

TOWN OF ABINGDON
PLANNING COMMISSION
REGULAR MEETING
JULY 30, 2008 - 5:30 P.M.

The regular meeting of the Abingdon Planning Commission was held Monday, July 30, 2008, at 5:30 P.M. (rescheduled from July 28, 2008). The meeting was held in the Municipal Building, downstairs meeting room.

Mr. Gary Kimbrell, Chairman, called the meeting to order. Mr. Jackson called the roll.

ROLL CALL

Members Present: Mr. Gary Kimbrell, Chairman
Mr. Gregory W. Kelly
Mrs. Cathy Lowe
Mr. Matthew T. Bundy
Mr. Kenneth Shuman
Dr. Todd Pillion
Dr. H. Ramsey White, Jr.

Comprising a quorum of the Commission

Members Absent: None

Administrative Staff: Mr. W. Garrett Jackson, Director of Planning/Zoning
Mr. Sean Taylor, Assistant Director of Planning/Zoning
Mr. Jim C. Smith, Director of Wastewater Operations/Town Engineer
Mrs. Deborah Icenhour, Town Attorney
Mr. Michael Worrell, Code Compliance Officer
Mr. James Cowart, Economic Development Director

Visitors: Dr. John Lentz, Washington County Planning Commission
Ms. Becca Kirk, Smyth County Planning Commission
Ms. Diana Ball, Manager, McDonalds Restaurant
Mr. Todd Winston, Management, Hardees Restaurant
Mr. Randy Ripaitor, Hardees Restaurant

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(2) Approval of Minutes: Regular Meeting, June 30, 2008

Mr. Shuman made a motion that the minutes of the regular meeting, June 30, 2008 be approved with the following corrections:

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VOTE

FROM:	Dr. White	Aye	TO:	Dr. White	Aye
	Mr. Bundy	Aye		Mr. Bundy	Aye
	Mrs. Lowe	Aye		Mrs. Lowe	Aye
	Mr. Kelly	Aye		Mr. Kelly	Aye
	Mr. Shuman	Abstained		Mr. Shuman	Abstained
	Mr. Henninger	Abstained		Mr. Kimbrell	Abstained

Dr. Pillion Aye Dr. Pillion Aye

AND

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VOTE

FROM:	Mrs. Lowe	Aye	TO:	Mrs. Lowe	Aye
	Dr. Pillion	Aye		Dr. Pillion	Aye
	Mr. Kelly	Aye		Mr. Kelly	Aye
	Dr. White	Aye		Dr. White	Aye
	Mr. Shuman	Aye		Mr. Shuman	Aye
	Mr. Bundy	Abstained		Mr. Bundy	Abstained
	Mr. Henninger	Aye		Mr. Kimbrell	Aye

Mr. Bundy seconded the motion, with unanimous approval.

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(3) Select Chairman and Vice-Chairman for Planning Commission

There was a reorganization of the Planning Commission for the selection of a new Chairman and Vice-Chairman.

The floor was opened for nomination for selection of Chairman to the Planning Commission. Mrs. Lowe made a motion that Mr. Shuman be nominated to serve as Chairman. There being no further nominations, the floor was closed, with unanimous approval that Mr. Shuman serve as Chairman to the Planning Commission.

The floor was opened for nomination for selection of Vice-Chairman to the Planning Commission. Dr. White made a motion that Mr. Bundy be nominated to serve as Vice-Chairman. There being no further nominations, the floor was closed, with unanimous approval that Mr. Bundy serve as Vice-Chairman to the Planning Commission.

Mr. Shuman and Mr. Bundy thanked the Planning Commission and, at that time, Mr. Shuman began presiding as Chairman.

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(4) **PUBLIC HEARING**

SPOT BLIGHT ABATEMENT - Commercial property (Citgo Station), Exit 17, located at 598 Cummings Street, Abingdon, VA 24210. Tax Map No. 105A (1) 2.

Mrs. Icenhour explained that this public hearing was a result of the Town Manager deeming the Citgo Station property located at 598 Cummings Street being blighted within the definition of Article III, Sec. 14-52 as amended August 4, 2003, of the Code of the Town of Abingdon. The Town's Spot Blight Ordinance requires a public hearing before Planning Commission and a recommendation of condemnation or not sent to the Town Council.

Mr. Worrell stated that the Staff has made every effort to contact the property owner over the past few months without any success. He further stated that all adjoining property owners have been notified, by certified mail, of this property's condition.

He described the station as being abandoned for quite some time; the last listed price of 87 octane fuel indicates \$1.50/gallon range. A safety glass door on the north side of the building has been smashed out, with the glass piled upon the ground. A visual inspection suggests that unidentified parties have attempted to remove several fixture from the building's interior, without success. A panel has fallen from the front façade and dangles by the electrical cord within. There is a considerable accumulation of trash in an around the property. Damage has been sustained to the plate glass windows at the front of the store, and no repairs have been forthcoming. Abingdon Fire Department personnel have been summoned to the scene in the recent past due to an apparent act of vandalism, as well.

Mr. Worrell further explained in detail the steps taken by the Staff, as follows:

- October 31, 2007 – a standard letter describing the property as blighted was sent to General Energy Corporation (GEC), owner, in Davie, Florida.
- November 8, 2007 - Stewart Wright came in and spoke with Mr. Worrell on behalf of the local GEC representative, John Howren. Mr. Wright agreed to clean up the property, fit a steel door to the north opening, and potentially board up the front glass, along with placing a chain around the entrances. He was advised to speak with the Town's Police Department regarding this last step.
- November 27, 2007 – A message was left with Stewart Wright requesting an update on the property after no progress was observed.
- December 4, 2007 – Mr. Wright informed Mr. Worrell that GEC did not endorse his plan to deal with the property, and suggested that Mr. Worrell contact John Howren regarding the property. Mr. Worrell spoke with Mr. Howren and provided him with contact information that would be passed along to GEC.
- December 10, 2007 – Mr. David Anderson, the then-operator of the Exit 17 Valero convenience store, indicated to Mr. Worrell that his intention was to overhaul and operate 598 Cummings Street as a gasoline station.
- April 1, 2008 – The Building Inspector, Marion Watts, was asked to examine the property in question and advise Mr. Worrell of whether any conditions existed on the property that violated the Building Code or any other applicable regulations. Mr. Watts inspected the property and found no actionable violations.
- April 7, 2008 – A memorandum detailing the observations of Mr. Watts was completed, briefly summarizing the situation to present.
- April 28, 2008 – A conversation with David Anderson revealed that Mr. Howren's affiliation with the GEC was severed some time earlier this year; this information was previously unknown to this office. Mr. Anderson was investigating the possibility of returning the station to service, although he felt it would be difficult due to the deterioration of the building and other problems. Mr. Anderson indicated that blocking off the lot would be difficult due to the fact that the property line between the adjoining Hardees Restaurant and the former Citgo Station is in the middle of the parking lot on the south side.
- April 30, 2008 – Joe W. Burke, Chief of the Abingdon Fire Department, called Mr. Worrell in regards to Abingdon Fire Department's response to 598 Cummings Street upon a report of smoke from the building. The Fire Department found no fire, but determined that smoke bombs had been thrown in through a broken window. The window, one of the plate glass windows on the storefront, was not previously broken prior to this week. Chief Burke also noted the condition of the building and submitted his findings in a letter to Mr. Worrell, with recommendation that the windows and side door should be boarded up and the property cleared of broken glass and debris.

Mr. Worrell submitted photographs for viewing and asked if anyone had questions. At that time the floor was opened for comments from attendees.

Ms. Diana Ball, representing McDonalds Restaurant stated that the site is nothing more than a "pig-sty" and something needed to be done with it. She further stated that rest of the Town looks so nice and she has

wondered why this unsightly mess is allowed. She explained that customers coming in from the interstate wonders about the site and she feels it is considered a safety hazard and her primary concern is a safety issue. She advised that recently, at 11:30 p.m. there were probably in excess of 20 vehicles parked on the property, with a bonfire burning, with gas tanks remaining on the property. She sees that the property is used as a dump, and not taken care of in any manner. Kids have been seen there at 3:00 a.m., screaming and yelling at traffic and it is believed that a homeless person is living in building, having seen the person crawling out through a broken glass window of the building during early morning hours.

Mr. Todd Winston, representing Hardees Restaurant reiterated Ms. Ball's statements and agreed that something definitely needs to be done with the property. He stated there have been several vagrants seen loitering along the creek, not only making it an eyesore for this restaurant, requiring their employees to pick up trash from the parking lot which has become too much for Hardees to maintain all the time. He further stated that this afternoon five (5) cars were already parked there; if he was a customer, after seeing this site would defer him, especially if visiting from out of town, from bringing his family to Hardees, preferring to take the family elsewhere to eat.

Mr. Ripaitor, representing Hardees Restaurant agreed with Ms. Ball and Mr. Winston, stating that he had picked up needles and other miscellaneous items from the property.

Mr. Kimbrell, speaking as a citizen, not as a Planning Commission member, stated that he and his wife are members of Festival Executive Committee, received a telephone call last week, from a concerned citizen, wondering if Mr. & Mrs. Kimbrell could be of some influence in getting the problem corrected at this site because it was such an ugly eyesore for the Town. He advised the caller that a Public Hearing was being held on this date regarding the property.

Mrs. Icenhour explained that she has been contacted by management of the Grundy National Bank on multiple occasions and they also have concerns and are frustrated with this property site. In speaking with the management, some of the same remarks were made regarding the property, including having to pick up rubbish, including needles, personal items and Sunco advertising panels from the gas pumps, blown by the wind onto their property. Mrs. Icenhour was advised the bank would be represented at this meeting.

Mrs. Icenhour stated that yesterday, July 29th, she made one last telephone call to Mr. Michael Stern, Property Management Consultant for General Energy Corporation and left a message reminding him of the Public Hearing scheduled for tonight. He returned Mrs. Icenhour's called indicating information regarding the Public Hearing had been received and that he would like to work with the Town on the cleanup. Mrs. Icenhour further explained to Mr. Stern, the time involved in processing a Public Hearing. Mr. Stern asked if she could give him names and numbers of someone to hire, with reasonable prices. She advised she could possibly get some contact names and numbers but it would be up to him and sub-contractors to follow through with the cleanup. Mrs. Icenhour telephoned Mr. Stern once again on this date, with names and numbers but the telephone call was not returned. Therefore, plans were no different but to go forward with this Public Hearing.

Mrs. Lowe asked the Town Manager what the Town's recommendation was for handling the cleanup of this property. Mr. Kelly replied, as he was required to do, this information has been presented to the Planning Commission, under the current Ordinance, declaring this property to be blighted and he had directed Mr. Worrell to send notices of such in October, 2007. Since the property owner has failed to file any plan, the proper course to be taken is for the Town Manager to make a recommendation in terms to cure the blight to include: **(1) repair** or **(2) condemn** the property.

Mr. Kelly explained that the Town could acquire ownership of the property and either the Town or hired consultant enter upon the property, secure the property, clean up all debris and tear down, if necessary, any structure or fixture that is deemed to be a hazard to the health and welfare of the public. Mr. Kelly stated that at this time he was not recommending condemnation of the property and acquiring ownership, however, he explained that the Town Council could authorize the condemnation. Mr. Kelly has concerns regarding costs involved if the property is condemned. He recommended that the property be secured, monitored and hopefully the owner will come forward at some reasonable time with a better use of the property.

Mr. Kelly suggested that the Planning Commission needs to determine, based upon what has been heard at the meeting tonight, whether or not the Planning Commission believes this property to be blighted within the definition presented and whether or not the owner has come forward with a plan of action to secure the blight. Mr. Kelly explained that the Town Code does not require the Planning Commission to make a recommendation as to what to be done, and he suggested that the Planning Commission recommend this property be repaired and

secured. The Town is allowed to attach a lien against the property for costs involved. He further stated that the property currently has two years delinquent taxes.

After a lengthy discussion, Dr. White made a motion that property is considered blighted and the owner has failed to present a plan to eliminate the blight. Mr. Bundy seconded the motion.

VOTE:	Dr. White	Aye
	Mr. Bundy	Aye
	Mr. Henninger	Aye
	Mrs. Lowe	Aye
	Mr. Pillion	Aye
	Mr. Kelly	Aye

The motion passed.

Mrs. Icenhour stated that in accordance with the Ordinance, the Planning Commission will now report findings to the Town Council and a final determination will be made.

Mrs. Lowe stated that she is in agreement with the recommendation of Mr. Kelly and since the property is located in the Historic Overlay, being that the building is in such a dilapidated condition, repairs are not feasible and suggested that the building be razed, clean up property and block off the parking area.

After further discussion a second motion was made by Mr. Kimbrell to raze building, clean up land and block off parking area. Discussion continued, resulting in Mr. Kimbrell withdrawing his motion. Mr. Kimbrell then made an alternative motion to recommend to the Town Council for approval, the adoption of Mr. Kelly's memorandum dated July 7, 2008. The motion was seconded by Dr. Pillion.

VOTE:	Mr. Kimbrell	Aye
	Dr. Pillion	Aye
	Mr. Henninger	Aye
	Mrs. Lowe	Aye
	Dr. White	Aye
	Mr. Bundy	Aye
	Mr. Kelly	Aye

The motion passed.

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(5) DISCUSSION - Zoning Ordinances Revisions

This item was briefly discussed, with Mr. Kelly making a recommendation that this item be tabled until a later date. It was the consensus of the Planning Commission that a Special Meeting be scheduled for Monday, August 18, 2008, 5:30 P.M. to continue discussion on this subject.

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(6) DISCUSSION - Change meeting date and time for Planning Commission

It has been previously suggested that the meeting date for the Planning Commission be changed from the fourth Monday of each month to the third Monday of each month, in order to accommodate the Planning Commission to attend Washington County Planning Commission meetings, when needed.

After discussion, Mr. Kimbrell made a motion that it be recommended to Town Council to approve amendment to the Town Code, leaving the meeting date the fourth Monday of each month, changing the time from 7:00 P.M. to 5:30 P.M. Dr. White seconded the motion, with unanimous approval.

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(7) DISCUSSION - Certified Planning Commissioner Training – August 28th and 29th at Southwest Virginia Higher Education Center

A brief discussion was held as a reminder to the Planning Commission members of the Certified Planning Commissioner Training, scheduled for August 28 and 29, 2008, to be held at the Southwest Virginia Higher Education Center.

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(8) DISCUSSION - Town Planning Commission, 2007-2008 Annual Report

There was a review of the Planning Commission’s 2007-2008 Annual Report.

Mrs. Lowe made a motion that the 2007-2008 Annual Report be accepted as drafted. Mr. Kimbrell seconded the motion, with unanimous approval

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Dr. John Lentz, representing the Washington County Planning Commission, explained that in the Commissioner Certification Program, an entity Council of Governments, not elected, but voluntarily, meets as government representatives for common problems. He was interested in knowing if the Town would like to participate in the Council of Governments between Washington County, City of Bristol and Smyth County, addressing water and solid waste sewage concerns. Dr. Lentz stated he would like for the Planning Commission to take this into consideration on Washington County’s standpoint.

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There being no further business, Mr. Kimbrell made a motion that the meeting be adjourned. Mrs. Lowe seconded the motion, with unanimous approval. The meeting was adjourned at 6:26 P.M.

Kenneth Shuman, Chairman

Gregory W. Kelly, Secretary