

**FRUITLAND PLANNING COMMISSION  
TUESDAY, JUNE 2, 2009  
MINUTES**

The Fruitland Planning Commission met at City Hall on Tuesday, June 2, 2009 at 7:00 p.m. with the following in attendance:

*Chairperson Leland Bonneville, Derek Bland, Theodore O. Lokey, Annette Noble, and Robin Townsend.*

Also present were:

*City Manager John F. McDonnell, City Solicitor Andrew C. Mitchell Jr, City Clerk Diane C. Nelson, Code Enforcement Officer Daniel M. Scholl Jr, Public Works Director P. Cooper Townsend, and Councilor Richard F. Tull.*

Our guests included:

*Robert Marvel , Amanda Pollack of George, Miles, and Buhr (GMB), Dale and Sandra Jones, Currin Gass of Country Sunrooms ,Donald Williams, Bunky Carew, and Dave and Toni Guy.*

Chairperson Bonneville called the meeting to order at 7:01 p.m. and asked for comments or changes to the minutes of May 5, 2009. Mr. Robin Townsend requested the minutes be amended to reflect specific comments he made regarding paving of Brown and Main Streets in Fruitland. Mr. Bland moved to adopt the minutes as amended, as follows.

- **Page 1, New Business, Item 2, new paragraph 2, to read,**

“Discussion centered on capital improvements slated for various roads. Mr. Robin Townsend voiced specific concerns about Brown and Main Streets both needing to be paved, with Main Street in dire need because so many cuts to the road have given it a cobblestone-like appearance. Public Works Director Cooper Townsend cited high paving costs as the reason for the delay in capital improvements to Fruitland’s roads.”

- **Page 2, New Business, Item 2, paragraph 3, to read,**

“After discussion...”

Mr. Robin Townsend seconded the motion to adopt the minutes as amended and the motion carried on a unanimous vote in favor.

## **OLD BUSINESS**

### **1. Sign/Billboard Ordinance**

City Solicitor Mitchell reported that since the Planning Commission had granted permission at the March 3, 2009 meeting for him to explore expanding the sign ordinance, he had canvassed area sign companies to solicit industry based opinions regarding the regulation of all manner of signs and billboards, including sign specifications and sign placement/setbacks; Clear Channel was the only company that provided any feedback specific to his request.

City Manager McDonnell stated that he had spoken with a representative from each of the companies canvassed, inviting them to attend tonight’s meeting and to participate in discussion regarding sign regulation; however, no company representatives were in attendance.

In the absence of industry representation, Solicitor Mitchell proposed continuing his research of the pertinent sign issues and preparing a draft ordinance for the Planning Commission Members to review at the next meeting; Commission Members agreed to Mr. Mitchell's proposal, by consensus but without vote.

## 2. Windmill Ordinance

City Solicitor Mitchell gave a status report on his continuing efforts to broaden the first reading draft of the Windmill Ordinance that dealt primarily with different sizes of vertical standing, propeller driven windmills; Mr. Mitchell has determined that the ordinance needs to be fairly comprehensive in terms of windmill design and technology because of the many other types of windmills beyond the traditional that are available to the consumer. The ordinance should contain catchall language dealing with safety, setback, noise, and no nuisance issues for a variety of windmill technologies. Variance requests based on technology and design would then be minimal; variance requests based on setbacks are disallowed in the ordinance.

Solicitor Mitchell proposed continuing his online research, with input from Mr. Bland, and revising the draft ordinance for review by the Planning Commission at a later date; Mr. Bland's research includes reference to Federal Aviation Administration (FAA) regulations. Commission Members agreed to Mr. Mitchell's proposal, by consensus but without vote.

## 3. Black Diamond Parking Issue

City Solicitor Mitchell reported that since the last Planning Commission Meeting, Code Enforcement Officer Scholl and he had discussed the parking issue at the Black Diamond facility, stating that some of the problem is the result of confusion over which version of the parking plan was actually approved. The plan approved did not include the fire lane that was originally drawn around the building, nor the angled parking spaces as originally placed.

After reviewing the April 1, 2008 Planning Commission Minutes, Solicitor Mitchell determined which plan had actually been approved and also found language indicating Mr. Roskovich's intentions for the parking lot.

The following is an excerpt from the minutes of the April 1, 2008 Planning Commission Meeting:

***“Black Diamond Catering Revised Parking Plan:** Pete Roskovich presented a revised parking plan for his proposed Black Diamond Catering business at 301 North Fruitland Boulevard, describing changes from the previously submitted plan. Solicitor Mitchell questioned the placement of some of the parking spaces on the Plan and Mr. Roskovich explained that some of the spaces differed from the original Plan in order to get the number of spaces required, adding that he had actually measured the distances to confirm the number of parking spaces as drawn. Chairman Shores questioned the change in the fire lane which originally was drawn around the building. Solicitor Mitchell stated he did not believe the fire lane was required all the way around the building. Councilman Lokey questioned whether or not food would be prepared onsite, to which Mr. Roskovich stated that the Wicomico County Health Department required him to install equipment to prepare food there. Chairman Shores questioned the number of EDUs allowed for the business and Mr. Derbyshire confirmed the number of three EDUs allowed were sufficient for the business. Councilman Lokey advised Mr. Roskovich should contact Norfolk Southern about the use of their right of way. Member Bonneville asked about paving the parking lot and marking the spaces. Mr. Roskovich stated he would mark spaces with wooden stops and planned to first fill in and stone the area before having a professional actually design the parking lot. The areas now paved would be repaired. Councilman Lokey asked about the angled parking spaces on the original parking plan. Mr. Roskovich advised he believed there is sufficient space existing and his employees are currently parking straight in with no problem. Mr. Mitchell pointed out that there may be encroachment problems at Adam's but that they were not involved here. Having no further comments, Member Bonneville moved to approve the parking plan as submitted. Councilman Lokey seconded and the motion was unanimously approved.”*

After discussion it was determined that beyond partially filling in the lot with stone, Mr. Roskovich does not appear to have followed through with having a professional design the parking lot; safety and adequate parking are continuing issues that need to be resolved with the parking lot.

The Planning Commission Members decided by consensus but without vote to invite Mr. Roskovich (and his associate Mr. Gillis) to the July 2009 Planning Commission Meeting to discuss resolving the parking lot issues, allowing ample time for Messrs. Roskovich and Gillis to plan to attend.

## **NEW BUSINESS**

### **1. Variance Request (155 Emily Drive-Meadowbrook) – Dale and Sandra Jones**

Mr. Currin Gas, of Country Sunrooms, and Mr. Dale Jones presented plans for a sunroom enclosure that will replace the deck at the 155 Emily Drive residence of Dale and Sandra Jones. Mr. and Mrs. Jones are applying for a three foot variance to extend beyond the original building footprint that backs up to a down sloped, wooded area at the rear of their property that is County zoned commercial/institutional; allergies and sensitivity to sunlight have dictated their need for the sunroom enclosure.

After discussion Mr. Bland moved to recommend to the Board of Zoning Appeals (BZA) that the Board approve Mr. and Mrs. Jones's three foot setback variance request into the setback line; Ms. Noble seconded and the motion carried by a unanimous vote in favor. (♦)

(♦) *The original motion did not include "recommend to the BZA that the Board" wording and the motion was redone after the omission was noted later in the meeting by Mr. Robert Marvel, member of the BZA that was in attendance in the audience.*

City Manager McDonnell planned to notify Mr. and Mrs. Jones that they would need to go before the BZA for final approval of the requested variance.

### **2. Conceptual Plan – Camden Station Subdivision**

Bunky Carew and Donald Williams presented their Conceptual Plan for the Camden Station Subdivision formerly known as Brinkley Heights. The 23.5-acre subdivision is just off Camden Avenue, bordered by Mason Avenue to the North and Sharp's Creek to the South. Mr. Carew explained that the existing zoning allowed the original subdivision plans for the original lots to evolve into the planned Phase I and Phase II development of the subdivision. Originally the front acreage of the subdivision was to utilize the Camden Sewer Shed and the back acreage was to use the yet to be built Southwest Interceptor.

- Fifty three individual lots are planned for the 17 acres (Phase I )that are zoned R1-C, General Residential, that are toward the front of the subdivision toward Camden Avenue
- Three nine-unit Apartment or Townhouse complexes with more than the requisite parking are planned for the remaining 6.5 acres (Phase II) that are zoned R-3, Townhouse and Apartment Residential; Phase II is toward the back of the subdivision and borders a non-tidal wetland area
- Combining Phase I and Phase II Equivalent Dwelling Units (EDUs) for the front and back acreages, 53 and 27 respectively, total 80 EDUs and do not exceed the original 81 EDUs planned for the front acreage of the subdivision that would be served by the Camden Sewer Shed
- Phase I of the development is to be served by gravity sewer after the necessary grading is done to ensure compliance with the required 3-ft minimum cover for all sewer locations in Phase I
- Phase II of the development is to be served by a privately owned , small grinder type sewer collection system that would pump to gravity in the City's sanitary sewer system; the system would be paid for and

maintained by the Homeowners' Association or Condominium Association that owns the property, subject to City standards and approval

Amanda Pollack of the City's engineering consultants George, Miles and Buhr (GMB) confirmed that the entire development would be served by 8-inch pipe as part of the sewer infrastructure.

Phase I of the project was always to be served by the Camden Sewer Shed; the 53 EDUs now planned versus the 81 EDUs originally planned create excess capacity at the Camden Sewer Shed. Phase II has always been planned for the Southwest Interceptor with the knowledge that a pump station would be necessary to get the flow to the Waste Water Treatment Plant (WWTP).

Technically, the combined Phase I and Phase II EDUs are within the same flow capacity for the pipes in the road that were originally planned for the Camden Sewer Shed and overall, the Camden Sewer Shed is in pretty good shape with no capacity problems. However, it is still understood that there is no EDU capacity to be allocated at the WWTP without dipping into Wicomico County's reserved allotment.

Ms. Pollack voiced concerns based on conversations with Utilities Director Derbyshire regarding serving Phase I by gravity sewer because of the amount of fill that would be needed to build up the ground to allow minimum depth for sewer cover; conceptual plans do not show the layout so construction plans would have to be reviewed to resolve this issue.

Ms. Pollack stated that tonight was the first time she had heard about the proposed privately owned pump station for Phase II of the project, noting that the City does not presently have any privately owned pump stations; she cautioned against a privately owned system because of the risk associated with maintaining it to City Standards as well as residents misdirecting service complaints to the Utilities Department.

Planning Commission Members, City Solicitor, and City Staff indicated by consensus that Mr. Derbyshire has always been dead set against privately owned pump stations within Fruitland's system; Mr. Williams summarized how successfully the privately owned pump station at Williams Landing in Salisbury, MD has operated since installed five years ago.

Public Works Director Townsend made it clear that no water can run towards Camden Avenue from streets in the development, acknowledging that water flow will be fighting the grade to go west toward Sharp's Creek. Mr. Townsend also questioned the 30-ft right of way showing on the plans versus the 50-ft right of way required for streets; Mr. Carew clarified that there was a 10-ft right of way on each side of the 30-ft right of way, reserved for utilities and sidewalks.

When asked why he and Mr. Williams were seeking approval for Camden Station when no EDUs are available at the WWTP and Camden Landing had already been approved with EDUs available at the WWTP and seemingly no progress apparent on that project, Mr. Carew acknowledged that he and Mr. Williams were still working on the offsite changes and preparing final submissions for GMB for review; they would like to get the project approved contingent upon capacity available at the WWTP. Ms. Pollack clarified that GMB had given conditional approval for the Camden Landing project to commence onsite with the understanding that work on the offsite location would take priority once final plans have been reviewed and approved.

Mr. Williams added that due to the arduous nature of the approval process, he and Mr. Carew wanted to be ready to begin when the economy improved. Mr. Williams further explained that Camden Station was easier to develop and market in today's economy because of the combined zoning that allowed for single family homes in addition to apartments or townhouses; townhouse developments need to be built out completely whereas single family home developments can accommodate progressive completion of streets and homes. Mr. Carew also stated that there were not the offsite issues with Camden Station that exist with Camden Landing.

When asked if he and Mr. Carew would like to swap EDUs from Camden Landing to Camden Station, Mr. Williams declined because he is still trying to sell Camden Landing and did not want to jeopardize the project by swapping EDUs between projects.

After discussion concluded, the Planning Commission determined by consensus but without vote that there were no EDUs available at the WWTP for allocation to the project and that Utilities Director Derbyshire's input was integral to its final decision regarding the project. It was suggested that Messrs. Carew and Williams meet with Mr. Derbyshire for further discussion and then come back to the Planning Commission at a later date when Mr. Derbyshire can also be present to speak directly to Commission Members.

City Solicitor Mitchell stated that presently the City's zoning ordinance does not allow final plat approval unless EDUs are available to allocate to the project, but that the ordinance may change to allow for contingent approval subject to EDU availability for the project; upon availability of EDUs, the project would have to commence within specific time parameters in order to ensure non-forfeiture of EDUs.

### **3. Other**

Mr. David Guy inquired about the status of the June 24, 2009 deadline imposed upon Gary Pusey by the Board of Zoning Appeals (BZA) at the February 24, 2009 meeting to make his sign compliant with the variance granted, also noting the safety hazard that still exists with open holes at the sign site; Code Enforcement Officer Scholl responded that a letter reminding Mr. Pusey of the deadline would be dispatched tomorrow.

Mr. Scholl further reported that he had mentioned the sign to Mr. Pusey, but felt that Mr. Pusey was not inclined to make the sign compliant with the variance granted; all in attendance agreed with Mr. Scholl's assessment of the situation.

### **General Discussion**

With no further business to discuss, Mr. Bonneville moved to adjourn and Mr. Bland seconded. The motion was approved by a unanimous vote in favor and the meeting adjourned at 8:35 p.m.

Diane C. Nelson, City Clerk