

TOWN OF ABINGDON
PLANNING COMMISSION
REGULAR MEETING
MARCH 25, 2013 - 5:30 P.M.

The regular meeting of the Abingdon Planning Commission was held Monday, March 25, 2013 at 5:30 P.M. The meeting was held in the Municipal Building, downstairs meeting room.

Dr. H. Ramsey White, Chairman, called the meeting to order. Mr. Jackson called the roll.

ROLL CALL

Members Present: Dr. H. Ramsey White, Chairman
Mr. Mathew T. Bundy, Vice-Chairman
Mr. Gregory W. Kelly
Mr. Robert M. Howard
Mr. Kenneth Shuman
Mr. Wayne Austin
Mr. Gary Kimbrell

Comprising a quorum of the Commission

Members Absent: None

Administrative Staff: Mr. W. Garrett Jackson, Assistant Town Manager
Director of Planning/Zoning
Mr. Sean Taylor, Assistant Director of Planning/Zoning
Mrs. Deborah Icenhour, Town Attorney
Mr. John Dew, Director of Public Services and Construction
Mr. Jim C. Smith, Director of Wastewater Operations/Town Engineer
Mr. C. L. McGlothlin, Code Enforcement Officer (Absent)
Mr. John Holbrook, Officer, Abingdon Police Department
Ms. Rebecca Moody, Environmental Planner and
Sustainability Coordinator (Absent)

Visitors: Mr. Bill Cross, New Peoples Bank
Others

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- (2) Approval of Minutes: Regular Meeting, January 28, 2013
Regular Meeting, February 25, 2013

January 28, 2013

Mr. Shuman recommended that the January 28, 2013 minutes be amended as follows:

Page 13-2, Item 3, Paragraph 3

FROM:

Mr. Fenton Childers, Real Estate Manager with Kroger Mid-Atlantic and representing Mr. Messer, due to him not being unable to attend the Planning Commission meeting, explained that he wanted to clarify one print from the previous meeting; that being the frequency of deliveries by tankers would be once per day, also proposed some architectural renderings that hopefully would be complimentary to the Shoney’s plan.

TO:

Mr. Fenton Childers, Real Estate Manager with Kroger Mid-Atlantic and representing Mr. Messer, due to him ~~not~~ being unable to attend the Planning Commission meeting, explained that he wanted to clarify one print from the previous meeting; that being the frequency of deliveries by tankers would be once per day, also proposed some architectural renderings that hopefully would be complimentary to the Shoney's plan.

Mr. Kelly made a motion to approve the minutes of the regular meeting, January 28, 2013, with the recommended amendment. Mr. Shuman seconded the motion.

VOTE:

Mr. Kelly	Aye
Mr. Shuman	Aye
Mr. Austin	Abstained
Mr. Kimbrell	Abstained
Mr. Howard	Aye
Mr. Bundy	Abstained
Dr. White	Aye

The motion passed.

February 25, 2013

Mr. Shuman made a motion to approve the minutes of the regular meeting, February 25, 2013, as presented. Mr. Austin seconded the motion.

VOTE:

Mr. Shuman	Aye
Mr. Austin	Aye
Mr. Kelly	Abstained
Mr. Howard	Aye
Mr. Bundy	Aye
Mr. Kimbrell	Aye
Dr. White	Aye

The motion passed.

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- (3) Consideration of Final Plat For Proposed Subdivision - Replat of the S. F. Hurt Subdivision
Ole Towne Village Subdivision, New Peoples Bank, Owner
Boundary Line Adjustment of Parcel Nos. 08-21-1 through 18-21-5, Nos. 018-21-11 through
18-21-16, and Parcel Nos. 18-6-12A1, 018-6-A2 and 18-6-12A3.

Mr. Jackson explained that a preliminary plat for the referenced property was presented to the Planning Commission during the regular meeting of February 25, 2013.

The current owner requested exemptions to the construction of street widening, curb, gutter, and sidewalks along Colonial Road, Fugate Street and Hurt Streets.

The Planning Commission made a motion to approve the request with waiver, conditioned upon the fact that any further conveyances or any conveyances of these lots which are included in this request, would contain a covenant or a restriction requiring the joint maintenance of the detention pond which is shown on Lot 24.

The final plat is to reflect the exemptions as recommended for approval by the Planning Commission at the February meeting.

The applicant expressed some confusion at the February meeting as to why street/sidewalk improvements were required. These requirements were included because these lots were proposed as part of the development of “Olde Towne Village” and with the development of multi-family or single family housing the need for walk ability still exists.

When reviewing this request, it was clear there was a history of owners of the property or those wishing to purchase it, seeking exemptions from the requirements of the Town Subdivision Ordinance. Although it was recommended for approval by the Planning Commission at the February meeting, that these requirements be waived, staff of both the Planning Department and Public Works Department disagreed. Mr. Jackson proceeded to give an explanation.

Mr. Kelly stated that there were other factors which weigh into this staff recommendation such as the future parking plans for the Muster Grounds, Lowry Drive/French Moore Boulevard and the proposed construction of the “urban path” from the Virginia Highlands Community College Campus, through the Town to the Coomes Center. Any future plans will require upgrades to Haggy Street, Hurt Street and Fugate Street.

The lot lines along Fugate Street have been moved to provide a total of 10 feet of right-of-way dedication to the Town on the east side of Fugate Street. This dedication provides a total width of 30 feet for the street. Ten feet of right-of-way dedication to the Town has been made on Hurt Street.

Whether the development is planned for multi-family or single family units, walk ability is still a need. The Subdivision Ordinance is in place to ensure this is accomplished.

Further discussion of this request revealed the following:

Subdivision Ordinance Sec. 8.3 (9) – Contents: *Private restrictive covenants and their period of existence. Should these restrictions be of such length as to make their lettering on the plat impracticable and thus necessitate the preparation of a separate instrument, reference shall be made thereto on the plat.*

It was Mr. Smith’s opinion that the above section would require the placement of the following paragraph: as suggested by the Town Attorney, on the final plat.

Final approval of this plat is subject to any and all notes made here on. Any conveyances of parcels represented herein which are made later than April 1, 2013 shall contain a covenant or restriction requiring the joint maintenance of the detention pond located and shown here on Lot 24 as illustrated.

Sec. 10.1. Modification of requirements of the Subdivision requires, *“Any such waiver or modification, authorized under the provisions of this section, shall be stated in writing, on the plat, by the subdivider, with the reasoning set forth on which the waiver or modification was justified.”*

Mr. Smith further stated that he was requesting the Planning Commission draft the statement to be stated in writing on the plat as required by the Ordinance. Also, he would like to review a plan that has been developed that would provide access to the property that would include some improvements there.

After a lengthy discussion, Mr. Howard made a motion to table this request until the next regular meeting to allow the Town and New Peoples Bank and their representative extended time for further discussion, to decide on a plan for a joint arrangement in this matter. Mr. Kimbrell seconded the motion.

VOTE:

Mr. Howard	Aye
Mr. Kimbrell	Aye
Mr. Kelly	Aye
Mr. Austin	Aye
Mr. Shuman	Aye
Mr. Bundy	Aye
Dr. White	Aye

The motion passed.

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- (4) Consideration of Final Plat For Proposed Subdivision - **Mabe Subdivision**, a division of property owned by Elden Mabe and Rickey Dale Mabe. The property is located at the intersection of Trigg Street and Short Street, consisting of 21.7± acres and currently zoned AFOS. **Tax Map No. 105 (A) 12.**

Mr. Smith explained that this is consideration of the final plat for the proposed subdivision of property owned by Elden Mabe and Rickey Dale Mabe. The property is located at the intersection of Trigg Street and Short Street, consisting of 21.7± acres and currently zoned AFOS, Agricultural Forestal Open Space. The purpose of the subdivision is to separate 2.28± acres surrounding a single family residence currently occupied by Rickey Dale Mabe from the larger parcel owned by his father, Elden Mabe.

Per the Town’s Subdivision Ordinance, Addendum C, defines the proposed subdivision as “Regular” where some improvements and/or construction plans are required or may be required. Both preliminary and final plats are required and are processed separately. The preliminary plat was presented to the Planning Commission on May 9, 2012.

The Town’s Subdivision Ordinance, Article VI, Improvements, states the subdivider shall install and construct, at his cost, all improvements required by Article VI which includes new streets, portions of existing streets, any easement, extension of drainage, sewer or water system, or right-of-way connecting two (2) public streets and shall be responsible for bringing roadway frontage up to standard for initial acceptance by the Department of Public Works.

The Subdivision Ordinance designation for Trigg Street is Collector. Whenever subdivided property abuts an existing half street the remainder of the street shall be dedicated to make the right-of-way on the half (1/2) street abutting the subdivision comply with Sec. 5.11, Minimum Width, of the Ordinance.

The plat indicates the current right-of-way width of Trigg Street in front of the Mabe property is forty-(40) feet. The pavement width on Trigg Street varies, but is about eighteen (18) feet in most locations. The portion of Trigg Street abutting the property is not up to standard with regard to right-of-way width, pavement width, sidewalk, curb and gutter. To comply with the requirements of the Subdivision Ordinance, the pavement would have to be widened by an additional nine (9) feet, curb, gutter, and sidewalk constructed according to the standard and an additional ten (10) feet of right-of-way dedicated to the Town. Because one side of the proposed subdivided property abuts a County Street (Short Street) managed by the Virginia Department of Transportation, it is unclear if abutting improvements can be required by the Town.

The submitted final plat dated February 17, 2013 shows a right-of-way dedication of ten (10) feet to the Town of Abingdon for public right-of-way.

Mr. Smith explained that the owner/subdivider has verbally requested waivers to all of the requirements of the Subdivision Ordinance as previously discussed.

Under the conditions set forth in Sections 10.1, 10.2, 10.3 and 10.4 of the Subdivision Ordinance, the Planning Commission may recommend to the Town Council a waiver or modification of requirements, as follows:

Sec. 10.1. Modification of requirements.

Where, in the case of a particular proposed subdivision, it can be shown that strict compliance, with the requirements of these regulations, would result in extraordinary hardship to the subdivider because of unusual topography; or other such non-self-inflicted conditions, peculiar to this site, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the Planning Commission may recommend to the Town Council a waiver or modification of a portion or portions of these requirements so that substantial justice may be done and the public interest secured; provided, that such variance, notification, or waiver will not have the effect of nullifying the intent and purpose of these regulations. Any such waiver or modification,

authorized under the provisions of this section, shall be stated in writing, on the plat, by the subdivider, with the reasoning set forth on which the waiver or modification was justified.

Sec. 10.2. Minimum easing of requirements.

In no case shall any variation or modification be more than a minimum easing of the requirements and in no instance shall it have the effect of reducing the traffic capacity of any street below shown on the comprehensive plan or be in conflict with any zoning ordinance, resolution, or map.

Sec. 10.3. Vote required.

Such variance and waivers may be granted only by the affirmative vote of a majority of the members of the Town Council present and voting.

10.4 Conditions.

In granting variances and modifications, the Town Council may require such conditions as well, in its judgment, secure substantially the objectives of the requirements so varied or modified.

Preliminary Plat – Planning Commission Recommendation

A Special Meeting-Work Session of the Planning Commission was held on May 9, 2012; the Planning Commission voted to approve the preliminary plat as follows: “waive all the improvement requirements of the Subdivision Ordinance with the exception of the minimum width requirement of existing and proposed streets (ordinance designates Trigg Street as a Collector, which shall not have a right-of-way with less than sixty (60) feet; the plat indicates the right-of-way width of Trigg Street abutting the Mabe property is (40) feet, and to comply with the requirements of the Subdivision Ordinance, an additional right-of-way width of ten (10) feet is to be dedicated to the Town.”

Mr. Smith explained that the proposed plat subdivides property that is currently occupied by single-family dwellings and does not create additional lots that will increase population density or facilities in the subdivided property that will increase the traffic in the immediate or surrounding area. Trigg Street would have to be upgraded to collector; considering existing conditions, any upgrade would have to include alignment, drainage, and grade changes. Any frontage improvements made now to coincide with existing topography would most likely have to be removed to accommodate any future upgrade. It appears that drainage in the area is adequate at this time.

In the absence of an existing upgrade plan for the collector street, the Director of Public Works recommended the frontage improvements as required by the Subdivision Ordinance be waived, also, as a minimum recommendation that a ten (10) foot right-of-way dedication the Town of the property abutting Trigg Street for use as a public right-of-way.

After a lengthy discussion, Mr. Kimbrell made a motion the final plat be recommended to Town Council for approval. Mr. Bundy seconded the motion.

VOTE:

Mr. Kimbrell	Aye
Mr. Bundy	Aye
Mr. Howard	Aye
Mr. Kelly	Aye
Mr. Austin	Aye
Mr. Shuman	Aye
Dr. White	Aye

The motion passed.

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This meeting concluded Dr. H. Ramsey White's term with the Planning Commission. Mr. Kelly gave him recognition by thanking him for his many years of service to the Town and commended him for having completed an eight (8) year term with the Planning Commission.

There being no further business, Mr. Kimbrell made a motion that the meeting be adjourned. The motion was seconded by Mr. Shuman, with unanimous approval. The meeting was adjourned.

H. Ramsey White, Chairman

Gregory W. Kelly, Secretary