-113 does not apply to conversion of a building. He is not even sure that conversion comes under 175-113 at all. Those requirements are more intense because they are for a more intense use which is multiple apartment buildings. We need to be specific where we want a converted building of eight (8) or more units by Special Use Permit to be allowed. This needs to be done under Special Use Permit and not under section 175-113.

Commissioners discussed with the Assistant Town Attorney George Sonnett how they should move forward with tabling/postponing action on the ordinance amendment. Mr. Sonnett explained that any time you make a significant change you would have another public hearing. Commission members agreed the ordinance amendment needed to go back to a work session for discussion and agreed to meet on June 30, 2021, for a work session.

Commissioner Gordon moved, seconded by Commissioner Merchant to postpone FRZORDAM2519-2021 until the July 21, 2021, regularly scheduled meeting.

VOTE: Yes – Ingram, Jones, Gordon, Merchant, Marshner

No – N/A

Abstain – N/A

Absent – N/A

- **FRZORDAM 2725-2021** Zoning Ordinance text amendment initiated by the Front Royal Town Council. The purpose of the proposed amendments is to permit the repair and/or complete reconstruction of nonconforming blighted structures on nonconforming lots.

Chairman Jones opened the public hearing.

The purpose of the proposed text amendments is to ease the regulations and give incentives to property owners to repair or reconstruct structures that have been deemed blighted by Town Council that are located on nonconforming lots of record.

Commissioner Merchant questioned if the amendments would give staff the tools needed to take care of blighted structures in Front Royal. Mr. Brock said yes and no. It would still require a building official/inspector to condemn the building. Looks alone will not blight a building. There are some other issues in the Virginia Building Code that would help in order to blight a building. This ordinance amendment would help property owners be able to fix up properties they have left neglected over the years knowing that because of it being a nonconforming lot they could not meet current setback rules, so they left the properties unmaintained.

Chairman Jones closed the public hearing.

Vice Chairman Marshner stated for the record that as someone who has studied legal histories, she expressed a certain level of discomfort for the state of our represented democracy. If you take the sentences where the word “council” is written, and you replace it with “king” we are opening the door to potentially in principle making the whole process highly politicized. Because it is the Town Council who has to declare something “blighted”, all you would have to do is put an owner of a blighted property on Town Council and nothing will get declared blighted. From a historical perspective if you substitute the word king for Town Council you open the door to the decreasing access of public will.

Mr. Brock responded that the current process as stated in Town Code Chapter 9-303 if we receive a complaint or we think the building is blighted, staff cannot call the building blighted but need to gather evidence and present it to Council where they would then pass an ordinance blighting the building. There is more involved than just saying we do not like the building, so we are going to tear it down. Because the ordinance is in place

currently, Town Council could blight a building now if they had the proper personnel to do the inspections.

Commissioner Gordon commented on Section 1 stating that the addition of the text reads that a special use permit could be approved at any time to allow for a discontinued, legally nonconforming use to be reinstated. He proposed that text be added to clarify that the special use permit would need to be approved prior to the two (2) year timeframe of a nonconforming use being abandoned. The way it is written now is very open ended. In principle he agrees that if for whatever reason it was part of the blighted building plan and takes longer than expected to rebuild, the property owner should not lose out because it took longer to rebuild.

Commissioner Merchant stated this was a case where Town Council has created the ordinance change via their legal staff. Council is not asking the Planning Commission to craft this ordinance but asking the Commission to hold a public hearing in accordance with state code regarding this document. He said he was not sure the Commission had the ability to amend the proposed document.

Assistant Town Attorney George Sonnett explained that the 2-year time period is established by case law. Until the 2-year time period runs you do not have an abandonment and you cannot cut that short. The full time period is required to run its course and then the remedial action can take place.

Commissioner Gordon expressed that with the information provided by Mr. Sonnett he did not feel any additional wording needed to be added to the proposed text amendment because it would be redundant.

Commissioner Gordon moved, seconded by Commissioner Ingram to approve FRZORDAM2725-2021 with the deletion of red-line text under Section 175-130.A.

VOTE: Yes – Marshner, Merchant, Ingram, Gordon, Jones
 No – N/A
 Abstain – N/A
 Absent – N/A

CONSENT AGENDA

- **FRSIGN 2713-2021.** Construction of a new ground mounted sign within the Entrance Corridor at 1100 N. Royal Avenue.

Commissioner Merchant moved, seconded by Commissioner Gordon for approval of consent agenda of FRSIGN002713-2021.

VOTE: Yes – Jones, Marshner, Gordon, Merchant, Ingram
 No – N/A
 Abstain – N/A
 Absent – N/A

OLD BUSINESS

There were no items for old business.

NEW BUSINESS

- Chapter 148 and 175 ordinance amendments to go to work session.

The ordinance amendments will be going to a Planning Commission work session on June 30, 2021.

COMMISSION MEMBER REPORTS

Commissioner Merchant expressed that he takes issue with one of the paragraphs in the Town Council resolution. He noted he was not sure what the proper format was to express his concern. “RESOLUTION: A RESOLUTION INITIATING PROPOSED TEXT AMENDMENTS TO THE REGULATIONS OF THE FRONT ROYAL SUBDIVISION AND LAND DEVELOPMENT ORDINANCE...” The 5th “WHEREAS, it is found that designating the Planning Commission with the authority to approve Major Site Plans may interfere or conflict with the powers of the Zoning Administrator and even that of the Town Council in the review and approval of their respective zoning applications as well as adding time and cost to the zoning review and decision-making process of both forms of permit approval.” He stated the Planning Commission is not an “approval” authority, but a “review” authority. The Planning Commission only makes recommendations to the Director in the case of by-right site plans and to Council in the event of a special use permit application. Commissioner Merchant emphasized that the Planning Commission does not have a conflict with the Planning Director or Town Council on any items. The only conflict may come with an applicant that has an incomplete application and they would deny that the application should proceed because it was incomplete. He wanted to clearly point out that the Planning Commission is NOT an approval authority but merely a REVIEW authority. Commissioner Merchant expressed that he also takes issue with the second part of the paragraph stating that it adds time and cost to the development process. Developers are very aware of the approval process for reviewing site plans. The time of review by the Planning Commission that supposedly adds to the process, is merely a planning issue. Most of the time a developer is not even ready for a final site plan until they meet to

discuss in a preliminary setting, such as a work session as to what they want to do and then they proceed and provide the final document. As far as cost, if anything they save developers money by looking at projects in a preliminary phase and listening to their suggestions and our comments and are able to develop a game plan because it is very expensive to design something and then change it. It is much less expensive to do a preliminary review early and then change it as you go in the process. Commissioner Merchant said he was aware that the paragraph was written by the previous Director, and it may have come out of the issue of a site plan reviewed by the Planning Commission that the Director had approved that was in fact a preliminary site plan. The problem was not with the actual site plan but the fact that the Commission could not give approval for a preliminary site plan. He stated that he has no problem working to develop a smoother process and he commended Town Council for looking at the process. If you really want to help developers and save cost, look at the Town Code requirements for detailed requirements for site plans. The requirements for a preliminary plan are almost the same for a final site plan. Developers have to spend a huge amount of money to prepare a preliminary plan which should only be a guiding document, not the final design. He would suggest to Town Council that we look at changing detail requirements, not the review process but what they review.

Chairman Jones was not sure anything could be done about this. Commissioner Merchant stated he understand that and said he assumed there would be a document coming to their work session indicating what the Director interprets as to what Council wants the Commission to do. It was noted by Commissioner Merchant that there needs to be a Planning Director in place before they look at this.

ADJOURNMENT

Commissioner Gordon moved, seconded by Commissioner Merchant to adjourn the meeting.

VOTE: Yes – Gordon, Marshner, Ingram, Merchant, Jones

No – N/A

Abstain – N/A

Absent – N/A

The meeting adjourned at 8:30 pm.

Connie L. Potter
Executive Assistant