

PLANNING COMMISSION WORK SESSION

May 23, 2017

5:00 – 7:00 p.m.

I. PLANNING COMMISSION WORK SESSION

Members Present: Vice Chair, Lisa Green, and (arrived 6:30) Commissioners Genevieve Keller, Taneaia Dowell, Jody Lahendro, and John Santoski

Staff Present: Carolyn McCray, Lisa Robertson

Call to Order: John Santoski at 5:15

AGENDA

Lisa Robertson noted that the Legal Audit has been on the city's website since the end of February and people are starting to notice it. She said you all have heard for a number of years something known as the code audit and it doesn't look like what you may recall now. In September of last year City Council was disappointed that the code audit had not progressed and the SIA implementation had not begun. They gave us a work plan and we all have been working on that work plan. She said her task was to prepare a legal review.

The legal review is a very large document along the lines of the outline she handed out last November. It identifies issues which cause people problems, unfavorable outcomes, interpretation problems, changes statutes amending 2003 and/or cases that have been decided.

Ms. Robertson said the document you have has been substantially reorganized. What is current Article 1 contains a lot of administrative and other provisions. She has separated that into two articles. She has created an Article entitled Administration and an Article 2 which is a new Article titled zoning permits and procedures. Items included in Article 2 have been in the current larger Article. This is in the design development process, maybe 50 or 70 %, depending on what the issue is but this by no means is a final product. The article separated out is to provide an overview of administrative provisions, to identify who is going to be the zoning administrator and who those duties can be delegated to.

The biggest entity whose procedures needed to be updated to match up with State law is the Board of Zoning Appeals. The provisions in our current ordinance are out of date so in Article 1, language is crafted to update the section to match up with State law requirements for the Board of Zoning Appeals. She has eliminated a lot of language that is in there now that's either paraphrasing or an inaccurate presentation of what is in State Law and tried to keep what is in the local ordinance to a bare minimum. When you see references to state code provisions, those are state code provisions that contain processes and procedures that we are not allowed to change at the local level for the Board of Zoning Appeals.

Commissioner Keller: said as we are getting a fair amount of push back about being accessible to all types of people, the thing about it not being important to have it all in one place when it is all not in one place, could we have some note to refer people to the other place?

Ms. Robertson: said what we are going to do with Municipal Code Corporation is reference the Virginia code references in the text itself: for example: pg. 5, article 1, The BZA may adopt such rules and forms as it may deem necessary to implement the various processes and procedures set forth within Virginia Code Sec. 15.2-

2308 through 15.2-2312. She said very often there are notes at the end of a section as well and what we can talk to the code officials to see whether or not they can provide us links to use the web based programs.

Ms. Keller: said we have put more emphasis on an online document then we used too, but we are all sitting here with stacks of paper. Is there any sort of guidance that could be given to these links about how one would go about printing and assembling a document so we don't have so much confusion about how to assemble that online document when it is in printed form?

Ms. Robertson: said the online document when in printed form should look just like it is printed off here, so if you print it out, you will still see the state code references but those are not going to print out as appendices.

Commissioner Keller: said if the city was to have a master copy; it would be a good idea to have some of that right? Would they be as appendices?

Ms. Robertson: said no, we would be re-printing.

Commissioner Keller: said that needs to be clear to the public. We have moved to a new era and we might not all be on the same page at the same time but we have access to the same links.

Ms. Robertson: said she is trying to consolidate so that it is easy to find sections that deal with similar issues.

Zoning Permits and Procedures

Ms. Robertson stated where there is a process or procedure, whenever you submit your application, you must submit your required fee. The fee is in the fee schedule which is adopted from time to time by City Council. She put fee references in one provision up front so she doesn't have to repeat it in 6 different divisions.

Various Items: Proffers, Special Use Permits, Variances by the BZA, Certificate of appropriateness provisional permit, temporary permits, zoning verification (a new term).

We struggle a lot when you have to do a site plan. When does something require you to go through all of the motions to put a full blown site plan together versus sitting down with the zoning administrator presenting drawings or other documentation sufficient to allow the zoning administrator to determine whether or not your house is going to go in the correct setbacks or your use or positioning of something that is going to be in accordance with the zoning ordinance. She is trying to clarify and be consistent with state law that site plans are what we use to document and review development which is by state law commercial development, industrial development and residential development that is going to have three or more units. A site plan might be, once approved; you want to come in and get a building permit that may be your zoning verification as long as your building plans are consistent with the site plan; that is the only verification you will need to get your building permit.

There might be other situations where somebody is renovating a particular building and mostly what staff needs to see is whether the utilities which are being re-located are going to be consistent with easements or things shown on the subdivision plat or a new surfacing of a parking lot is going to be consistent with requirement of the zoning ordinance.

Zoning verifications: will let people assemble documentation that will demonstrate when in compliance with the zoning ordinance without having to put forward a whole full blown engineered site plan for an issue that is a smaller issue.

Ms. Robertson said we need to do something to clean up the matrices and be a bit more accurate as to what they include.

Commissioner Lahendro said so that would be a work session all of its own?

Ms. Roberson said it could be but we may not have time for that at this point. She said that is the re-organization process and if she moves things around and we don't get to the use matrices what she would do is put the ones we've got into the new location. We could do some sort of hybrid. The biggest problem is we have 5 pages of listed uses almost which none of them apply. On the residential, one even if you didn't change anything is technically in there now, she would like to get rid of the rows with no provisions in them and that would be the simplest update.

Commissioner Lahendro asked will staff give them guidance to what they will need depending upon what they want.

Ms. Robertson said yes, that is the idea. What somebody would do is request the zoning administrator to meet with the land owner who wants to put this shed at the back of my property. What do I need to do to demonstrate to you that it is going to be in compliance with the zoning ordinance? In that situation the zoning administrator would only require a sketch and would not have to go hire an engineer or architect to draw it out. Depending on what the nature of the request is you could tailor it.

Ms. Robertson said right now, we are calling a lot of things site plans, but they really shouldn't be site plans.

Commissioner Lahendro said some of the comments we have gotten from the public tonight, zoning verification would also be used when a particular zoning use doesn't fit the category that is already in the matrix.

Ms. Robertson said one of her recommendations is that we need to re-work our use matrices. She is not sure whether that in itself is a fairly major task or whether you will want to complete that task or not. The model in here is for the residential use matrix and I would like to move it to a simplified matrix that establishes categories of uses, define what the categories are and define what a residential use is. If there are specific things you would like to call out that are a part of a category you could do that but matrix might be a use of specifically identified uses in a more general category. General retail uses would have a definition. The zoning administrator can determine if that use is substantially to the ones that are listed. If you move toward a procedure that should be a zoning verification and someone objects to that determination there would be an appeal process through the Board of Zoning Appeals.

Site plan section has also been re-worked and we will get into the substance of that a little bit later but what is proposed is a more precise distinction between what a preliminary site plan is and what a final site plan is. A preliminary site plan is draft final.

Preliminary Site Plan should present an overview of infrastructure, how you are laying out a site, enough detail so staff can be looking at it to see whether it is even possible to do what you are proposing to do and comply with our ordinances. You don't have to do a preliminary if you don't want to.

Zoning District Regulations

Zoning district regulations that apply to all of your zoning district single and multi-family district, regulation try to make sure sorted and referenced, separate set of regulations, grouping them together, better illustrate to you where they are and what they are.

Substantive issues - We need to clean up the matrices

Residential issues - Get rid of all of the rows with NO provisions in them.

Procedural issues - Recommendation is to follow State processes and procedures.

Ms. Robertson stated provisions that talked a lot about PUDs and the PUD applications should have this additional information. We need all of the PUD information to be in one place. You should be able to flip to the PUD section and find everything you need for a PUD. She said other places in our ordinance application that you are looking at talks about different people who can file the application. For rezoning, SUPs, and site plans it really needs to be the landowner or the land-owners agent.

If your ordinance says this list of 5 people can file an application and you allow someone else to file the application that approval can be void from the beginning if you gave approval to somebody who the ordinance didn't authorize to apply for it in the first place. The SUP is a legislative process opposed to administrative one.

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All of these criteria will be addressed in your staff report. The NDS Director shall review every proposed use permit and shall provide written analysis, recommendations to the Commission and City Council and they shall address the problem. The things you consider just need to be rationally and reasonably related to a zoning decision.

Commissioner Keller asked should there be an L that addresses those points that are not specifically delineated here and any other factors.

Ms. Robertson said you can see the same changes in the section of the certificate of appropriateness in the BAR and the entrance corridor sections. There is a list of a set criteria that Council needs to review and that has been changed into a criteria that has to be addressed in a staff report. This is how the BAR does it, it is how you do it on an entrance corridor review, and in making your decision you just make a motion basically announces your decision.

Exceptions in Variances: setbacks, stepbacks, the PUD section, are allowed to modify certain parking or landscaping standards; Critical slope waiver does not make changes to this procedure.

Ms. Robertson said she edited appurtenances.

Commissioner Keller said addressing those specific provisions, administrative perspective, and less ability is the process or some regulations to modify them when we get there, and a necessary use with construction in the city.

Site Plan section: In paragraph B Administrative approval, NDS director, individual planners, the planning commission want to be the agent for. The Planning Commission is the agent for preliminary site plans for major subdivisions and an amendment of previous approved final plans for major subdivision site plan that get referred to you by the NDS director and site plans proposing to disturb a critical slope unless the exception is a part of an application that is all wrapped up in a zoning amendment or an SUP. In paragraph C, page 18, the preliminary site plans and the site plans listed in paragraph B, the NDS director is responsible for approval of site plans.

Ms. Robertson said that is out of the state law. There is new language state law: such as the layout requirements for streets, and utilities. She said what normally comes through to you for a waiver is something like the slope of a street. When this is referencing section X, that reference the provisions allows for those types of waivers.

Commissioner Keller asked have we had this injustice and hardships.

Ms. Robertson said most of the things aren't listed in the zoning ordinance. They show up in the subdivision ordinance because their waivers of standards are in the subdivision ordinance but because the zoning ordinance cross references the subdivision ordinance, it is not a broad waiver but substantial injustice or hardship is the standard you are supposed to apply when you're looking at those things.

Commissioner Keller said we do define both of those terms in our definitions?

Ms. Robertson said substantial injustice and hardship, no there is not really a material change in the development proposal.

Commissioner Keller said those are terms that we all have different definitions. A zoning hardship does not necessarily equate with a hardship in back of our mind is.

Ms. Robertson said when you all are wearing you site plan approval hat, you have a fair amount of discretion to make those decisions and that can often come into play as well when you are determining or not that someone has made their best efforts to avoid steep slopes when they are laying out their roads and to do some other things, so, it's a standard that is probably best left the way the enabling legislature.

Ms. Robertson: said we made it through reorganization and re-development. There will be changes that strongly will proceed in the short terms and issue more difficulty in the work plan. We are to look at this as soon as possible; the definition of mixed use and the measure of building heights, shared parking, density, height and how to measure height. We should ask Council to address this sooner rather than later.

Adjourn 7:00