

Town of Haymarket
15000 Washington Street, Suite 100, Haymarket, Virginia 20169
Mayor Pamela E. Stutz
Monday January 5, 2009

Meeting called to order at 7:00 p.m.

Roll Call: Cole, Stutz, Edwards, Weir
Absent: Leake, Vazquez, & Shurn

Joint public hearing postponed to later in the meeting so that a quorum is present.

Mayor calls regular meeting to order

Citizen's Time

Ralph Ring-Greenhill Crossing

He is speaking in support of Betty's Daycare SUP application. He addresses speeding issues, but specifically this morning a vehicle noted as speeding, it was a resident, not a customer of Betty's Daycare. Speeding should be addressed by the Haymarket Police Department.

**Vazquez & Shurn enter meeting at 7:03 p.m.

Ring continues.....

He comments that the HOA board is showing contradictions on public vs. private actions. Mr. Ring feels there is no reason to deny the business.

Cara Gallagher-6930 Jockey Club Lane

Speaking against the license, solely for the reason of traffic. She doesn't necessarily care that the daycare is there, the speeder this morning was a resident. She has personally visualized Betty's customers speeding or violating stop signs. She would like to see a higher presence of police in Greenhill Crossing.

Linda Thompson-Gap Way

Speaks on behalf of Betty's Day Care, She strongly disagrees with eliminating this business. It is unfair to penalize Betty for the actions of other people.

Lara White-14657 Red House Road

She looked into this day care. The yard is littered with children's toys. She is on the board of the HOA. They said that home businesses were allowed. She asks that we deny the daycare based on the number of children and traffic.

Jay Tobias-Rising Sun Lane

On behalf of Longstreet Commons HOA, Tobias says that Racing Painting is within the covenants. They recommend approval.

Nora Aikens

She is addresses Councilman Weir. She asks that he please help try and unite the Greenhill Crossing Community. She knows that he works hard and well with Greenhill. "There is a negative coalition in Greenhill Crossing, what is happening now has no positive purpose." She asks that he please use his skills to unite those residents to create a positive purpose.

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Minutes

Cole motions to approve the November 3, 2009 minutes, Edwards seconds;

Ayes: 5

Nays: 0

Town Manager's Report

Town Manager informs that the government offices' server crashed in early December. Our auditor had QuickBooks backed-up through October 17. A lot of the other stuff was in emails or on hard copy that can be rescanned in.

We have put in a backup system on and off site.

DRPT has initiated a transportation study for Haymarket specifically, a trolley system. A draft has been completed. He will distribute that copy as soon as it is available. They do believe there is a need for mass transit of some sort.

Street-scape

The Town has hired a second appraiser to review the original appraisals. Work should be done by mid-January.

State E&S Compliance Audit

The Town will get the results of the audit in the next few days. Overall our program is in compliance and working well now.

The Town has heard nothing from Comcast regarding the franchise agreement.

**Reminder: Code revision committee meeting on Feb. 7 10am.

Town Manager reports on the coats for kids program this year. We received about 15 coats. They are still in need of large coats. 2 XL men's and 1 XL women's.

Weir-have we heard anything back from VRE? They had scheduled a meeting for the 2nd Tier analysis, they have not yet re-scheduled a date for that.

Police Report

Chief introduces our two new police officers, Anthony Gregg & Warren Houde are welcomed into the community. Cole asks that an unmarked car be on patrol in the cul-de-sac where daycare is located.

Treasurer's Report

He would like a January 15 meeting for the budget. Would like to meeting with Town Manager and Shuryn. He suggests later in February for a meeting.

Olde Towne Center Site Plan

Mayor reminds a work-session of

Edwards motions to refer the revised final site plan to the Planning Commission to determine whether good zoning practice and health and safety and welfare of the public, Vazquez seconds;

Roll Call Vote: Vazquez-Yes, Cole-Yes, Edwards-Yes, Weir-Yes, Shuryn-Yes

Absent: Leake

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Cole Motions to authorize advertising for the 26th of January for consideration of the final site plan filed by Oldtowne Centre, waivers and exceptions to the zoning ordinance in support of the site plan, and the final sale of the property, Shuryn seconds;

Ayes: 5
Nays: 0
Absent: Leake

Cole motions to extend the contract with Kennedy for the sale of the "Town Center Property" to February 27, 2009, Edwards seconds;

Vazquez-Yes, Cole-Yes, Shuryn-Yes, Edwards-Yes, Weir-Yes
Absent: Leake

SUP's and business license applications

Betty's Day Care-discussion

There has been a recommendation from the PC, for the record Mr. Leake would abstain from any discussions even though he is not here, for #SUP20081024. Mayor asks if we can put a limit of 6months on this approval. Cole is concerned about the size of area in the home being dedicated to the use. "Devoted means used not for anything else." If there is a split use, it is probably not devoted. Residents are concerned about traffic mostly. Traffic can be controlled with law enforcement, with no mercy. Most residents say they are not concerned about the business itself but the traffic. Weir has researched the other HOA's guidelines and with the exception of the villages they have standard boilerplate language. Feels this controversy is a civil matter. Vazquez discusses visibility, 58-16 (5) no evidence of its use. SUP can be recalled for cause. 6 months would be considered a pretty tight leash. There would be no more than 5 clients, PC says 5 clients.

Weir Motions to approve the Special Use Permit Application #20081024, For Betty's Daycare to be located at 6933 Jockey Club Lane with a limit of five customers as defined by the code of Haymarket, and not to exceed the state limitations of 12 children. Approval is valid until July 6, 2009 with a renewal period to expire January 2010, at no cost to the applicant, Shuryn seconds;

Roll Call Vote: Vazquez-Yes, Cole-Yes, Shuryn-Yes, Edwards-Yes, Weir-Yes

**Weir recuses himself from Gloria's Hair salon, he is an adjacent neighbor

Cole motions to approve the Special Use Permit, #SUP20081021, for Gloria's Hair Salon to be located at 6844 Jockey Club Lane with a limit of five customers per day.

Abstain: Weir
Roll Call Vote: Vazquez, Cole, Shuryn, Edwards

Weir motions to approve the business license application for Group Therapy Associates to be located at 15125 Washington Street, Vazquez seconds;

Ayes: 5
Nays: 0

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Cole motions to approve the business license application for Allen Moore, as an out-of-town contractor, Edwards seconds;

Ayes: 5

Nays: 0

Weir motions to approve the business license application for GT Air Conditioning and Heating, as an out-of-town contractor, Shurnyn seconds;

Ayes; 5

Nays: 0

Weir motions to approve the business license application for Hash Construction, as an out-of-town contractor, Cole seconds;

Ayes: 5

Nays: 0

Zoning Text Amendments

Weir motions to approve the Zoning Text Amendments, as advertised and attached to these minutes, Cole seconds;

Roll Call Vote: Vazquez-Yes, Cole-Yes, Shurnyn-Yes, Edwards-Yes, Weir-Yes

**Authorize Clerk to advertise a public hearing for February for the CT-zoning district text

Appropriations

Edwards motions to approve 80% of the total proposal for Deeds Appraisals in the amount of \$24,000, Cole seconds; This expenditure is coming from the monies collected by the meal's tax revenue and the town will submit for reimbursements from VDOT for 80% and appropriate monies to Appraisal Review Services in an amount not to exceed \$18,500 from the same budget line item.

Roll Call Vote: Vazquez-Yes, Cole-Yes, Shurnyn-Yes, Edwards-Yes, Weir-Yes

Site Plan-Disposition of Payne Lane Properties

Weir-Defer Payne Lane properties site plan to next meeting. Issue is not mature at this time.

Cole-Land Use applications, he would like a checklist and would be thrilled to be a part of helping make it for applications in the county that are within 1 mile of the Town's boundaries. Who is going to do the training asks Edwards? Cole would like to see everyone qualified. Mayor informs that the planner was unable to handle Breyerton Estates. The Town Attorney comments that it is good to have as many eyes as possible but that at the end of the day it takes a professional person or more than one to sign off on these.

**Schedule a meeting with Marshant Schneider

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Short Break, meeting called back to order at 9:07 p.m.

**Leake enters meeting.....

Special Use Permit Public Hearings

Roll Call: Gillin, Leake, Ivancic

Absent: Graham

Planning Commission calls their public hearings to order

Lincoln Mortgage-14851 Washington Street

Planning Commission the public hearing to order

Leake asks for all those in favor of the application please feel free to speak.

1st Call

2nd Call

3rd Call

Opposed to the SUP at 14851 Washington Street

1st Call opposed

2nd Call opposed

3rd Call opposed

Racing Painting-14846 Rising Sun Lane

1st Call in favor

Chuck Carnahan in favor, he is a great neighbor

Jay Tobias stood up and recommended approval

2nd Call in favor

3rd Call in favor

Opposed

2nd Call opposed

3rd Call opposed

Ivancic motions to close the public hearings for the two special use permit applications for in-home businesses, Gillin seconds;

Ayes: 3

Nays: 0

Mayor calls the Town Council public hearings to order on two special use permit applications for in-home businesses.

Lincoln Mortgage-14851 Washington Street

Mayor asks for all those in favor of the application please feel free to speak.

1st Call

2nd Call

3rd Call

Opposed to the SUP at 14851 Washington Street

1st Call opposed

2nd Call opposed

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3rd Call opposed

Racing Painting-14846 Rising Sun Lane

1st Call in favor

2nd Call in favor

3rd Call in favor

Opposed

2nd Call opposed

3rd Call opposed

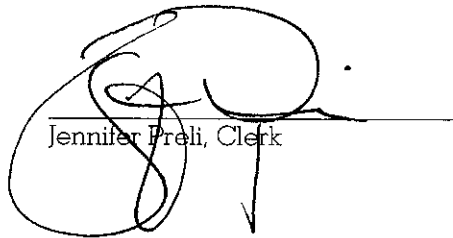
** clerk to place SUPs on agenda for Planning Commission

Edwards motions to adjourn the regularly scheduled meeting of January 5, 2009, Cole seconds;

Ayes: 6

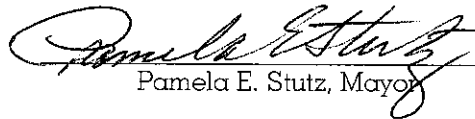
Nays: 0

Submitted:



Jennifer Preli, Clerk

Approved:



Pamela E. Stutz, Mayor

Sec. 14-46. Annual license tax; rate schedule.

The following businesses, trades, professions and occupations shall be required to pay, for the privilege of doing business, a license tax in accordance with the rates set forth:

- (1) Contractor, ~~\$0.10~~ \$0.15 per \$100.00 gross receipts.
- (2) Retail merchant, \$0.10 per \$100.00 gross receipts.
- (3) Professional and financial services, ~~\$0.10~~ \$0.30 per \$100.00 gross receipts.

Sec. 14-47. Reserved License application fee.

~~_____ The fee for issuing a license under this chapter shall be \$30.00. This fee is in addition to any amount computed under section 14-46.~~

Sec. 38-160. Six months' limit.

~~Within six months after receiving approval of the preliminary plat, the subdivider shall file with the administrator a final subdivision plat in accordance with this chapter. Failure to do so shall make the preliminary approval null and void. The administrator may, on written request by the subdivider, grant an extension of this time limit. Once a preliminary subdivision plat is approved, it shall be valid for a period of five years, provided the subdivider (i) submits a final subdivision plat for all or a portion of the property within one year of such approval or such longer period as may be prescribed by local ordinance, and (ii) thereafter diligently pursues approval of the final subdivision plat. "Diligent pursuit of approval" means that the subdivider has incurred extensive obligations or substantial expenses relating to the submitted final subdivision plat or modifications thereto. However, no sooner than three years following such preliminary subdivision plat approval, and upon 90 days' written notice by certified mail to the subdivider, the commission or other agent may revoke such approval upon a specific finding of facts that the subdivider has not diligently pursued approval of the final subdivision plat.~~

Once an approved final subdivision plat for all or a portion of the property of a multiple phase development is recorded pursuant to §15.2-2261, the underlying preliminary plat shall remain valid for a period of five years from the date of the latest recorded plat of subdivision for the property.

Sec. 58-1. Definitions.

Coverage: The area of a lot occupied by structures, off-street parking, driveways, outside storage, or any other improvements not considered open space.

Family care home, foster home or group home means a residential structure established to serve ~~mentally~~retarded intellectually disabled or other developmentally disabled persons, not related by blood or marriage.

Sec. 58-2. Penalties for violation of chapter.

Any such violation of this chapter shall be a misdemeanor punishable by a fine of not less than \$10.00 nor more than \$1,000.00. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with this chapter, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute separate misdemeanor offense punishable by a fine of not less than \$10.00 nor more than \$1,000.00, and any such failure during any succeeding ten-day period shall constitute a separate misdemeanor offense for each ten-day period punishable by a fine of not less than \$100.00 nor more than \$1,500.00. When such civil penalties total \$5,000 or more, the violation may be prosecuted as a criminal misdemeanor.

Sec. 58-62. Maximum Lot Coverage

The maximum lot coverage shall be thirty (30) percent.

For single family detached dwellings on lots containing 36,000 square feet or less in the R-1 District, all parking for vehicles or trailers in a front yard shall be on a surfaced area, provided, however, that this shall not be deemed to preclude temporary parking on an unsurfaced area in a front yard for a period not to exceed forty-eight (48) hours for loading, unloading, cleaning or repair of vehicles or trailers. In addition, no more than twenty-five (25) percent of any front shall be surfaced area for a driveway or vehicle/trailer parking area; provided, however, that these limitations may be exceeded for a surfaced area that is:

- A. Directly contiguous with, and providing primary access to, two (2) side-by-side parking spaces as long as the surfaced area is not more than twenty-five (25) feet long and eighteen (18) feet wide;
- B. On a lot which has its primary access from a major thoroughfare and consists of two (2) side-by-side parking spaces and a vehicular turn-around area as long as the surfaced area is not more than twenty-five (25) feet long and eighteen (18) feet wide and the turn-around area does not exceed 150 square feet; or
- C. Provided as an accessibility improvement as approved by the Zoning Administrator.

Surfaced area shall include asphalt, poured or precast concrete, brick, stone, gravel, or any other impervious surface, or grasscrete or other similar pervious surface. On a pipestem lot, the surfaced area within the pipestem driveway shall not be included in this limitation.

Secs. 58-63--58-95. Reserved.

Sec. 58-258. Special uses.

~~(15) — Fast food.~~

Sec. 58-386. Restoration; replacement.

(f) The owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God may repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-98 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired or rebuilt within two years of the date of the natural disaster or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph.

Nothing in this section shall be construed to prevent the Town, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. If, following such two-year period, the Town has made a reasonable attempt to notify the property owner, the Town through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused

to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the Town from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

Sec. 58-467. Powers and duties of board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of Code of Virginia, § 15.2-2280 et seq. or this chapter.
- (2) To authorize upon appeal or original application in specific cases such variance as defined in Code of Virginia, § 15.2-2201 from the terms of this chapter as will not be contrary to the public interest when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this chapter shall be observed and substantial justice done, as follows:
 - a. When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the zoning ordinance of September 19, 1983, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of immediately adjacent property, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.
 - b. No such variance shall be authorized by the board unless it finds that the:
 1. Strict application of this chapter would produce undue hardship.
 2. Hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 3. Authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.
 - c. No variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.
 - d. No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.

- e. In authorizing a variance, the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

Sec. 58-469. Appeals to board.

- (a) An appeal to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this chapter. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until such statement is given. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section. Such appeal shall be taken within 30 days after the decision appealed from by filing with the administrator, and with the board, a notice of appeal specifying the grounds of appeal. The administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

Sec. 58-509. Period of validity of approved site plan; construction in accordance with plan.

- (a) An approved final site plan shall ~~become null and void if a performance bond is not posted and/or a building permit has not been issued within 12 months of final site plan approval.~~ be valid for a period of not less than five years from the date of approval thereof or for such longer period as the local planning commission or other agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed development. A site plan shall be deemed final once it has been reviewed and approved by the locality if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows. Construction or development may begin upon approval of the final site plan, posting of the required assurances, payment of fees, recordation of plats (if necessary), and acquisition of required permits. Any person who fails to secure the required permits or allows those permits and/or assurances to expire within the time period set forth in this section shall thereafter be required to file a new final site plan which conforms with current town standards and requirements at the time of the new application, and shall pay an appropriate review fee.

Sec. 58-717. Lighting.

- (a) All lighting shall be the Washington Steel style (fluted) post with the Washington 118 globe (acorn style) with finials style, approximately 47 14 feet in height, being "Martin Senour-Market Square Dark Tavern Green," W85-0620 or equivalent, in color, having 24-inch metal base and concrete footer and as approved by the town council May 5, 1997.

Chapter 2 Administration
Article VI. Public Contracts.

The Town shall provide in every written contract that the contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.